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Summary of responses to the consultation on site waste management plans held between 2 April to 9 July 2007

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Executive Summary

Background

On 2 April 2007, Defra published a consultation on proposals to introduce site waste management plans (SWMPs) for the construction industry on a mandatory basis in England. The consultation, which closed on 9 July 2007, outlined a number of current problems surrounding the generation, treatment, and disposal of waste from the construction industry, and sought views on detailed proposals for improving site waste management. The consultation set out draft regulations to make site waste management plans compulsory for all construction and demolition projects with a value exceeding £250k.

A full consultation document was published on Defra's website.

The full consultation was distributed to nearly 1,000 stakeholders across the local government and business sectors. A list of these stakeholders is provided at Annex D of the consultation document.

151 responses to the consultation were received. These consisted of:

45 construction industry stakeholders. These included 20 large and 10 small/medium-sized businesses (SMEs) replying in their own right, plus 15 construction industry representative bodies.

4 waste industry stakeholders. These included 1 large and 1 small/medium-sized business replying in their own right, plus 2 waste industry representative bodies (Chartered Institution of Wastes Management and Environmental Services Association).

26 other industry stakeholders. These included 22 businesses replying in their own right, plus 4 representative bodies e.g. Confederation of British Industry.

48 local authority stakeholders. These included 42 district and county councils, plus 6 representative bodies.

14 Government bodies and agencies, e.g. the Environment Agency (EA).

2 academic bodies.

1 trade union.

11 individuals, replying on their own behalf.

When looking at these statistics and reading the responses to individual questions, it should be noted that most of the 27 representative bodies submitted responses based on consultation with their membership, which often consists of a large number of companies and/or organisations, including SMEs. Also, most of the 11 individual responses came from respondents who worked within the construction/waste industry, but who stressed that the views expressed did not necessarily reflect their employers' view.

Main Findings

- 75% of respondents supported the introduction of statutory SWMPs. This view was shared across the board of all stakeholder types and 58% of the responses from industry were in favour.
- 85% of respondents thought that SWMPs could bring about benefits in terms of improving resource efficiency.
- There was a wide disparity of views concerning the level of SWMP thresholds, and the best type of criteria to use when setting minimum requirements.
- There was recognition that all possible options for the criteria have advantages and disadvantages, but that project value is likely to be most practical.
- 20% of respondents agreed with the proposed project value entry threshold of £250k for statutory SWMPs, 22% thought this threshold was too high, whereas 10% felt it was too low.
- The proposal for value-based thresholds does present a risk of 'project-splitting'.
- There was concern that excluding smaller projects in order to reduce burdens on businesses would result in those most responsible for fly-tipping falling outside the SWMP requirements.
- Close alignment with definitions and responsibilities set out in the Construction (Design and Management) Regulations 2007 was favoured.
- The majority of respondents anticipated that statutory SWMPs would increase administrative burdens to some extent, but only a small number felt this would be significant.
- Effective enforcement, along with publicity and training, will be key to achieving the objectives of the proposals. In particular, support is needed for the SME sector.
- Many of the responses emphasised that waste minimisation should be considered at an early stage in project planning and design in order to maximise the benefits.

Responses, question-by-question

A record of the findings from the responses is given below. Where possible, we have also recorded the responses to some questions in matrix form to give a more detailed breakdown of the opinions expressed in terms of stakeholder type. This is most practical for those questions in which clear choices are offered. The matrix is at **Appendix A**.

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

Of the 104 responses to this question, 79 believed that regulations were necessary - this represents 75% of the respondents. This group consisted of 32 industry stakeholders (including 2 SMEs and 9 representative bodies) and 30 local authority stakeholders. 58% of the industry responses to this question supported mandatory SWMPs.

Amongst the reasons offered, two were most widely cited:

- i) 25 respondents considered that the voluntary system does not work, especially in the case of small construction businesses, whereas many larger businesses are already applying a SWMP approach for their own commercial reasons. This 25 included 1 SME, a further 8 from industry, and 10 local authorities. Of these, 7 respondents from industry stated that most small operators would ignore waste management without regulatory compulsion.
- ii) 13 respondents regarded regulation as essential to provide a 'level playing field' for the construction industry. This group included 5 industry respondents and 6 local authorities.

Other reasons cited were:

- The need to effectively encourage resource efficiency, re-use, recovery and recycling (7 respondents, including 4 from industry).
- Regulation would help large contractors to instil resource efficiency and management principles amongst their smaller sub-contractors.
- SWMPs will help bolster existing waste disposal and duty of care regulations.

Whilst the regulatory proposition was supported, this group also made a number of provisos and suggestions. These were:

- i) The proposed project value threshold of £250k is set too high to catch small operators, who are the main fly-tipping offenders. This view was also expressed by several respondents who opposed the regulatory proposition.
- ii) Resources, publicity, and training will be needed, especially for the SME sector.
- iii) Effective and consistent enforcement will be required, but local authority and Environment Agency capacity is constrained.
- iv) There should be more focus on small construction operators, as these are perceived by some to be the primary source of fly-tipping.
- v) Any SWMP regulations should be in line with the current Construction (Design and Management) Regulations (the 'CDM Regulations') and/or be incorporated within planning conditions. This would overcome the issue of setting a threshold for SWMPs. Comments of this nature were raised by 7 respondents.
- vi) SWMPs should cover the initial design stage of projects to increase the potential for waste minimisation at the outset.

- vii) The regulatory ‘teeth’ should apply to the fly-tipping prevention aspects of SWMPs rather than the waste minimisation aspects.
- viii) SWMP regulations should be more than a ‘big stick’. They should actively encourage waste minimisation and not stifle innovation.

19 of the 104 respondents believed that the voluntary approach was best, and this group consisted almost entirely of industry stakeholders – 11 from the construction sector (including 2 SMEs and 4 representative bodies), 1 from the waste sector and 6 from other areas of industry. The main reasons given were:

- i) Compulsion devalues the process, reducing it to a ‘one size fits all’ approach. The willing should be allowed to exploit the competitive edge that they can gain.
- ii) SWMPs are unnecessary. Regulatory resources should be devoted to enforcing existing regulations, e.g. the waste duty of care.
- iii) SWMPs are unnecessary. Industry is already practicing these principles.
- iv) The construction industry is already sufficiently regulated, and new burdens would be unwelcome.

Other views expressed included the following:

- The compulsory threshold of £250k project value is set too high to catch small operators, who are the main fly-tipping offenders.
- It is too early to say that the voluntary approach has failed.
- SWMPs are unnecessary. Existing processes such as ISO 14001 and CDM regulations can be used to achieve the same result.
- Regulation misses the point - waste needs to be ‘designed out’ at source.
- Regulation misses the point - guidance, support and promotion are needed.
- SWMPs could be counter-productive. They may encourage an increase in fly-tipping by small companies.
- The anticipated cost savings may not be realised.

6 of the 104 respondents were unsure whether a regulatory or voluntary approach offered the best solution. These 6 were comprised of 3 from the general business sector, and a representative body from each of the general business, construction and local authority sectors. Most described the pros and cons of each approach and concluded that the correct answer may not be easy to find.

Finally, some additional comments were made in relation to this question about the scope and applicability of the statutory proposals. 2 respondents, Sellafield Ltd and the Nuclear Decommissioning Authority, were concerned that the management of radioactively contaminated wastes is already highly regulated under the requirements of the Radiological Substances Act 1993 and other legislation. A similar point was made by the Environmental Services Association in relation to the regulation of waste at landfill sites and any construction activities taking place there.

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?

From 116 responses to this question, 23 stakeholders agreed with the £250k project value entry threshold proposed in the consultation, representing 20% of those that expressed a view. The 23 consisted of 10 industry stakeholders (including 3 SMEs and

3 representative bodies), 9 local authority stakeholders, and 4 government bodies. Of these, approximately half also expressed some form of qualification to their support.

An almost equal number (25 respondents) thought the threshold was too high. This group consisted of 11 industry stakeholders (including 4 representative bodies, but no SMEs), 10 local authority stakeholders, and 2 government bodies. Almost all gave the reason that a £250k threshold would exclude smaller builders and projects that were thought to be the primary source of construction waste fly-tipping.

A further group of 12 took the contrary view that £250k was too low a threshold. This group consisted of 9 industry stakeholders, and 1 local authority. Some thought £250k would catch too many projects that generate too little waste to make a meaningful impact on overall resource efficiency, whilst others emphasised the difficulty in enforcing SWMPs across such a wide base. A further 2 local authorities and 1 construction SME thought that the proposed second tier threshold of a £500k project value was too low.

However, 43 stakeholders (37%) not only disputed the £250k threshold, but challenged the rationale underlying any form of project value criteria to establish a SWMP threshold. A full breakdown of these stakeholder types and their views is provided in Appendix A, but it should immediately be noted that 'project value scepticism' is shared across all stakeholder types, and was raised by:

- 17 industry stakeholders and representative groups.
- 16 local authority stakeholders and representative groups.
- 5 central government bodies and agencies, including the Environment Agency.

