

A13.1: Assessment of Regulatory and Policy Compliance

1 Introduction

- 1.1 The use and consumption of material resources and the production and management of waste are subject to a complex framework of legislative and policy instruments at the European, National and Local level.
- 1.2 In addition to material and waste-specific policies, legislation and guidance, there is also the legislative framework for sustainable development which must be considered in assessing the environmental impacts and effects of material resource use and waste.
- 1.3 As instructed by Transport Scotland, the Materials assessment was undertaken in accordance with Design Manual for Roads and Bridges (DMRB) LA 110 'Material Assets and Waste' (Highways England, Transport Scotland, Welsh Government and Department for Infrastructure Northern Ireland 2019) (hereafter referred to as 'DMRB LA 110') Environmental Assessment standard which is the published standard for assessing the impacts associated with Material Assets and Waste, which replaces the draft unpublished HD 212/11 guidance in Scotland, and which requires amongst other things that the assessment should determine how the project proposals conform to the regulatory and policy context and the stated project objectives for materials and waste.
- 1.4 This appendix summarises the main points of the key legislative and policy framework influencing the design, construction and environmental assessment of the proposed scheme, and details how they have been addressed in the Volume 1 Chapter 13 (Material Assets and Waste) assessment for the proposed scheme through reference to the additional mitigation measures.
- 1.5 Such measures will promote positive project outcomes through:
 - implementing Design for Resource Efficient (DfRE) Construction principles in order to make the best use of materials and minimise embodied carbon emissions and waste (**Mitigation Item M&W1**);
 - carrying out a responsible sourcing exercise to maximise the responsible sourcing of construction materials and products (**Mitigation Item M&W2**);
 - taking all such measures available to apply the waste hierarchy of prevention; preparing for re-use; recycling; other recovery, including energy recovery; and disposal in a way which delivers the best overall environmental outcome (**Mitigation Item M&W3**);
 - designing out waste and facilitating the prevention, reuse, recycling and recovery of construction and demolition (C&D) waste through the implementation of a Site Waste Management Plan (SWMP), including setting targets that support the delivery of the Zero Waste Plan Targets (**Mitigation Item M&W4**); and
 - ensuring that all waste is stored, transported, treated, reprocessed and disposed of safely without harming human health or the environment (**Mitigation Item M&W5**).
- 1.6 The key legislative, policy, plans and guidance influencing the design, construction and environmental assessment of material resources and waste are identified below; and Table 1 provides a summary of the alignment of the proposed scheme with the regulatory and policy context for materials and waste, and how compliance will be secured through the adoption of mitigation measures identified in Volume 1 Chapter 13 (Materials and Waste).

2 European Level

The EU Sustainable Development Strategy, 2006

- 2.1 The EU Sustainable Development Strategy provides the policy framework from delivering sustainable development at the European level.
- 2.2 The key objectives of the strategy, relevant to this assessment, are to tackle climate change, natural resource protection, public health and the global dimension of sustainable development.

The EU Waste Framework Directive 2008/98/EC

- 2.3 The Waste Framework Directive (WFD) provides the overarching legislative framework for the collection, transport, recovery and disposal of waste, and includes a common definition of waste.
- 2.4 The overall purpose of the WFD is to lay down measures to protect the environment and human health by preventing or reducing the adverse effects of the production and management of waste and by improving the efficiency and reducing the overall impacts of resource use.
- 2.5 Waste management is structured around a waste hierarchy which defines the order of preference of the various waste management options: prevention, preparing for re-use, recycling, recovery and disposal.

The EU Circular Economy Package, 2018

- 2.6 The EU Circular Economy Package outlines the Commission's comprehensive proposals to help stimulate the EU economy to move from a linear to a stronger and more circular model where resources are used in a more sustainable way. These proposals cover the full lifecycle of products: from design, production and consumption to waste management.
- 2.7 The Circular Economy Package also includes revised targets for waste reduction to establish an ambitious and credible long-term path for waste management and recycling in the EU. The targets are accompanied by measures to help address different situations across Member States.
- 2.8 Key elements, of relevance to this assessment, include:
- recycling 75% of packaging waste by 2030;
 - binding landfill target to reduce landfill to maximum of 10% of all waste by 2030;
 - ban on landfilling of separately collected waste;
 - promotion of economic instruments to discourage landfilling; and
 - measures to promote re-use and stimulate industrial symbiosis – i.e. turning one industry's by-product into another's raw material.

