

5th July 2007

SWMP Consultation
Defra
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SWMP Consultation:
Response from the Environmental Association for Universities and Colleges (EAUC)

With a membership of over 200 universities and colleges, the EAUC is the environmental and sustainability champion within Further and Higher Education in the UK. We have consulted our members on the proposed regulations and this response is based on the views expressed. Our members are involved on the Client side of building projects and our response to this consultation reflects this position.

The EAUC welcomes the opportunity to contribute to the discussion on improving resource efficiency and reducing waste crime, particularly as in 2004/05 the sector was allocated about £816 million for capital projects (HEFCE (2005) Sustainable development in higher education). We would also welcome the opportunity to discuss with Defra on how best to implement SWMPs and other construction best practice initiatives in the sector.

Q1. Do we need regulations for SWMPs or should the existing voluntary approach continue, perhaps with greater promotion?

Yes, regulations for SWMPs are necessary because it is unlikely the construction industry will adopt them on a voluntary basis. They are also needed for the reasons given in the consultation, namely improving resource efficiency and preventing fly-tipping. Regulation is also desirable because it highlights the Client's duty of care for waste management and provides a structured approach for auditing contractors and sub-contractors to ensure they are complying with their responsibilities.

Q2. If you agree that regulation is necessary or desirable, what should be the minimum criteria above which a construction project will require a SWMP?

The minimum value of £250k for a SWMP appears to be logical in terms of costs and benefits and could probably be lowered in the future depending on the success of the regulations achieving the desired aims. But, there also needs to be more emphasis on the basic Duty of Care requirements for smaller construction projects. Most of our sector construction projects are refurbishments and are typically in the range of £10k - £50k. It's just as important to ensure legislative compliance and seek waste minimisation opportunities for these projects as for the new build and major refurbishment projects.

Q3. What level of detail should be required in a SWMP?

As stated above, there needs to be a certain level of information for all construction projects regardless of value. The level required for projects above £250k appears to be about right and the further information required for projects over £500k is critical to get maximum benefit from a SWMP. But, there's a concern that the proposed regulations are too prescriptive in their requirements and as a result will constrain design and affect project delivery through cost or programme. Instead, it might be better to suggest the type of information that could go into a SWMP, and leave the detail to be agreed between the principal contractor and the client. Otherwise, there's the possibility the regulations will need to be updated every time there are any future enhancements or changes to best practice.

For example, the following could also be included in a SWMP:

- i) Whether the waste is inert, non-hazardous or hazardous, as this will highlight site management issues of segregation and possible H&S issues
- ii) How far the waste is to be taken for treatment (proximity principle)
- iii) Incineration (with/without energy recovery)
- iv) Demolition protocol targets
- v) a copy of, or reference to, the waste consignment note

There's also a concern about whether sub-contractors will have any ownership of a SWMP and the implications for major capital projects which may involve a number of sub-contractors.

Q4. How should the requirements in a SWMP further improve the level of resource efficiency in the construction industry?

SWMPS are too narrowly defined if the aim is to tackle resource efficiency. It's important to consider resource management at the start of a project rather than focus purely on waste management. It would be better to call them Waste Management Plans or Resource Management Plans so that waste management is considered before the tender stage for construction.

Resource management must be considered at the planning, design, decant, demolition, construction and post occupancy stages. It's also important to highlight good practice and most importantly cost savings, as these are tangible benefits to the construction industry (and hopefully the Client). It's also important to ensure contractors are aware of local reuse/recycling sites for construction waste and more could be done to advertise these facilities. At the moment, the availability of such facilities is down to whether the contractor or client is aware of them. The work of WRAP in this area should be better communicated to the Higher Education sector and to the construction industry.

The decant stage can generate a lot of waste, principally paper and electrical equipment but also laboratory chemicals, and can be a significant cost. Space constraints can make it difficult to provide additional bins or skips to segregate these waste streams.

Q5. Will SWMPs reduce the administrative burden or increase it? What might the cost of implementing SWMPs be and how would this affect your existing levels of paperwork?