12 simply stated that a value-based criteria could be easily manipulated by those wishing to evade regulation, and this view underscored the alternative criteria that were put forward. The most popular suggestions were:

- Make SWMPs applicable to **all** construction projects (14 supporters, including 7 from industry).
- Use floor or land area as the criteria (9 supporters, including 5 local authorities).

It is notable that industry stakeholders most favoured floor area, number of building units, or waste volume as the criteria to be used. Whilst several local authorities supported these too, they also suggested using thresholds provided by existing regulatory processes such as planning regulations and the CDM Regulations. The Environment Agency supported land/floor area and number of units, in preference to project value. It added that SWMPs must embrace demolition projects, which typically have low project values, whilst producing large waste volumes.

Other comments included the need for SWMPs to encompass the initial design stage in order to make the greatest impact in minimising waste.

One comment from the London Borough of Islington sought to encapsulate the dilemma of SWMPs seeking to achieve the two different objectives of combating fly-tipping and encouraging resource efficiency: "(The) tension in the proposals is that, from a resource efficiency perspective, SWMPs will need to target construction projects that produce large quantities of waste yet the cause of the fly-tipping problem is cited as being from sub-contractors and self-employed builders."

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

There were 90 responses, including 46 from the industry sector, 25 from local authorities, and 12 from government bodies

Of the 90 responses, there were 21 general expressions of support for the level of detail proposed in the draft regulations and this included responses from across the range of stakeholder types. In comparison, 7 respondents considered that the proposed level of detail was too prescriptive or felt that less detail should be required. 5 of these 7 responses were from businesses, 1 from a local authority and 1 from a government body.

Of those that generally supported the proposed level of detail the following points were also made:

- i) a 'scaled-down' version should be required for projects with a value of less than £250k.
- ii) a simple code of practice and standardised data sheets could help minimise the costs associated in gathering the necessary data.
- ii) the requirement for monitoring and lessons learned was regarded as too subjective to be a regulatory requirement and there was concern that this information may simply be copied over from one plan to the next with little consideration about how it could genuinely influence future projects.
- iii) some of the required information would duplicate that already recorded in waste transfer notes.

Of those that felt the proposals were too prescriptive, the suggestion was made that there should be a greater emphasis on goal setting instead, enabling the plans to be adapted to fit in with other requirements and to avoid constraining design and project delivery. The South East Centre for the Built Environment (SECBE) stressed that even estimating total waste volumes could be difficult and therefore providing details for each waste type, and especially the re-use of materials on-site, would be an onerous task. Again, the comment was raised here that monitoring and the description of lessons learned should be voluntary and not a statutory obligation.

A further group of 11 respondents simply commented that the level of detail required in a SWMP should reflect the nature and size of the project. There were other variations on this response, including that the level of detail should increase in relation to project value or that it should be scaled according to the amount of waste generated.

A number of other themes emerged from the responses to this question. These were:

- 6 respondents emphasised that the information required in a SWMP needed to be sufficient to provide a clear audit trail of the waste from source through to final destination and disposal.
- 5 respondents wanted the requirements to be kept simple.
- 5 respondents stressed the need for the regulations to allow flexibility in preparing the plans. It was felt that the regulations should set out a framework whilst maintaining scope for the continued development of voluntary agreements and initiatives. Another response stated that the regulations should only specify the 'type' of information that should be required, allowing the client and principal contractor to decide on the detail. There was a sense that the regulations should focus on 'core' information that would

enable the objectives to be progressed, providing minimum requirements that could then be built on by companies seeking to demonstrate good and best practice.

Many of the respondents to this question subsequently developed their comments further in answering questions 11, 13 and 14 which deal with specific aspects of the proposed content of the plans. Therefore, these comments have been covered in the summaries for the relevant questions rather than duplicating them here.

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

There were 87 responses, including 45 from the industry sector, 24 from local authorities, and 13 from government bodies.

74 respondents (85%) took a relatively positive view and mentioned a variety of ways in which SWMPs might encourage resource efficiency. The following list simply identifies some of the main lines of thought that emerged:

a) The biggest wins are only possible if SWMPs are triggered at an early stage in the project process, so that planners, developers and procurement practices are involved. In this way the key decisions about waste minimisation are made at an early stage, particularly concerning the choice and quantity of materials to be used. Otherwise the scope for contractors to minimise waste during the construction phase will be greatly limited.

Early planning leads in the first instance to reduction of wastes and thereafter to greater recycling and re-use opportunities, as Sellafield Ltd observed. This represents a reversal of the general practice of many construction projects in leaving waste considerations until much later in the process.

b) Simply compelling people to think about waste will produce results. The basic acts of planning and forecasting materials, quantities, and disposal routes will generate rewards. This can be achieved:

- At the level of general awareness-raising.
- By simple measures such as defining the stages of the waste hierarchy.
- By promoting a waste-aware culture in design and on-site. Just getting operatives into the habit of segregating waste will help considerably.
- With time and practice. As industry gains confidence in the process, the benefits will also grow.

c) SWMPs should also help at the decant stage of projects, when waste volume tends to build.

d) Clarifying responsibilities. This can be established by defining targets, and who is responsible. Measurement and active management are important as they will indicate where savings can be made and when the savings are achieved, helping the SWMP process to become more firmly established.

e) Data generation. SWMPs can provide a valuable diagnostic tool for the industry, and assist local authorities in their efforts to predict waste flows and quantities.

f) The larger operators with the larger projects and waste flows may have most to gain.

13 of the respondents took a more qualified view of the potential value of SWMPs, and 9 of these were from the industry sector. 4 of the 13 were concerned that the design stage would not be sufficiently covered by the proposals, thus reducing the effectiveness of SWMPs. Others felt that alternative drivers, such as cost, education/training and market forces, would be more effective in encouraging resource efficiency.

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?

There were 84 responses, including 40 from the industry sector, 29 from local authorities, and 10 from government bodies (see Appendix A).

An overwhelming majority of 68 believed that administrative burdens would be increased to some extent, and this view was shared across all stakeholder types. 8 considered that the additional burdens would be substantial, including 5 industry stakeholders, and 1 local authority representative body. However, a further 30 respondents thought that any additional burdens would not be significant. This group consisted of 16 industry stakeholders, 10 local authority respondents and 4 government bodies. Of the 16 from industry, 7 predicted that the ultimate savings from increased resource efficiency would offset any burdens from implementing the regulations. 6 respondents, including 2 local authorities and 2 from industry added that extra burdens could be reduced if SWMPs were incorporated within existing regulatory regimes, such as the CDM Regulations.

7 (mainly large) industry stakeholders and 1 local authority from the 68 offered some cost estimates for the anticipated burdens. These were:

- 30% of total management costs.
- 3 hours per month of (mainly) paperwork, approximating to £1980 pa/project.
- £750 for project values of <£500k and £2000 for project values of >£500k.
- <1% of current administration costs (this estimate was provided by a SME).
- Preparation - £1,300, Monthly updating - £5,580, Auditing & co-ordination - £2,440. Total = £9,320.
- Assuming £0.5 million as the minimum project value, an average of £1500 per project.
- For formalising and ensuring compliance 1% of the project cost for 'new-builds', but significantly higher for complicated strip and refurbishment projects (from The Construction Federation, based on estimates supplied by members).
- At least one full time post at technical officer grade, estimated at £50K pa (Tendring District Council).

Looking more closely at where any extra burdens might fall, there was a general view that larger construction companies would experience less difficulty than smaller operators because many are already using SWMPs. There were mixed views from industry regarding where the anticipated extra burdens would arise. In almost equal measure, some thought that burdens would be created at the 'front end' in designing and planning the project, whereas others identified ongoing management, monitoring

and updating of SWMPs throughout the construction phase as the main source of extra work.

Of the 29 local authority respondents, 24 felt they would need to devote some extra resource to SWMPs. However, 5 of the 24 thought that relatively little extra resource would be needed, while a further 4 considered that the ultimate savings from increased resource efficiency would offset any greater burdens.

There were also 9 respondents that doubted that there would be any additional burdens. These included 4 local authorities and 2 construction companies. These companies were already applying SWMP principles in their projects. 2 of the local authorities considered that because the proposed mandatory element of SWMPs seeks to reinforce existing waste duty of care and carrier regulations, then, provided they are adhering to current requirements, construction companies should not experience any additional burdens. Several respondents also observed that much of the 'pre-thinking' that SWMPs encourage is already done by any operator that bids for work, for example, estimating the number of waste skips required. Mandatory SWMPs would simply require that these thought processes are committed to paper.

A further 7 respondents could not decide whether or not any extra burdens would arise, but this group generally felt that if burdens did arise, they would be either small or likely to be offset by subsequent savings.

It is difficult to draw firm conclusions from these responses. Of the majority that anticipated some additional administrative burdens, only a small number identified the burden as significant. Therefore the consensus seemed to range between the views that extra burdens would be either small or non-existent. It is also worth noting that the Chartered Institute of Building's canvass of members indicated a 59% to 41% split, with the small majority predicting no significant increases in paperwork, provided that SWMPs are consistent with the existing CDM Regulations.

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?