3 National Level

Department for International Development Agenda 2030, Delivering the Global Goals, 2017

- 3.1 The Department for International Development Agenda 2030: Delivering the Global Goals sets out the UK Government's approach to delivering the United Nations' 17 'Global Goals for Sustainable Development', in the UK and around the world. The goal of relevance to the Materials assessment is Goal 12: Responsible Consumption and Production, for which the Government has stated they are committed to reducing waste in the UK and ensuring the sustainable management and efficient use of the UK's natural resources.

Scottish Government, The Environment Strategy for Scotland: vision and outcomes, 2020

3.2 Scotland's Environment Strategy provides an overarching framework to bring Scotland's strategies and plans for achieving its environmental goals and tackling climate change together and identifies new strategic priorities and opportunities. It will help to guide Scotland as it protects and restores its natural environment and strive to live within our planet's sustainable limits. In doing this, it will support the wellbeing of people in Scotland and strengthen its economy. Specifically this strategy sets out a vision for Scotland's environment and its role in tackling the global crises. It identifies the outcomes on which it will need to focus to achieve its vision.

3.3 Those outcomes of relevance to this assessment include:

- we play our full role in tackling the global climate emergency and limiting temperature rise to 1.5°C;
- we use and re-use resources wisely and have ended the throw-away culture;
- our thriving, sustainable economy conserves and grows our natural assets; and
- we are responsible global citizens with a sustainable international footprint.

Scottish Government, Climate Change Plan: third report on proposals and policies 2018-2032 (RPP3), 2018

3.4 The Climate Change Plan, a statutory document, sets out how Scotland will meet the emissions reduction targets under the current legislation while helping to deliver sustainable economic growth and secure the wider benefits to a greener, fairer and healthier Scotland in 2032.

3.5 The Scottish Government has committed to playing its part in delivering the Paris Agreement and has introduced a new Climate Change Bill with even more ambitious targets than those prescribed by the 2009 Climate Change Act. The requirements of the new legislation, as determined by the Scottish Parliament, will be reflected in future climate change plans. This plan sets out the path to a low carbon economy.

3.6 Those policy outcomes and targets of relevance to this assessment are included in Policy outcome 1: Reduction in waste sent to landfill:

- target to recycle 70% of all waste by 2025;
- reducing the percentage of all waste sent to landfill to 5% by 2025; and
- reduce waste and establish a more circular economy, where goods and materials are kept in use for longer.

Scottish Executive, Choosing our Future: Scotland's Sustainable Development Strategy, 2005

3.7 Choosing our Future: Scotland's Sustainable Development Strategy sets out the action which Scotland will take to address the key objectives of the EU Sustainable Development Strategy and turn the shared priorities set out in the UK Framework (One future - different paths) for Sustainable Development into action.

3.8 The key priorities of the strategy, relevant to this assessment, are:

- Sustainable consumption and production: achieving more with less. This includes reducing the inefficient use of resources, looking at the impact of products and materials across their whole lifecycle and encouraging people to think about the social and environmental consequences of their purchasing choices.
- Climate change and energy: securing a profound change in the way we use energy and reducing greenhouse gas emissions.

- Natural resource protection and environmental enhancement: protecting our natural resources, building a better understanding of environmental limits, and improving the quality of the environment.

Scottish Government, National Planning Framework 3, 2014

- 3.9 Scotland's National Planning Framework 3 (NPF3), the spatial expression of the Government's economic strategy, sets out a long-term vision for development and investment across Scotland over the next 20 to 30 years. Alongside NPF3, the Scottish Planning Policy sets out how the Scottish Government expects planning to deliver development on the ground. NPF3 requires that development supports the National Outcome of reducing the local and global environmental impact of our resource consumption and production, through reducing resource consumption, waste and lowering greenhouse gas emissions.
- 3.10 NPF4 is expected to be published in 2021, which will provide a spatial planning response to the Global climate emergency up to 2050. As per the NPF4 Early Engagement – Policies (2020) publication, the proposed key objective of NPF4 is to ensure planning policy results in spatial and land use change that facilitates Scotland's ambition to have 'net-zero' emissions by 2045 and meet other statutory emissions reduction targets, whilst also supporting communities and businesses in making the changes needed to meet the targets. One of the main issues to be considered is the policy criteria needed to ensure that new developments, including transport and infrastructure, contribute as far as possible to meeting emission reduction targets.