As clients, SWMPs will probably increase the administrative burden, as we are likely to be involved in specifying contracts, working with contractors on SWMPs and auditing SWMPs. But, this additional cost will be off-set against the potential benefits of improving resource efficiency and a more robust audit trail for building projects. For many in the sector, where there may not be a named

individual responsible for environmental matters, it will also help to link SWMPs to H&S plans to ensure the most efficient use of available resources.

Q6. It has been suggested that more active promotion or expansion of the voluntary scheme might achieve the same objectives as regulation and the Government would be interested to receive views on this suggestion.

In particular, how great might the take-up be? How could the Government target the smaller companies? Would greater take-up of a voluntary scheme lead to real changes within the industry?

Please see response to Q1.

Q7. How can we be sure that SWMPs meet the joint objectives of encouraging better resource efficiency and reducing waste crime?

Have we got the level of intervention right, or should we do more or less?

As stated above, SWMPs will not fully address resource efficiency because they are too narrowly focused on the construction stage. More needs to be done to encourage better design and post occupancy use. Also, as most of the sector projects are less than £250k, SWMPs will not help, particularly on reducing waste crime and the need to enforce the Duty of Care with small firms. Better linkage to H&S will also help with implementation, as most firms are already much further ahead in dealing with on-site H&S matters.

Q8. It is estimated that each year some 13 percent of materials delivered to construction sites are disposed of as waste. Comments are welcome on the likely composition of this waste, why it is produced, its value and the extent to which it is recoverable.

The factors involved in materials delivered to site becoming waste include, damage (either in transit or on site), over ordering, sizing of materials (design aspect), change in specification and poor quality of materials. A target for the percentage of material delivered to site that ends up as waste could be set to encourage better management of materials on site. This could then be linked to payment to make contractors and sub-contractors more aware of the issue.

Q9. Does the proposed definition of construction (to which SWMPs would apply) capture the full range of construction work to which site waste management plans should apply? Should any of these activities be excluded or new ones included and, if so, why?

It's a very good idea to run definitions in parallel to the CDM regulations. This should be encouraged to avoid reinventing the wheel.

Q10. What is the most practicable criteria for deciding whether a construction project requires a SWMP? What alternatives are there?

As stated above, there's a need for a basic waste management plan for any size of project. But, project cost appears to be the most practicable criteria to determine the amount of information required beyond the Duty of Care and H&S considerations.

Q11. In your view, what is the minimum value above which a Site Waste Management Plan should apply? Should further information be required for higher value projects, and if so, from what value?

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As stated above, there's a minimum amount of information for all construction projects which should then be scaled up as project costs increase. The proposed £250k/£500k split is a good starting point, but as most of the sector's projects are less than £250k, there should be more thought given to projects below this threshold. This is an area where the EAUC would welcome the opportunity to talk to Defra about how to implement waste management plans for smaller value projects.

Q12. Is there a risk that a construction project might be broken into smaller projects to avoid the SWMP requirement? If so, how might this be addressed?

Where there's an economic reason for doing so there's a risk this might happen. In some projects this is the case where there's a separate budget to cover the decant, demolition, enabling works and construction elements of a project. The responsibility lies with the client to ensure waste management plans are specified for each of the stages, even if the value is less than £250k. To do this, the client needs to work with each of the contractors to ensure waste is managed properly. As stated above, the client would expect the DoC information as a basic requirement and the plan would show the disposal route for each waste stream.

Q13. Comments are invited on the level of detail we are proposing is included and recorded on the SWMP?

See answer above. The comment on the design phase is too late, as this must be considered at the start of a project at the planning stage. This is also the case for post occupancy waste management, eg provision of recycling bins.

Q14. What other information would it be helpful to record? Is any of the information unnecessary?

See answer above regarding SWMPs being too prescriptive.

Q15. Do you agree that the cost-benefit analysis for writing and implementing a SWMP in the partial Regulatory Assessment is accurate, or do you have any further information or suggestions that might compliment or challenge the analysis?

No comment.

Q16. Who is best placed to write and implement a SWMP? Would this identify an appropriate person in the management structure of all construction projects?