There were 81 responses, including 40 from the industry sector, 23 from local authorities, and 11 from government bodies (see Appendix A). Responses generally fell into one of two 'camps'. A small majority of 45 did not consider that the same objectives would be achieved by further promotion of the voluntary scheme. This 'camp' included 19 of the 23 local authority stakeholders, 15 of the 40 from industry and 6 government bodies. A sizeable minority of 36 were content to say that there may be some value in continuing to promote SWMP principles on a voluntary basis. This 'camp' included 25 of the 40 industry stakeholders, but only 4 of the 23 local authority stakeholders. However, few were prepared to push this view to the point of saying that the voluntary code would be as effective as regulation.

This seems to indicate a difference in emphasis between industry and local government, with industry being largely content with a voluntary approach but local authorities and a few from industry feeling dubious. Government bodies were almost equally split.

Of the 36 that were broadly in favour, the following are some of the views expressed concerning ways in which SWMPs might be promoted, especially to smaller companies:

- Providing training, education and incentives (8 responses).
- Promoting local recycling facilities (2 responses).
- Promotion through industry/trade bodies and toolbox talks.
- Create an industry standard for smaller companies.
- Promoting SWMPs as guidance, but with the potential of being used in court if abuses occur, equivalent to the Highway Code.

Others doubted that active promotion would be necessary or fruitful. 5 respondents thought that landfill costs and market forces would generally drive uptake. Another 5 foresaw benefits to large operators but were sceptical about the likely uptake by smaller companies, whereas 1 envisaged a 'trickle down' effect from larger companies to smaller operations. 1 of the respondents favoured regulation, but recommended the promotion of voluntary SWMPs for projects below the regulatory threshold.

Of the 45 that opposed further promotion of the voluntary route, 27 felt that nothing less than regulation would have any effect. Hyder Consulting added that promoting voluntary SWMPs sent the wrong message to industry, by implying that waste minimisation and disposal was not a serious problem. Another 6 doubted that small companies would respond, whereas the larger operations were already doing so. 1 respondent felt that developers would ignore a voluntary code, thus reducing the 'big win' possibilities of waste minimisation prior to recycling and re-use. 1 small industry stakeholder that already practices the voluntary code claimed they would be placed at a competitive disadvantage against other operators that do not work to the same standards.

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?

There were 77 responses, including 44 from the industry sector, 22 from local authorities, and 6 from government bodies (see Appendix A).

Few, if any, were 100% satisfied that the proposed level of intervention was right, but almost half (38 respondents) appeared to be reasonably content. This group included 17 from industry and 16 local authorities. The most common proviso was that much would depend on the level of enforcement.

Of the remainder, 35 respondents did not believe that the proposed level of intervention was right (see Appendix A). 18 respondents, across the board, thought there should be more stringent intervention in the area of illegal waste disposal, with the most common observation being that the £250k threshold was too low to catch the smaller operatives that many believe are the main fly-tipping offenders. 6 industry stakeholders thought that the proposals were already too stringent and there should be less intervention in this area. 8 thought that the resource efficiency measures should be given more force, mainly by making SWMPs effective at the design/planning stage, and 3 from industry

thought these proposals were already too stringent. 2 suggested that the joint objectives were sufficiently distinct that they would each benefit from having separate thresholds.

The reservations put forward did not always suggest that the proposed level of intervention was wrong. Often respondents were simply flagging the difficulty in providing a complete solution to two distinct problems, resource efficiency and illegal waste activity.

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.

There were 67 responses, including 39 from the industry sector, 12 from local authorities, and 9 from government bodies. The estimate of 13% was doubted by some industry stakeholders, including the Construction Federation. The main types of waste identified included bricks, blocks, aggregates, cement, timber, plasterboard, plastics, insulation. Few respondents could confidently estimate the value of these materials.

Appendix A contains a summary list of (1) the typical waste composition on site, (2) reasons why such waste is produced, (3) possible solutions and recovery options (4) value/extent of this waste.

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?

There were 72 responses, including 39 from the industry sector, 22 from local authorities, and 7 from government bodies (see Appendix A). Of these, 47 believed that the proposed definition was broadly adequate to capture the full range of construction work to which SWMPs should apply, while 25 considered the definition inadequate in some respect. Although broad support for the proposed definition came from across the range of stakeholder types, it received greatest support from the local authority sector, with 15 of the 22 authorities responding saying that it was broadly adequate. From the industry sector, 24 of the 40 respondents expressed similar views.

Firstly, taking the group of 47 that supported the definition, 40 did so with little or no reservation, with 12 specifically endorsing the proposal to model the definition on the CDM regulations. The most common reason given was that CDM regulations are already familiar to the industry. [Some respondents noted that the consultation referred to the original CDM 1994 regulations. This was done because, at the time of publication, the revised CDM 2007 regulations had not taken effect. However, Defra intends to use the latest CDM definitions in the final SWMP regulations]. This 'content' sub-group of 40 included 22 from industry and 13 local authorities.

In addition to the 40 there were 7 respondents that endorsed the proposal with some qualification. Within this smaller sub-group there were comments regarding:

- The link between the definitions in the CDM regulations and SWMPs. The Environment Agency emphasised that the definitions should be consistent, and

that without linking the requirements to a specific planning permission, developers would be free to split projects up into smaller ones, thus avoiding the regulatory controls. Surrey Heath Borough Council warned that subsequent changes in one set of regulations may cause confusion, unless all the other related regulation is also updated.

- Definitions of specific terms need clarification, at least in subsequent guidance, for example, CL:AIRE (Contaminated Land: Applications in Real Environments) queried the meaning of the term 'site rules' and the Construction Federation flagged the value of 'materials and labour' as an area requiring further explanation.
- Devon County Council considered that waste generation following occupation is ignored by the proposals.

The 25 responses that regarded the definition as inadequate included 16 from the industry sector and 7 from the local authority sector. Again, the industry responses raised concerns that links with the CDM regulations were too loose and may cause confusion in the longer term. Several suggested use of the planning process to define those projects falling within scope and thus prevent project fragmentation to avoid the requirements. Hyder Consulting commented that the best way to define construction is to correlate it with the DTI's Annual Construction Statistics. There were numerous other comments made, and these are more fully summarised in Appendix B. However, the comments fell broadly into four categories:

i) Missing construction activities that should be included – the following were mentioned: landscaping works, cumulative smaller projects, demolition work (raised by 2 industry and 1 local authority stakeholder), non-construction work such as pipe and cable repair, waste minimisation statements, contaminated land sites, and projects sited on tidal reaches.

ii) Construction activities that should be excluded - the activities identified were: the maintenance of structures and equipment, alteration and renovation work (flagged by a SME), utilities and repair/maintenance projects.

iii) Comments on the regulatory links proposed, as referred to above.

iv) Words requiring definition or clarification of intention - queries raised included whether landfill site construction is covered (response from the Environmental Services Association), whether local authority highways work is covered, and the meaning/scope of the terms "...re-decoration or other maintenance including cleaning ..." and "civil engineering".

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

There were 68 responses, including 38 from the industry sector, 18 from local authorities, and 7 from government bodies (see Appendix A).

The greatest single area of support was, broadly, for the proposed criteria of project value. 18 respondents backed this criteria, although many had reservations about its efficacy and viewed it as the most practical of an imperfect set of options. This support was across the board and included 9 of the 38 from industry and 4 local authorities.

Support was expressed for 5 alternative types of criteria. In order of the level of support, these were:

- Using existing regulatory structures and triggers (i.e. CDM regulations and/or the planning process (14 responses, including 11 from industry and 3 local authorities).
- Project costs (11 responses, including 5 from industry and 5 local authorities).
- Simply to include all projects meeting the definition of 'construction' (9 responses, including 6 from industry and 1 local authority).
- Projected waste quantities (8 responses, including 5 from industry and 2 local authorities).
- Site area (5 responses, including 2 local authorities and the Environment Agency).

It is notable, therefore, that industry stakeholders tended to favour existing regulatory structures, especially the CDM regulations, more than the proposed project value criteria. There was also significant support for simply applying SWMPs to all construction projects. Generally, local authorities favoured the proposed criteria, with substantial support for using project cost. The Environment Agency supported a criteria based upon site area and/or the numbers of units to be built.

Essentially, therefore, the proposed criteria drew the greatest level of support overall, even though this represented just 28% of all those expressing a view, including 25% of the responses from industry.

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?

This question had 76 respondents, most of whom had already responded to **Question 2**, which is closely connected. Many of these took the opportunity to re-iterate their views, although some felt able to offer further detail regarding minimum values for SWMPs and higher value trigger points.

Of those that thought the £250k initial threshold was too high, 2 local authorities suggested £100,000, and one construction company suggested a basic duty-of-care template for projects starting at £20,000.

Of those that thought £250k was too low, one local authority suggested £350,000, 2 construction companies suggested £500k, 1 construction representative suggested £1 million, while the Federation of Master Builders suggested £5 million.

3 respondents (2 local authorities and 1 construction company) did not challenge the £250k entry level, but considered the £500k second-tier threshold to be too low.

12 respondents said that SWMPs should not be tiered, i.e. there should be one threshold beyond which projects require a SWMP. The main reasons were the need for simplicity, and that SWMPs should essentially require the same things of all operators, irrespective of project size. These respondents included 7 from the industry sector, 2 governmental bodies and 3 local authorities. Of these, 2 local authorities and 1 from industry suggested that the single threshold should be set at £500k.