Scottish Government, Scottish Planning Policy, 2014

- 3.11 Scottish Planning Policy sets out the national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. It directly relates to: the preparation of development plans; the design of development, from initial concept through to delivery; and the determination of planning applications and appeals.
- 3.12 Scottish Planning Policy requires that the planning system should:
- Plan for zero waste by:
 - promoting developments that minimise the unnecessary use of primary materials and promote efficient use of secondary materials;
 - supporting the emergence of a diverse range of new technologies and investment opportunities to secure economic value from secondary resources, including reuse, refurbishment, remanufacturing and reprocessing; and
 - supporting achievement of Scotland's zero waste targets.
 - Promote the responsible extraction of resources through:
 - safeguarding workable resources and ensure that an adequate and steady supply is available to meeting the needs of the construction, energy and other sectors; and
 - minimising the impacts of extraction on local communities, through ensuring that borrow pits will only be permitted if there are significant environmental or economic benefits compared to obtaining material from local quarries; they are time-limited; tied to a particular project and appropriate reclamation measures are in place.

The Climate Change (Scotland) Act 2009

- 3.13 The Climate Change Act is a key commitment of the Scottish Government to address climate change by reducing greenhouse gas emissions and transitioning to a low carbon economy:

- Part 1 of the Act creates the statutory framework for greenhouse gas emissions reduction in Scotland by setting an interim 42% reduction target for 2020, with the power for this to be varied based on expert advice, and an 80% reduction target for 2050.
- Part 4 of the Act also requires that a public body must, in exercising its functions, act in the way best calculated to contribute to delivery of the Act's emissions reduction targets; in the way best calculated to deliver any statutory adaptation programme and, in a way, that it considers most sustainable.

3.14 A Bill [The Climate Change (Emissions Reduction Targets) (Scotland) Bill] for an Act of the Scottish Parliament to amend the Climate Change (Scotland) Act 2009 to increase the levels of Scotland's targets for reduction of greenhouse gas emissions from 80% by 2050 to 90% was introduced on 23rd May 2018 to the Scottish Parliament and referred to the Environment, Climate Change and Land Reform Committee on 29th May 2018. The Bill also provided the possibility of creating a target of 100% (known as a net zero target) in the future and proposed new interim targets ahead of 2050. It also updates accounting and reporting mechanisms on the targets.

3.15 In line with advice from the Committee on Climate Change (CCC) on 2 May 2019, the Scottish Government lodged amendments to the Bill to set a target date of 2045 for reaching net-zero emissions. The CCC's advice is that Scotland can now achieve such a target, provided that UK-wide ambition is also increased – to net-zero by 2050 – and action is taken in reserved policy areas. The Climate Change Act 2008 (2050 Amendment) Order 2019 was subsequently passed on the 27 June 2019 requiring the UK to bring all greenhouse gas emissions to net zero by 2050, compared with the previous target of at least 80% reduction from 1990 levels.

Scottish Government, Making Things Last A Circular Economy Strategy for Scotland, 2016

3.16 The Scottish Government Circular Economy Strategy identifies the priority areas for Scotland around the circular economy, where products and materials are kept in use for as long as possible, extract the maximum value from them whilst in use, then recover and regenerate new products and materials at the end of each service life. This requires a shift in the traditional production-consumption approach: designing for disassembly or remanufacturing and useable by-products, and designing out wasted energy, materials and pollution.

3.17 This strategy builds on Scotland's progress in the zero waste and resource efficiency agendas, through articulating aspirations and proposing a number of actions to take Scotland towards those goals, focusing on actions which make tangible progress over the short to medium term which create the conditions for longer-term change.

3.18 Construction and the built environment is one of the Scottish Government's four priority areas. Construction and demolition waste represents about 50% of all waste in Scotland and influencing the built environment has a significant impact on wider resource efficiency. Key aspirations and actions around this area include:

- preventing waste arising from construction and demolition, and ensuring that designs consider waste reduction in both new build and maintenance, while also enabling more reuse and recycling at end of life;
- avoiding depletion of primary aggregates and timber resources through enhanced recycling of demolition materials; and
- moving towards making the use of the electronic "edoc" system mandatory for waste in Scotland, i.e. a national online system to track the collection, transport, treatment and disposal of non-hazardous waste.