The Client should be specifying the need for waste minimisation in the project brief so that the building team (architect, E&M, principal contractor etc) takes this in to account in the planning and design of the building. As stated above there should be a resource management plan to cover all stages of the building, not just the construction stage. For the construction stage, the principal contractor should draft the waste management plan and then discuss and agree the contents with the client. The principal contractor must be responsible for ensuring sub-contractors understand waste management on the site. The principal contractor can apply lessons learnt from previous projects. The client can also learn from the process to improve such aspects as specification and target setting and so should receive a copy of the final SWMP and lessons learnt documents.

Q17. Is it reasonable to hold the person drafting and implementing the SWMP responsible for someone else's actions?

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Yes, providing the principal contractor has received appropriate training and the sub-contractors are fully aware of their responsibilities in the plan.

Q18. Should SWMPs be formally regulated and, if so, on what basis and by whom?

The client should monitor waste management plans. Waste management plans form part of good site management during the construction stage, together with environmental (based on pollution prevention) and H&S risk assessments.

As a client, we will work with either LAs or the Environment Agency if they formally regulate SWMPs. We agree with the statement that any regulation should tie in with existing regulatory checks and the level of scrutiny should be proportionate to the amount of information available and only increase if a problem is found.

Q19. What level of checks is reasonable in order to improve compliance?

As a client, it is not possible to be prescriptive on the level of checks on a project as this depends on the size and nature of each project. But, any checks on a SWMP must form part of a site audit and on-going discussions with the principal contractor about site management.

Q20. Is the proposed range of offences appropriate for encouraging maximum compliance with SWMPs, or should other offences be considered?

This appears to be a reasonable range of offences, but to encourage maximum compliance with SWMPs, there should be some way (preferably financial) to reward good practice.

Q21. Comments are welcome on the penalties suggested for these offences.

As a client, we would want to see the regulatory authority work with the principal contractor and ourselves in the first instance before adopting penalties, particularly in the first years of introducing the regulations. A more inflexible approach may not result in the desired outcome of improved resource efficiency.

Q22. Although voluntary uptake of SWMPs amongst larger companies has been reasonable, given the potential efficiency gains it is surprising that uptake has not been higher. Are there any barriers that might explain this?

Client awareness of SWMPs may well have been a barrier. As stated above, the client has a responsibility to ensure the project brief includes a requirement for a waste management plan so that it's considered from the earliest stage of a project. Guidance aimed at the client's responsibilities would be helpful for the sector.

Q23. Are there any other ways to encourage awareness of SWMPs and how they should be used?

The EAUC, together with HEEPI, provide support and guidance to its members in the form of a website, best practice guides, sector specific case studies and workshops. We're running a SWMP seminar on 16th October 2007 at the University of Newcastle. We also advertise relevant seminars through our e-mail groups, such as the recent Envirowise SWMP seminars. Any financial assistance to run sector specific workshops would be welcomed.

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We would also strongly suggest it is in the government's interest to meet with us and discuss the implications of SWMPs and other construction industry initiatives for the sector. As a major client for construction projects we feel there are many opportunities where we can help improve resource efficiency in the UK.

There are many initiatives affecting the construction industry at the moment and its important to ensure these are joined up. For example, how do SWMPs fit in with BREEAM and the Code for sustainable homes and the work of WRAP (eg recycled materials guide), Envirowise and NISP.

One main way to encourage awareness is to provide locally targeted seminars and workshops, which highlight case studies (preferable from local building projects) and the economic benefits of SWMPs. They should also consider SWMPs from both the client and contractor perspective. The Envirowise seminars did some of this but more workshops will be needed to reach the many organisations and businesses involved in construction projects.

Another possibility is to look at the way The Office of the Deputy Prime Minister introduced the new regulations for the management of fire precautions. The series of briefings across all regions appears to have worked well.

Q24. Do you have any comments on the broad content of the partial RIA which accompanies this consultation?

As stated above, there's a need for a certain level of detail for waste management for all projects because of the legal DoC. There's also the need to focus on resource management rather than waste management so that resource efficiency is considered at the earliest possible time in a construction project.

Please contact me if you have any questions about our response to this consultation.



Iain Patton
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