Other alternative suggestions included:

- Tiers that differentiate between new-build and other construction types.
- Tiers that differentiate between brownfield sites (£250k) and Greenfield sites (£600k).
- Setting the upper level at £1m (for resource efficiency).
- Tier by waste categories.
- Tier by waste volume (e.g. 50 cu metres).

Overall this question did not excite a great quantity of new comment or numbers of respondents who felt they could confidently recommend specific SWMP thresholds or detail.

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?

There were 73 responses, including 44 from the industry sector, 18 from local authorities, and 7 from government bodies (see Appendix A for a full breakdown).

A vast majority of 64 respondents agreed that a risk of project-splitting did exist. The remaining 9, which included 5 industry stakeholders and 2 local authorities, doubted this and mainly for the reason that any effort to avoid producing a SWMP would probably involve greater costs for operators, in terms of more time, expense and administration, than the benefits to be gained from evading the SWMP requirements. In particular, the need to apply for multiple planning consents was most commonly cited as an additional effort required to achieve this.

The 64 that anticipated some degree of risk offered 5 main forms of solution, which were:

i) Remove or lower the SWMP threshold, since, if all or most construction projects are subject to SWMPs there is no benefit to be gained by splitting projects. This was supported by 14 respondents, consisting of 8 from industry, 4 local authorities, and 2 government bodies. It was therefore popular amongst industry, including one SME.

ii) Link SWMPs to the CDM regulations as these already provide a clear definition of 'project' and a notification procedure. This was supported by 11 respondents, including 8 from industry, 1 local authority, and 1 government body. Once again, therefore, this was a solution that was popular with industry.

iii) Link SWMPs to planning regulations. This is similar to the 'CDM solution' in that local authorities must be notified of any construction project requiring permission, thus the full scope of the proposed works is already identified. This was supported by 8 respondents, including 5 local authorities, 2 from industry, and 1 government body, making it the single most popular solution amongst local authorities.

iv) Make the client responsible for SWMPs. This solution contends that in many circumstances it is only the client that can be expected to know the full scope of works that are ultimately envisaged. This was supported by 5 respondents, all from industry except for 1 government body.

v) Set out a clear relationship between the project and the site. The requirement for SWMPs should be determined by the full extent of the 'site' and all waste-generating activities that take place within the site for the whole duration of any construction activity. This solution attracted 4 respondents - 2 from industry, 1 local authority and the Environment Agency. It should be noted that the Environment Agency also considered

the planning regulations route as a possibility, together with the removal of the threshold altogether.

Over and above the solutions offered, two respondents identified difficulties surrounding this question. One pointed out that it is common in the construction industry for additional works to be awarded as the project progresses, resulting in situations where a project could be under the threshold at commencement, but later exceed it. Another identified contracts based on a certain 'term', such as highway maintenance contracts that employ sub-contractors to carry out multiple unspecified works over a period of time.

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

There were 73 responses, including 44 from the industry sector, 17 from local authorities, and 7 from government bodies (see Appendix A).

40 respondents considered the proposed level of detail to be reasonably adequate, and this group included 24 from industry and 13 local authorities. However, the following comments and qualifications were made:

- The definitions used in the draft regulations need greater clarification.
- The duty of care requirements could be strengthened, especially for projects of less than £500k value, so that full waste contractor details and waste transfer notes are required (2 respondents).
- The requirements should apply to all projects (1 respondent).
- Integration with CDM regulations is necessary (1 respondent)
- Waste management details should be the only prerequisite (3 respondents).
- It may prove difficult to track waste once it has left the site (1 respondent).

10 thought the level of detail was insufficient. The areas mentioned were:

- The duty of care details are necessary for projects of <£500k (4 respondents).
- The proposals lack sufficient detail on the design stage of projects (2 respondents).
- Full duty of care and waste management details are needed for all projects (1 respondent).
- Waste treatment details are needed for projects of <£500k (1 respondent).
- Use of European waste codes should be required (1 respondent).
- The definitions are too vague (1 respondent).
- The value criteria is not the right one to use and, in particular, would exclude many demolition contracts (EA).

21 respondents, including 14 from industry, thought the detail level was too great or burdensome in some respect. The areas mentioned by this group were:

- Data on waste volumes are too difficult to predict (5 respondents).
- Some of the proposed requirements concerning waste disposal routes are impractical and could result in double-counting (2 respondents).
- Too much bureaucracy (2 respondents).
- The data submission required is too early in the process (2 respondents).
- The requirements are impractical (1 respondents).

- There is too much emphasis on individuals within the process (1 respondents).
- The requirements are generally too prescriptive (1 respondent).

Across both industry and local authorities, two thirds (50 respondents) thought that the level of detail was either adequate or perhaps insufficient, whereas one third (21 respondents) considered it excessive in some respect.

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

There were 59 responses, including 34 from the industry sector, 16 from local authorities, and 3 from government bodies.

17 respondents, including 10 from industry and 2 local authorities considered the proposed requirements broadly adequate.

10 respondents, including 6 from industry, considered some of the information unnecessary. Comments here included general statements that the proposed information requirements were too prescriptive or burdensome, but more specific comments included:

- The requirement for waste predictions is unnecessary or too speculative (4 respondents).
- The lessons learned section is unnecessary and should not be a regulatory requirement (2 respondents).
- The requirements should be simplified, e.g. by reducing data on reuse and recycling into a single category (1 respondent).

32 respondents, including 16 from industry and 13 local authorities, considered that additional information would be helpful. The most popular suggestions were:

- Waste management documentation such as waste transfer notes and details of those receiving the waste should be required for all projects needing a SWMP. This was supported by 5 local authorities and 4 from industry (9 respondents).
- It would be helpful to make SWMP data available to a regulatory, or other central co-ordinating body as this would provide valuable information to help inform the development of policy and research on resource efficiency and waste management. This idea was mainly proposed by local authorities (5 respondents).
- The cost savings and details of all waste streams should be made more comprehensive, in order to be of greater use (4 respondents).
- The design phase must be included within SWMPs (2 respondents).
- European waste codes should be required (2 respondents).
- SWMPs should record all materials entering a site at the outset, in addition to the wastes leaving (2 respondents).

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?

There were 47 responses, including 26 from the industry sector, 12 local authorities, and 6 from government bodies. 12 respondents were broadly content with the analysis, although several concluded that it lacked sufficient information to make a fully informed judgement. 9 of these 12 were local authorities.

A further 16 responses found the partial RIA over-optimistic in some way. These 16 included 13 industry stakeholders and 1 local authority, most of whom felt that the costs were under-estimated and/or the benefits were over-estimated. Specific criticisms included:

- Parts of the partial RIA contradicted the Building Research Establishment's estimate that the typical cost of SWMPs would equate to 1% of the overall project costs.
- 3 responses believed that the cost estimates do not allow for differences in the type or complexity of projects, for example, projects involving construction and demolition activities on the same site.
- The time estimates set out in the assessment - i) The time needed to draft a SWMP for a project value of >£500k was underestimated and it would take at least 3 days, ii) A local authority flagged up the costs and time associated with training enforcement staff, iii) The time estimates were based on simple admin/man-hour considerations but, in order to be genuinely useful, SWMPs would take more time. For example, one response stated that it would take more time to identify appropriate recycling and/or recovery routes.
- The costs of providing the waste specification/audit were under-estimated.
- All cost and time estimates were based on existing voluntary schemes. It is likely that these will be greater for operators producing SWMPs under a regulatory regime.

Another 8 responses found the partial RIA over-pessimistic in some respect. These included 7 industry stakeholders, of which 2 were waste industry stakeholders.

Comments included that:

- The costs to industry would reduce with time, practice and knowledge (3 responses).
- The administration costs are over-estimated (1 response).
- The ultimate financial benefits will offset the costs and should have been highlighted more (2 responses).
- The Environmental Services Association considered that the benefits of reduced fly-tipping should have been included.

Amongst the remaining 11 responses, several expressed some reservation about the data used and felt that more research was needed. The Environment Agency and 1 local authority expressed concern about how the extra cost of enforcement might be funded.

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?

There were 79 responses, including 43 from the industry sector, 20 local authorities, and 11 from government bodies. In order of expressed preference, the main response groupings are listed below:

1. **“It depends . . .”**. The single most popular type of response across stakeholder types was that the person best placed to write and implement a SWMP would depend on one or a number of factors. 26 respondents expressed this view, including 14 from industry and 8 local authorities. The various factors put forward included:

- The phase of the project.
- The size of the project.
- The size of the contractor company.

2. **Transfer of responsibility**. The second most popular response broadly supported the view that the client and/or designer should draft the SWMP, but that responsibility for implementation and updating should transfer to the principal contractor at a later point, probably once the project had entered the construction phase. 19 respondents expressed this type of view, with several variations. Of these there were 11 industry supporters, making it the industry sector’s second-favoured position, with further support from 4 local authorities.