Scottish Government, Safeguarding Scotland's Resources - Blueprint for a More Resource Efficient and Circular Economy, 2013

- 3.19 Safeguarding Scotland's resources - building a more efficient and circular economy is the Scottish Government's programme to reduce waste and deliver economic and environmental benefits, to position Scotland to respond to major global pressures and opportunities.
- 3.20 The overall aim of this programme is to prevent waste, increase resource efficiency and enable a shift towards a more circular economy. The Scottish Government has set a target to reduce Scotland's waste by 7% by 2017 from 2011 levels, and achieve a 15% reduction by 2025.
- 3.21 Action 4 – Preventing construction wastes requires Resource Efficient Scotland to work with the construction industry to encourage prevention, reuse and recycling of construction wastes through:
- seeking collective action on resource efficiency with the sector;
 - promoting good practice across the construction industry, including the use of Site Waste Management Plans; and
 - building on evaluation of Site Waste Management Planning to develop and trial Resource Management Plans to encompass the design stage of construction and the wider benefits of resource efficiency.

Scottish Procurement Directorate, Scottish Procurement Policy Note SPPN 09/2004 Procurement of Timber and Timber Products

- 3.22 Scottish Procurement Policy Note SPPN 09/2004 provides a reminder of the Scottish Executive's policy on timber and timber related products and to detail some useful sources of further advice and guidance.
- 3.23 The key elements of the Scottish Executive's policy on timber are set out below for purchasers:
- specify in orders and contracts that suppliers must provide evidence that timber and timber products have been lawfully obtained from forests or plantations that are being sustainably managed;
 - consider buying reclaimed timber products made from reclaimed timber where it is cost effective and practical; and when specifying chipboard and medium density fibreboards (MDF), indicate a preference for those made with a minimum percentage of 80% recycled material where feasible;
 - ensure documented or certified evidence under a credible scheme is provided by suppliers which demonstrates the list of requirements provided by SPPN 09/2004;
 - put in place procedures for considering and recording any purchase which cannot be substantiated as coming from sustainable sources; and
 - obtain authorisation from a senior manager at least one level above that of the project manager where an exemption to the above is essential.

Scottish Government, Scotland's Zero Waste Plan, 2010

- 3.24 The Zero Waste Plan sets out the Scottish Government's vision for a zero waste society. This vision describes a Scotland where all waste is seen as a resource; waste is minimised, valuable resources are not disposed of in landfills and most waste is sorted, leaving only limited amounts to be treated. To achieve this vision the Zero Waste Plan sets out a number of measures, those relevant to this assessment include:
- landfill bans for specific waste types therefore reducing greenhouse gas emissions and capturing the value from these resources;
 - two new targets that will apply to all waste: 70% target recycled, and maximum 5% sent to landfill, both by 2025;

- restrictions on the input to all energy from waste facilities therefore encouraging greater waste prevention, reuse and recycling; and
- measure the carbon impacts of waste to prioritise the recycling of resources which offer the greatest environmental and climate change outcomes.

The Waste (Scotland) Regulations 2012 (as amended)

3.25 The Waste (Scotland) Regulations 2012 modify the Environmental Protection Act 1990, as it applies in Scotland, to require commercial waste producers to separate five mainstream recyclable wastes with the objective of driving these wastes up the waste hierarchy, increasing their resource value and promoting a circular economy. These regulations make the following provisions of potential relevance to this assessment:

- all businesses, public sector and not-for-profit organisations are required to present metal, plastic, glass, paper and card (including cardboard) for separate collection from 1 January 2014;
- food businesses (except in rural areas) which produce over 50 kg of food waste per week to present that food waste for separate collection from 1 January 2014;
- food businesses (except in rural areas) which produce over 5 kg of food waste per week to present that food waste for separate collection from 1 January 2016;
- a ban on any metal, plastic, glass, paper, card and food collected separately for recycling from going to incineration or landfill from 1 January 2014; and
- a ban on biodegradable municipal waste going to landfill from 1 January 2021.

The Waste (Scotland) Regulations 2011 (as amended)

3.26 The Waste (Scotland) Regulations 2011 amend various enactments in order to transpose aspects of Directive 2008/98/EC on waste and to effect certain additional changes. Those of relevance to this assessment include: requiring separate collection of waste oils where technically feasible and making it the duty of *"any person who produces, keeps or manages waste (...) to take all such measures as reasonable in the circumstances to apply the waste hierarchy"*. The Scottish Government has produced waste hierarchy guidance giving details of what public bodies and businesses need to do to apply the waste hierarchy.

The Waste Management Licensing (Scotland) Regulations 2011 (as amended)

3.27 The Waste Management Licensing (Scotland) Regulations 2011 consolidates the Waste Management Licensing Regulations 1994 and amendments. These regulations provide a framework for the development of a 'Waste Management Licensing System' under Part II of the Environmental Protection Act 1990. They also implement various EU Council Directives regarding the management of waste.

3.28 The system provides for the form and contents of applications for waste management licences, and for their surrender or transfer. It outlines the conditions which are to be included in a licence and makes provision for the protection of groundwater against pollution caused by certain dangerous substances. Certain activities are exempted from the requirement to have a waste management licence. These regulations also provide for the registration of waste collectors, transporters, brokers and dealers who otherwise would not be required to register.

The Environmental Protection (Duty of Care) (Scotland) Regulations 2014 (as amended)

3.29 Section 34(1) of the Environmental Protection Act 1990 imposes a duty of care on any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste.

3.30 These Regulations provide for persons subject to those duties of care to make, retain and produce documents. In particular, they provide for the waste being transferred to be accompanied by a transfer note. They modernise the existing paper only transfer note requirements in the 1991 Duty of Care Regulations, and revoke those Regulations.

3.31 These Regulations allow the use of electronic duty of care transfer notes and electronic signatures, and also introduce a requirement for SIC codes to be recorded on transfer notes.

The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (as amended)

3.32 These regulations establish a system for the registration of carriers of controlled waste. They make it a criminal offence for a person who is not a registered carrier to transport controlled waste in the UK. The regulations also provide for the seizure and disposal of vehicles used for illegal waste disposal.

Pollution Prevention and Control (Scotland) Regulations 2012 (as amended)

3.33 The Pollution Prevention and Control (Scotland) Regulations 2012 sets out a system to control pollution from any installation or mobile plant carrying out specified activities through permits, inspections and control of emissions. It covers the inclusion of Best Available Techniques and standard rules in permits.

The Landfill (Scotland) Regulations 2003 (as amended)

3.34 The Landfill (Scotland) Regulations 2003 (as amended) set out a pollution control regime for landfills for the purpose of implementing Council Directive 99/31/EC (as above) on the landfill of waste in Scotland. These regulations amongst other things requires the Scottish Environment Protection Agency (SEPA) to classify landfills as for hazardous waste, non-hazardous waste or inert waste, and sets out the requirements for conditions to be incorporated in landfill permits including waste acceptance; prohibition of acceptance of certain wastes at landfills; and waste which may be accepted in the different classes of landfill.

The Environmental Protection Act 1990 (as amended)

3.35 The Environmental Protection Act 1990 establishes in England, Scotland and Wales the structure and authority for waste management and control of emissions into the environment. It provides the basis for licensing controls and other provisions aimed at ensuring that waste handling, disposal and recovery options do not harm the environment.

The Special Waste Regulations 1996 (as amended)

3.36 The Special Waste Regulations 1996 (as amended) provides a definition of 'special waste' in Scotland to cover all hazardous waste; regulates waste carriers by requiring them to complete and keep consignment notes; sets out controls on labelling, packaging and separating hazardous waste; requires consignment notes to be completed when special waste is transferred and producers to keep a register of documents for at least three years; and requires producers of special waste to keep a register of documents.

Waste Electrical and Electronic Equipment Regulations 2013 (as amended)

3.37 The Waste Electrical and Electronic Equipment (WEEE) Regulations aim to reduce the environmental impacts of electrical and electronic equipment (EEE) when it reaches the end of its life. You must comply with the WEEE Regulations if you manufacture, import, rebrand, distribute or dispose of EEE.

3.38 Whilst EEE end users have no obligations under these regulations, all WEEE should be disposed of in an environmentally sound manner under Waste Duty of Care requirements, with WEEE being discarded separately from other waste at the end its life. The WEEE regulations put an obligation on the retailers

and distributors of EEE to establish a UK-wide WEEE collection infrastructure, making it easier for users of EEE to discard WEEE at end of life.

The Waste Batteries and Accumulators Regulations 2009 (as amended)

- 3.39 The Waste Batteries and Accumulators Regulations 2009 establishes a legal framework and schemes for collecting, treating and recycling portable, industrial and vehicle batteries. It applies to all types of batteries except when used for military and space equipment. Whilst battery end-users have no obligations under these regulations, all batteries should be disposed of in an environmentally sound manner under Waste Duty of Care requirements, with no portable, industrial, vehicle or other automotive batteries being sent for incineration or to landfill.