3. **Principal contractor**. A slightly smaller total of 16 thought that the principal contractor should be responsible, and this view held slightly more support amongst local authorities, with 5 supporting it. 7 industry stakeholders also supported this view.

4. **Client**. The fourth choice, supported by 5 stakeholders, was that the client should be responsible, with 3 industry stakeholders and 1 local authority supporting this option.

Spread across all four views was that the CDM regulations could provide a good working model for determining responsibility. CDM was specifically mentioned by 15 respondents.

Overall the respondents seemed to experience some difficulty in committing to just one ‘appropriate person’, hence, more than half favoured a project-by-project approach, or the transfer of responsibility at some point during the life of the project.

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

There were 80 responses, including 45 from the industry sector, 22 local authorities, and 9 from government bodies.

Of those expressing a definitive view, there was a narrow majority of 38, against 35, in favour of holding an individual responsible. However, the answers to this question revealed a clear divide between industry and local authority responses, with government bodies evenly split (see Appendix A). 18 of the 22 local authority stakeholders believed that the person drafting should be made responsible for the actions of others, whereas 26 of the 45 industry stakeholders opposed this proposition. The South East Centre for

the Built Environment (SECBE) reported a similar response from their own survey of the industry, stating that 65% of their respondents opposed the proposition.

Amongst the 35 opposing the proposition, there was relative uniformity in the reasons given. Almost all accepted the need to establish responsibility, but considered that this should be corporate rather than targeted at an individual. Most considered the proposition unreasonable because a given individual cannot be expected to have control over the actions of all other individuals and organisations involved at all stages of a project, especially a large project. This lack of control was predicted to work both ways, with contractors being bound by initial client decisions, and clients/designers being vulnerable to contractors' subsequent breaches of waste regulation. Other observations and suggestions included:

- The need for guidance in this area.
- Use of the CDM regulations as a model to help determine responsibilities.
- Setting out personal responsibility in the SWMP regulations would be inconsistent with the waste duty of care regime.
- Personal responsibility would be unreasonable unless the drafter has also breached the duty of care regime.
- Normal contractual arrangements should be used instead.
- Clarification is needed on what would happen if the drafter changes job.
- The SWMP should make all parties responsible, including sub-contractors.

The group of 38 that supported the proposition of personal responsibility included 18 local authorities, 15 industry stakeholders and 4 government bodies. The reasons and comments given were represented across the different stakeholder types, and the main ones were as follows:

Few, if any, proposed absolute personal responsibility for every part of a SWMP. 5 respondents thought that the responsibility should be broadly restricted to the implementation phase of a SWMP and, similarly, 7 thought the individual should only be liable for personal negligence in performing the necessary tasks. The sort of tasks envisaged by some included the monitoring of waste carrier licences, waste transfer notes and correct waste characterisation on site. When exemplifying instances in which personal liability should and should not apply, several drew a distinction between, firstly, the responsible person using their best endeavours to ensure that the SWMP was followed and updated but being actively misled by operatives that deliberately flout the plan and the law, and secondly, 'responsible' persons who are actively negligent and 'turn a blind eye' to illegal activities.

5 thought that personal liability would actively 'drive' waste management principles down the line to all contractors and sub-contractors on site, with 1 recommending inclusion of the supply chain in the process.

7 respondents cited the CDM regulations as a good model for establishing specific responsibilities of the appointed person. It was envisaged that such a person might be appointed in the same way as CDM regulations require the client to appoint a planning supervisor.

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

There were 83 responses, including 44 from the industry sector, 25 local authorities, and 10 from government bodies. Of these, 10 industry stakeholders reiterated the previously expressed belief that SWMPs should not be regulated.

The remaining 73 respondents were broadly in favour of regulation and, of this majority, 53 indicated the body or bodies they thought should enforce the regulation. Within this group of 53, a majority of 32 favoured joint responsibility between local authorities and the EA. This 32 included 12 from industry, 15 local authorities, and the EA itself. The EA proposed a similar arrangement to other areas of waste enforcement, whereby the EA concentrates on 'the big, bad, and nasty' breaches. A further 10 respondents favoured regulation by local authorities alone, and these included 8 from industry and 2 local authorities. Another 7, mainly from industry, mentioned only the EA as a potential regulator.

Most respondents appeared to concentrate primarily on how regulation should be applied, rather than by whom. Some of the main points arising were:

- The regulation should be a duty, rather than a power. 10 respondents, mainly local authorities, supported this view. One reason given was that enforcement is less likely to occur if this is not the case.
- 3 respondents said that the responsible body, or responsible part of the local authority (for example, planning, waste or environmental control) should be specified, otherwise little enforcement would follow. From all respondents expressing an opinion on appropriate local authority roles, 7 thought that planning teams were best placed to carry out enforcement, although 1 local authority emphatically stated that planning departments did not possess the requisite expertise. 3 respondents favoured the CDM process.
- Enforcement should be adequately resourced from extra central government funding or via the payment of fees. 12 from both industry and local authorities made this point, and again, for reasons of effective enforcement.
- The need for uniform enforcement across the country was raised by 4 respondents. This point was used by some to support the need for clearly defined responsibilities and the adequate provision of resources.
- A further 3 respondents emphasised that 'light touch' enforcement was most appropriate.

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

There were 69 responses, including 40 from the industry sector, 16 from local authorities, and 7 from government bodies.

22 respondents commented on inspection frequency, and the most popular suggestion was for spot checks by the enforcement authority, with 16 supporting this. This 16 included 8 local authorities and 5 from industry. 3 thought that the frequency of checks should be dependent on the size of the project.

44 respondents also advised on the criteria that might be adopted by the enforcer when deciding which projects to inspect. 15 suggested a risk-based approach, determined by

the likelihood of waste management breaches, and this approach was supported by 9 from industry and 5 local authorities. 9 favoured using the planning process to trigger inspections, with some suggesting that inspections should take place at each stage of the project to cover planning, construction, and completion. This 9 included 4 from industry and 2 local authorities. Another group of 6, mainly from industry, supported a more self-regulatory approach, possibly based upon the ISO 14001 mechanism.

7 respondents also commented upon the possible content of inspections. 6, including 4 from industry, felt that the checks should do no more than enforce existing waste management regulation, for example, in relation to the duty of care, waste transfer and waste disposal. One local authority proposed that inspections should also cover the resource efficiency objectives of SWMPs.

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

There were 63 responses, including 37 from the industry sector, 17 local authorities, and 5 from government bodies. Of these, 15 disagreed with the range of offences. These 15 were all industry respondents. The following were given as objections:

- 3 thought that the offences were too draconian.
- 2 thought the offences should be civil rather than criminal.
- 2 thought that the existing waste crime offences were sufficient.
- 1 was concerned that a failure to recycle waste identified on a SWMP would become an offence if that waste was ultimately (and otherwise legally) consigned to landfill.

There were 48 respondents that were broadly supportive of the proposed range of offences, and this group included 22 from industry, 17 local authorities, and 5 from government bodies. Some of the 48 offered additional comments or caveats:

- 5 industry stakeholders hoped that enforcement would be applied proportionately. One respondent wanted only those aspects directly relating to existing waste crimes to be deemed offences, with wider aspects promoted as best practice.
- 4 wanted the offences to be tightened up in some areas. 1 local authority wanted the maximum fine increased to £20,000. 2 industry stakeholders doubted the value of fixed penalty notices, and the Quarry Products Association suggested that there should be penalties for failing to meet statutory targets.
- 2 expressed concerns over the likelihood of effective enforcement, both by local authorities and in terms of fines imposed by the courts.
- 2 sought clarification of the offence of making a 'false statement' in a SWMP.

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

There were 65 responses, including 35 from the industry sector, 18 local authorities, and 6 from government bodies.

35 respondents were broadly content with the proposed penalties and this group included 20 from industry, 7 local authorities, and 5 government bodies.

There were, however, some caveats and reservations expressed by this group. 3 industry responses hoped that the penalties for making a false statement would focus

on existing offences such as fly-tipping or duty of care breaches, rather than erroneous resource efficiency figures. Another 3 respondents (2 local authorities and 1 industry stakeholder) proposed higher fines or alternative penalties such as vehicle seizure and temporary project cessation (for example, applying legislation under the Control of Pollution Act 1971).

Other comments included the recommendation to ring-fence the revenue from penalties for use by the enforcing authorities, and this was proposed by 3 industry respondents as well as 1 local authority.

30 respondents had concerns about the proposed penalties. However, this group included both those that considered them too stringent and those that queried their leniency.

9 considered them too stringent, including 7 from industry. The following reasons were among those offered:

- Failure to produce a SWMP should be a civil offence.
- The proposals are inequitable. Fixed penalty notices (FPNs) targeted at small business will not be a sufficient deterrent, whereas large operators are potentially threatened with custodial sentences for erroneous waste projections.
- Penalties should be used for waste management breaches only.
- The threat of fines may encourage 'tokenistic' SWMPs aimed at simply fulfilling the basic requirements.

12 considered the penalties too lenient, including 7 local authorities and 3 from industry, and the following reasons were among those offered:

- 6 considered the fines too low. Instead they should be applied on a project-by-project basis, relating to the project size and/or extent of illegal financial gain to be made. It should be noted that 6 others from the 65 respondents shared this view, but without stating that the penalties were too low.
- The £300 FPN level is too low and/or FPNs would be inappropriate to deter offences.
- Project cessation would be a stronger deterrent.
- Quantitative benchmarks are needed for 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?

There were 75 responses, including 45 from the industry sector, 18 local authorities, and 7 from government bodies. This response generated a plethora of possible reasons.

The most popular are cited below:

- Lack of knowledge within the industry (11 responses).
- Failure to make the business case for SWMPs (9 responses).
- Lack of resources, the cost of producing the paperwork and the initial outlay associated with this (9 responses).
- Insufficient time and lack of priority (8 responses).
- Larger operators are already producing SWMPs, but under other mechanisms, for example, to meet ISO 14001 standards (7 responses).

- The fact that SWMPs are presently voluntary (5 responses).
- SWMPs are seen as a bureaucratic and burdensome process (5 responses).
- Industry culture, including competition of multi-disciplinary contractors against each another (3 responses).
- Commercial sensitivity (3 responses).
- Lack of local recycling facilities (3 responses).
- Ultimately the client pays so there is no incentive to minimise waste (2 responses).
- Short term thinking (2 responses).
- Landfill costs still relatively cheap.
- The risk of failing to meet contract deadlines.

The most popular responses were represented across the range of stakeholder types. It was noticeable that several from industry claimed it was the SME sector that had failed to adopt SWMPs, therefore implicitly contesting the basic premise of Q22 that the larger operators had failed to take up SWMPs.

There were fewer possible solutions offered than possible causes, but the most common are listed below:

- Make SWMPs mandatory (8 responses).
- Provide education, training and/or toolbox talks to the industry (5 responses).
- Provide details of local recycling facilities (4 responses).
- Provide a robust and easy web-based mechanism and/or template to help demonstrate the cost savings (3 responses).
- Provide financial incentives (2 responses).
- Enforce existing waste regulations (2 responses).
- Encourage buy-back schemes within the supply chain.
- Simply ask companies that started, but did not continue, to produce SWMPs the reasons why.
- Pool companies' SWMP data on an anonymous basis in order to protect commercially sensitivity.

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

There were 71 responses, including 41 from the industry sector, 19 local authorities, and 7 from government bodies. On the whole, the answers tended to match those in Q.22. However, the most popular suggestion, cited by 31 respondents, was to use communication and promotional campaigns. Individual suggestions varied, but trade organisations, government agencies and local authorities were mentioned as key vehicles for disseminated information, with target audiences identified as the SME market, clients, and designers. The general feeling was that the financial and environmental benefits should be emphasised and 'sold' to the industry, rather than the regulatory obligations.

Other suggestions included:

- Creation of accreditation schemes for practitioners in resource efficiency and use of existing ones, e.g. Corporate Social Responsibility, ISO 14001, ISO 9001 (6 responses).

- Make SWMPs mandatory (6 responses).
- Use the planning process or CDM mechanisms to promote SWMPs (6 responses).
- Provide clear guidance to industry (5 responses).
- Regulate for waste management breaches, not resource efficiency. There is a risk of alienating the industry if the approach to enforcement is too harsh (5 responses).
- Public sector procurement policies to embed SWMP principles (4 responses).
- Promote waste management regulatory awareness, especially among SMEs (4 responses).
- Provide financial incentives, e.g. via corporate or landfill tax credits (2 responses).
- Provide a robust and easy web-based mechanism and/or template to help demonstrate the cost savings (2 responses).
- Target trade organisations (2 responses).
- Time will help to improve awareness, and other initiatives, such as the Code for Sustainable Homes, will have an influence over longer timescales (2 responses).
- Cluster schemes, whereby larger sites with treatment technologies in operation as part of a remediation project can be used to treat soils on local sites.
- Publicise prosecutions and 'name and shame' offenders.

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

There were 32 responses, including 17 from the industry sector, 8 local authorities, and 4 from government bodies.

5 respondents, mainly from industry, suggested that further research on the cost/benefit figures is desirable. Adjectives used in relation to the data presented in the consultation document included 'vague', 'unsubstantiated', and 'underestimated'. On the other hand, 3 respondents were content.

A further 4 respondents felt that the partial RIA failed to establish a connection between fly-tipped construction and demolition waste and its origin. Therefore, it was not possible to determine whether this waste, as a whole, originated from projects that would require a SWMP under the proposals.

Other comments included:

- No research into the source of fly-tipping and the link to projects over £250k has been carried out.
- The partial RIA states that the penalty for non-compliance should be at least £750, however, the proposed amount of the Fixed Penalty Notice is £300. This inconsistency should be resolved. (2 responses)
- Legislation already exists to tackle fly-tipping, it is just not being enforced and monitored.
- Clarity over "whether the money saved can be transferred to those undertaking the regulatory work" (page 51 of the consultation document) is needed. It is unclear when and how the regulatory responsibility is divided between local authorities and the Environment Agency

- The partial RIA sees improvements in resource efficiency and waste minimisation as a by-product of reducing waste crime. The EA commented that these principals should be made integral at the design stage.
- The assessment should include the cost of enforcement training and carrying out enforcement, especially in the context of the low levels of fines for non-compliance.
- It is not appropriate for regulation to take place at the planning application stage as this would create more delays in the system.
- Paragraph 85 of the partial RIA recognises the use of local authority officers to monitor SWMPs; however, this assumes a level of knowledge and understanding of SWMPs which may not exist, and some degree of training is likely to be required.
- The current definition of waste and the waste management licensing exemptions have resulted in numerous cases where the re-use of inert materials has not been permitted. This issue still needs to be addressed.
- Due to the limited resource available in the industry at present, and the high expectations being placed on it, for example, in respect of the 2012 Olympics, major housing increases and flood prevention, then a longer and phased implementation would seem prudent.
- Firms dealing with waste excavated soils preferentially take their waste to sites that extract the aggregate from them. They do this because the gate fees to dispose of the soil are cheaper than normal landfill sites.
- Smaller projects often do not have a dedicated resource for waste management.
- The suggestion that site waste management can help improve performance on safety appears tenuous. Construction sites are already regulated under the CDM requirements.
- There should be a requirement for the final destination of the waste to be recorded, and evidence should be provided to show that this has taken place.

General Points

In addition to the question-by-question responses, 31 respondents offered further general comments. In this section we briefly try to capture these points.

The 31 included 14 from industry and 14 from local authorities. The main points arising from industry's comments were that SWMPs should contain more emphasis on resource efficiency, as compared with illegal waste disposal. Also, the need to clarify the definition of 'waste' was mentioned by 2 respondents as an overarching concern that would affect the operation of SWMPs.

The desire to emphasise resource efficiency was shared by some of the local authorities, but their greatest single concern was that the operation of SWMPs should form part of the planning process, or at the very least be made consistent with planning and CDM requirements.

There was also some shared concern amongst both the industry and local authorities that some smaller developments, particularly residential new-builds, can generate large quantities of waste, but these might escape inclusion within the current proposals or under the planning process.

Consultation Workshops

As part of the consultation process, two workshops were held with representatives from the construction industry and one workshop with local authorities. The industry workshops were held on 19 June in Leeds and 28 June in Reading. The local authority workshop took place on 22 June, also in Reading. There were between 25 and 35 attendees at each workshop and this included representation from the Environment Agency and Welsh Assembly Government.

The following is a brief description of the issues addressed by the workshops, and the headline views expressed by attendees in response to the regulatory proposition.

Industry Workshops

The industry workshops firstly examined the pros and cons associated with both statutory and voluntary approaches to site waste management. Mandatory SWMPs were felt to:

- Provide cost benefits
- Encourage more efficient design and waste minimisation
- Create a level playing field for the industry
- Act as a driver for change and innovation
- Provide greater auditing and analysis of the use of materials and waste generated
- Raise awareness of environmental issues, and
- Improve the image of the construction sector.

By introducing an enforcement mechanism, the proposals would guarantee action on site waste.

However, 'cons' associated with the proposals included:

- Stifling opportunities for creativity and for companies to develop their own competitive edge
- Lack of incentive to go beyond the legal requirements
- Resource implications
- Increased bureaucracy
- The need for effective enforcement, and
- Costs arising from potential fines.

Concern was expressed about whether the proposals would address the main sources of fly-tipped construction, demolition and excavation waste especially if smaller businesses falling below the suggested £250k threshold are responsible, whilst, on the other hand, some attendees thought that the proposals could be of detriment to smaller businesses in respect of the work required to implement them.

Delegates were then asked to consider the detail set out in the consultation paper and draft regulations. This focused on the types of projects that would be covered by the proposals, including the criteria and thresholds for determining whether or not a plan should be required. The workshops also considered how the regulations would work in respect of information requirements, responsibilities for producing and implementing the plans and monitoring, penalties and enforcement. A further session covered the analysis of costs and benefits presented in the partial Regulatory Impact Assessment,

and identification of areas where more support and guidance is needed to assist construction and waste management firms in producing and implementing SWMPs.

Local Authority Workshop

The workshop for local authorities focused specifically on the enforcement aspects of the proposals and assessment of the costs and benefits. When asked to examine the implications of statutory SWMPs, a number of similar 'pros' were identified to those raised by industry stakeholders. These included:

- Creating a level playing field
- Development of an industry standard
- Costs of waste factored into development projects
- Increased opportunities for recycling and reuse
- Provision of a clearer enforcement framework
- Improved data collection and management
- Increased public and industry awareness
- Increased resource efficiency, and
- Reduced fly-tipping.

The 'cons' that were raised related largely to how enforcement would be undertaken and the resources associated with this:

- The need for sufficient penalties to act as a deterrent
- Costs associated with policing the provisions
- Enforcement agency resources
- Possible inconsistency in the approach to enforcement
- Regulatory burden on businesses
- Practicalities of measurement and monitoring
- The impact on smaller players, and
- How the proposals fit in with the existing waste duty of care and related controls.

Delegates were asked to consider how SWMPs could help in tackling the illegal disposal of waste, and to identify possible scenarios. Measures to encourage and enforce compliance were discussed. The workshop also looked at possible barriers to effective regulation and ways in which these might be overcome, and this was followed by areas in which further guidance and support may be required. A business plan activity was carried out to examine the goals, risks and costs that local authorities would anticipate in respect of implementing the proposals.

Next Steps

This consultation is the most recent in a series of consultations that have informed the development of the SWMP proposals over the last few years. In April 2005, Government indicated its intention to regulate in this area by including an enabling power for SWMP regulations to be made. This followed the introduction of a voluntary code of practice for SWMPs by the then DTI in 2004.

The outcome of this consultation is a clear body of support for the Government's proposal to introduce mandatory SWMPs in England. However, further analysis of the costs and benefits of producing and implementing SWMPs for different types of construction activity will be required in order to determine the appropriateness of the

threshold(s) to be used. This analysis along with the written responses and workshop findings will be used to inform the development of a final set of regulations and Impact Assessment. As set out in the consultation document, it is hoped to introduce regulations in April 2008. Supporting guidance will also be produced.

Appendix A

This provides a record of the responses to many, but not all, of the questions asked by the consultation, and is designed to give a more detailed breakdown of the opinions expressed in terms of stakeholder type. These tables should be read in conjunction with the main body of this report.

These tables have been created only for those questions which lend themselves to this type of description. Typically these are responses to questions for which clear choices were offered.

Reader note: In each table the total number of responses from each stakeholder type are bracketed in the first column. These numbers mostly exceed the totals given in the remaining columns describing the breakdown of the choices expressed by stakeholder type. The reason for this mismatch is that it was not possible to assign every response to a discreet category, e.g. in answer to question 7, a respondent may have described the practical difficulties of SWMPs achieving the two different objectives, but without stating whether or not the proposed level of intervention was right.

Question 1	Do we need regulations for SWMPs or should the existing voluntary approach continue, perhaps with greater promotion?		
	Mandatory	Voluntary	Unsure
Construction companies – large (16)	11	5	
Construction companies – SMEs (4)	2	2	
Construction industry representative bodies (9)	4	4	1
Waste companies – large (1)		1	
Waste companies – SMEs			
Waste industry representative bodies (2)	2		
Other industry – large (19)	10	6	3
Other industry representative bodies (4)	3		1
Local Authorities (LAs) (27)	27		
LA representative bodies (4)	3		1
Government bodies (11)	10	1	
Individuals (6)	6		
Union (1)	1		
University			
TOTAL (104)	79	19	6

Question 2	If you agree that regulation is necessary or desirable, what should be the minimum criteria above which a construction project will require a SWMP?		
	£250k considered appropriate	£250k considered too high	£250k considered too low
Construction companies – large (9)	3	4	2
Construction companies – SMEs (3)	3		
Construction industry representative bodies (8)	2	4	2
Waste companies – large (1)			1
Waste companies - SMEs			
Waste industry representative bodies			
Other industry – large (7)	1	3	3
Other industry representative bodies (2)	1		1
Local Authorities (LAs) (18)	8	9	1
LA representative bodies (2)	1	1	
Government bodies (7)	4	2	1
Individuals (3)		2	1
Union			
University			
TOTAL (60)	23	25	12

Question 2 (Additional)	Alternative criteria suggested by respondents who disagreed with the use of project value							
NB. Some respondents offered more than one alternative	Concern expressed that project value can be manipulated	Include all projects	Floor area	Volume/bulk of waste produced	Number of building units	Use CDM regulations	Use ISO standards	Use planning regulations
Construction companies - large (5)	1	1		2		1		1
Construction companies - SMEs (1)		1						
Construction industry representative bodies (3)	1	1	1	1				
Waste companies - large								
Waste companies - SMEs								
Waste industry representative bodies								

Other industry - large (8)	3	4		1		1		1
Other industry representative bodies								
Question 2 (Additional) Continued	Alternative criteria suggested by respondents who disagreed with the use of project value							
NB. Some respondents offered more than one alternative	Concern expressed that project value can be manipulated	Include all projects	Floor area	Volume/bulk of waste produced	Number of building units	Use CDM regulations	Use ISO standards	Use planning regulations
LA representative bodies (2)	1	1		1				
Government bodies (5)			1		1	3		
Individuals (5)	2	3	2			1	1	
Union								
University								
TOTAL (43)	12	14	9	8	7	6	1	5

Question 5	Will SWMPs reduce the administrative burden or increase it?		
	Increase	Reduce or remain the same	Unsure
Construction companies - large (14)	12	1	1
Construction companies - SMEs (3)	3		
Construction industry representative bodies (9)	8		1
Waste companies - large			
Waste companies - SMEs			
Waste industry representative bodies			
Other industry - large (12)	10	1	1
Other industry representative bodies (2)	2		
Local Authorities (LAs) (26)	21	3	2
LA representative bodies (3)	2	1	
Government bodies (10)	7	2	1
Individuals (5)	3	1	1
Union			
University			
TOTAL (84)	68	9	7

Question 6	Should the voluntary scheme be promoted further?	
	In favour	Opposed
Construction companies - large (13)	8	5
Construction companies - SMEs (3)	1	2
Construction industry representative bodies (8)	6	2
Waste companies - large		
Waste companies - SMEs		
Waste industry representative bodies (1)	1	
Other industry - large (14)	8	6
Other industry representative bodies (1)	1	
Local Authorities (LAs) (19)	3	16
LA representative bodies (4)	1	3
Government bodies (11)	5	6
Individuals (7)	2	5
Union		
University		
TOTAL (81)	36	45

Question 7	Have we got the level of intervention right?				
	Yes	No			
		Waste Crime – more intervention	Waste Crime – less intervention	Resource Efficiency - more intervention	Resource Efficiency - less intervention
Construction companies - large (15)	3	7	2	4	1
Construction companies - SMEs (4)	2	1	1		
Construction industry representative bodies (9)	6		2		
Waste companies - large (1)		1			
Waste companies - SMEs					
Waste industry representative bodies					
Other industry - large (13)	5	4	1		2
Other industry representative bodies (2)	1				
Local Authorities (LAs) (19)	13	2		3	
LA representative bodies (3)	3				
Government bodies (6)	3	2		1	
Individuals (5)	2	1			

Union					
University					
TOTAL (77)	38	18	6	8	3

Question 8 –

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

Typical composition of waste on site

- 'Heavy-side' materials e.g. bricks, blocks, aggregates, cement, plaster.
- Plasterboard.
- Off-cuts, part bricks/blocks, demolition material from alteration works, surplus material from minimum package sizes, surplus unused material from last minute design changes.
- Up to 25% timber – significant potential for recycling – provide separate skip.
- From building projects - timber, plasterboard, concrete, metals, brick – mainly offcuts.
- From civils - excavated materials, aggregates bound with bitumen, concrete, steel, timber, plastics (ducting, drainage). Packaging waste usually lower.
- Brick, cement, concrete, dry liners, plasters.
- Timber, packaging, bricks/blocks, liquids including paint and other hazardous material.
- 22% wood, 17% packaging, 14% insulation, 11% plastics, 10% inert, 9% plasterboard, 9% metal, 8% miscellaneous.
- General active waste around 52% comprised of timber, plastics, gypsum material, paper/card and bioorganic material. All are recyclable with appropriate infrastructure.
- Approx 45% is plasterboard and packaging.

Reasons why such waste is produced

- Design e.g. panels only available in certain widths, ensuring sufficient quantities e.g. mixing concrete, poor site practices – e.g. damage through bad storage.
- Refurbishment projects are a major culprit.

- House builders usually purchase materials whilst contractors fit – contractors are paid a fixed rate for their time therefore no incentive for them to spend time considering wastage reduction.
- Surplus material ordered due to mistakes in purchasing schedules (over-ordering), spillages and damaged items spoilt in handling/use or due to human error/mechanical failure, protective materials/packaging, wastes due to excavation of foundation trenches etc.
- More likely on larger projects as smaller ones more likely to reuse to avoid costs of oversupply.
- Lateness is a big factor – there may be clauses in contracts penalising this.

Solutions, possibilities of recovery

- Creation of material exchanges where contractors can take left-over materials or have them collected and stored for future use.
- Collection points for plaster and gypsum at waste transfer stations.
- Prefabrication of building supplies rather than fabrication of raw materials on site.
- Just-in-time is one solution, but there may be environmental impacts associated with transport.
- 80-100% could be reclaimed but need segregation techniques, markets etc.
- Promotion of recycling facilities would help.
- In Cambridgeshire companies are recycling up to 80% of skip waste.
- Problems with mixed waste e.g. for aggregate may require concrete only – it will not be accepted if it contains crushed bricks.

Value/extent of this waste

- Doubtful that estimates of 13% are correct – any projects wasting more than 2-3% are unlikely to be profitable.
- Rarely exceeds 5-10%.
- Up to 20% of material goes to skips.

Question 9	Does the proposed definition of construction capture the full range of construction work to which site waste management plans should apply?	
	Definition adequate	Definition inadequate
Construction companies - large (11)	8	3
Construction companies - SMEs (4)	2	2
Construction industry representative bodies (9)	7	2
Waste companies - large		
Waste companies - SMEs		
Waste industry representative bodies (1)		1
Other industry - large (13)	5	8
Other industry representative bodies (2)	2	
Local Authorities (LAs) (18)	12	6
LA representative bodies (4)	3	1
Government bodies (7)	6	1
Individuals (3)	2	1
Union		
University		
TOTAL (72)	47	25

Question 10	What is the most practicable criteria for deciding whether a construction project requires a SWMP?						
	Project value	Existing regulation		Project cost	Include all projects	Waste quantity	Site area
		CDM regulations	Planning processes				
Construction companies - large (13)	4	6			3	1	
Construction companies - SMEs (3)		1		1		1	
Construction industry representative bodies (7)	1	1	1			2	
Waste companies - large							
Waste companies - SMEs							
Waste industry representative bodies							
Other industry -large (12)	4	1		3	3	1	
Other industry			1	1			

representative bodies (3)							
Local Authorities (LAs) (15)	3		3	5	1	1	1
LA representative bodies (3)	1					1	1
Government bodies (7)	4			1	1		1
Individuals (5)	1				1	1	2
Union							
University							
Question 10 Continued	What is the most practicable criteria for deciding whether a construction project requires a SWMP?						
	Project value	Existing regulation		Project cost	Include all projects	Waste quantity	Site area
		CDM regulations	Planning processes				
TOTAL (68)	18	9	5	11	9	8	5

Question 12	Is there a risk that a construction project might be broken into smaller projects to avoid the SWMP requirement?						
	No	Yes	Alternatives offered				
			No threshold	Link to CDM	Link to planning	Make client responsible	Site-based registration
Construction companies - large (15)	1	14	4	3	1	2	
Construction companies - SMEs (4)		4	1	1			
Construction industry representative bodies (7)	1	6	1	1	1	1	
Waste companies – large (1)	1						
Waste companies - SMEs							
Waste industry representative bodies (2)		2					
Other industry - large (15)	2	13	2	3		1	2
Other industry representative bodies							
Local Authorities (LAs) (15)	1	14	4	1	5		1
LA representative bodies (3)	1	2					
Government bodies (7)	2	5	2	1	1	1	1

Individuals (4)		4		1			
Union							
University							
Question 12 Continued	Is there a risk that a construction project might be broken into smaller projects to avoid the SWMP requirement?						
	No	Yes	Alternatives offered				
			No threshold	Link to CDM	Link to planning	Make client responsible	Site-based registration
TOTAL (73)	9	64	14	11	8	5	4

Question 13	Comments are invited on the level of detail we are proposing is included and recorded on a SWMP.		
	Adequate	Inadequate	
		Too little	Too much
Construction companies - large (16)	5	1	9
Construction companies – SMEs (4)	4		
Construction industry representative bodies (8)	3	1	3
Waste companies - large (1)			1
Waste companies - SMEs			
Waste industry representative bodies (1)	1		
Other industry -large (13)	10	2	1
Other industry representative bodies (1)	1		
Local Authorities (LAs) (14)	10	2	2
LA representative bodies (3)	3		
Government bodies (7)		3	4
Individuals (5)	3	1	1
Union			
University			

TOTAL (73)	40	10	21

Question 15	Do you agree that the cost-benefit analysis for writing and implementing a SWMP in the partial Regulatory Impact Assessment is accurate?		
	RIA Accurate	RIA Inaccurate	
		Too optimistic	Too pessimistic
Construction companies - large (9)		7	1
Construction companies - SMEs (2)	1	1	
Construction industry representative bodies (5)		3	
Waste companies - large (1)			1
Waste companies - SMES			
Waste industry representative bodies (1)			1
Other industry - large (8)		2	4
Other industry representative bodies			
Local Authorities (LAs) (11)	9		
LA representative bodies (1)		1	
Government bodies (6)	1	2	1
Individuals (3)	1		

Union			
University			
TOTAL (47)	12	16	8

Question 17	Is it reasonable to hold the person drafting and implementing the SWMP responsible for someone else's actions?	
	Yes	No
Construction companies - large (15)	5	10
Construction companies - SMEs (3)	1	2
Construction industry representative bodies (8)	2	4
Waste companies -large (1)	1	
Waste companies -SMEs		
Waste industry representative bodies (2)	1	
Other industry - large (13)	4	8
Other industry representative bodies (3)	1	2
Local Authorities (LAs) (19)	16	3
LA representative bodies (3)	2	1

Government bodies (9)	4	4
Individuals (4)	1	1
Union		
University		
TOTAL (80)	38	35

Appendix B

This provides a list of stakeholder comments and suggested alterations to the proposed definition of construction, in response to Question 9: “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?”

Comments requesting further inclusions

- Landscaping works (Balfour Beatty).
- Cumulative smaller projects e.g. non-domestic refurbishments such as air conditioning units, and street works/utilities where there may be barriers to using recycled content in work involving small digs (Woolf Ltd).
- Demolition work, and mixed works involving both construction and demolition (John Moores University - School of the Built Environment).
- All demolition and excavation works (Atkins Highway & Transportation).
- Smaller projects involving demolition or refurbishment may present significant opportunities in terms of materials reuse, as well as threats in terms of environmental impact. These would fall outside the controls as currently proposed (East of England Regional Assembly).
- Incorporate the definition of waste and the waste hierarchy (BioRegional Development Group).
- A ‘Waste Minimisation Statement’ for any construction and demolition wastes falling outside the scope of the proposals. Something similar is needed to provide an evidence trail for the small developments that appear to lead to the majority of fly tipping in this particular area (Brighton & Hove Council).
- Contaminated land sites (Birmingham City Council).
- Land remediation (Morgan Est Plc).
- Specify that work taking place on, over and under the ground is included, so that there is consistency with planning legislation. The present definition may exclude development in the tidal reaches (Cambridge shire County Council).
- For the purposes of completeness, a project should be defined to prevent fragmentation into smaller units (such as individual housing plots) to avoid the need to prepare a SWMP. Use of the planning process to define a project’s scope will help resist this fragmentation (B.P. Smith).

Comments requesting further exclusions

- Upkeep, cleaning and maintenance of structures and equipment should be excluded unless this involves replacement (Galliford Try).
- Non-construction site work such as underground pipe and cable repair undertaken by utilities (South West Water).
- Alteration or renovation works which are necessarily opportunistic and involve improvisation should not require a SWMP (C.S.Williams (Taunton) Ltd).
- Utilities repair and maintenance projects should be excluded as it is impossible to define/forecast the waste arising due to the reactive nature of the work (Morgan Est PLC).

Comments on the regulatory links proposed

- Establish a firm link to CDM to avoid confusion (Costain).
- The stand-alone definition approach that DEFRA has taken may be confusing where it does not match any changes made to the definition in the CDM regulations (LG).
- Define construction by correlating with the DTI Annual Construction Statistics which classifies the UK construction sectors at the macro and micro levels. This should capture the range of services/products required but also correlate SWMP performance by the growth/decline of particular sectors/contractor types and by region (Hyder Consulting (UK) Ltd)

Comments seeking clarification of the meanings/intentions

- Unclear whether landfill site construction is covered. Avoid duplication of requirements in PPC and environmental management systems (Environmental Services Association).
- Unclear if highway maintenance work would qualify for SWMPs where this is undertaken by a local authority's in-house labour force and so is not strictly part of a contract. Would a single, 'in-house contract' for the maintenance of numerous, separate sites count as a single scheme, e.g. an annual term contract for the maintenance of the highway network? Although a 'term' contract will have a significant waste management element, it would be too onerous to provide the same degree of monitoring as required in a detailed SWMP. A 'term' contract needs to have a site waste management plan but not one involving the measuring and monitoring of literally tens of thousands of small jobs (Derbyshire County Council).
- The wording is inadequate eg. 2A "...re-decoration or other maintenance including cleaning..." means that routine household chores would be included. The proposals should differentiate between commercial and domestic activities. The definition should tie in with planning permission, as some of the activities listed do not require this. Consideration should be given to the use of a dual system to accommodate both schemes requiring planning permission and those that do not (Hull City Council).
- Civil engineering could be explained further, e.g. would the regulations capture infrastructure project like roads and railways, to remove potential grey areas (individual).