Landfill Tax (Scotland) Act 2014 (as amended)

- 3.40 Scottish Landfill Tax (SLfT) is a tax which is charged in Scotland under the Landfill Tax (Scotland) Act 2014. It replaced the UK Landfill Tax from 1 April 2015.
- 3.41 SLfT is a tax on the disposal of waste to landfill and is charged by weight on the basis of two rates: a standard rate for active materials and a lower rate for less polluting materials. As is currently the case with (UK) LfT, operators of landfill sites in Scotland are liable for SLfT, and this cost is passed on to the local authorities and businesses who dispose of waste at the landfill sites.
- 3.42 SLfT is also due on disposals of material at unauthorised sites. From 1 April 2015 onwards, if you deposit waste or place it for storage on or under land (or on a structure set into the surface of the land), you may also be liable to pay SLfT if the activity purportedly being carried out under a licence, exemption or regulatory position statement actually constitutes a disposal of the waste by way of landfill.

4 Local Level

The Strategic Development Planning Authority for Edinburgh and South East Scotland, Strategic Development Plan (SESplan), 2013

- 4.1 The Strategic Development Plan sets out a spatial strategy which recognises existing development commitments and promotes a sustainable pattern of growth. The strategy is supported by a framework for delivery which will promote and secure economic growth and the delivery of housing in the most sustainable locations; and promote the development of strategic transport and infrastructure networks to support that growth and to meet the needs of communities. The Plan reflects the ambitions and commitment of the six Plan authorities to realising the potential of the area and ensuring it continues to play a leading role in a national context.
- 4.2 Those policies of relevance to this assessment include:
- *Policy 1B The spatial strategy*: Development principles: Local Development Plans will inter alia: Have regard to the need for high quality design, energy efficiency and the use of sustainable building materials.
 - *Policy 4 Minerals*: Local Development Plans will:
 - Safeguard mineral resources from sterilisation where the deposits are of a sufficient scale or quality to be of potential commercial interest and their extraction is technically feasible and may be carried out in a way that is environmentally and socially acceptable. The need for safeguarding should be considered alongside the development strategy for the area.
 - Identify areas of search for aggregate minerals and coal, or, where appropriate, specific sites, having regard to national guidance and other environmental objectives of the Strategic Development Plan.

- Set out the criteria to be addressed when assessing individual proposals, including restoration and enhancement.
- Support and encourage the use of secondary and recycled aggregates.
- *Policy 14 Waste Management And Disposal:* Local Development Plans will inter alia:
 - Encourage proposals for the recycling and recovery of waste where the proposal is in accordance with the Zero Waste Plan, taking into account relevant economic, social, environmental and transport considerations.

Falkirk Local Development Plan 2 (LDP2), 2020

4.3 The Local Development Plan 2 (LDP2) has been prepared to guide the future use and development of land within the Falkirk Council area for the 20 year period from 2020 to 2040, with a focus on specific proposals within the initial 10 year period to 2030. The LDP2 was formally adopted on the 7 August 2020 replacing the previous Local Development Plan (2015).

4.4 Those policies of relevance to this assessment include:

- *Policy PE01 Placemaking:* Development proposals should promote the six qualities of successful places as defined in Scottish Planning Policy by inter alia promoting the efficient use of natural resources and the minimisation of greenhouse gas emissions through: energy efficient design; choice and sourcing of materials; and reduction of waste; recycling of materials.
- *Policy PE25 Soils and Agricultural Land:* Development involving the significant permanent loss of carbon rich soils (basin peat, blanket bog, peat alluvium complex, peaty podzols, peaty gleys and salt marsh) or rare soils (podzols, humus iron podzols and saltings) will not be permitted unless: the site is specifically allocated for development in the LDP; or development of the site is necessary to meet an overriding local or national need where no other suitable site is available. Planning applications for development which is likely to disturb areas of carbon rich or rare soil will be required to submit a soil or peat management plan which demonstrates that: the areas of highest quality soil or deepest peat have been avoided; any disturbance, degradation or erosion has been minimised through mitigation; and any likely release of greenhouse gas emissions caused by disturbance is offset. Development should ensure the sustainable use of soils during construction and operation and commit to minimise soil sealing.
- *Policy IR15 Mineral Resources:* The sterilisation through development of mineral resources which are likely to be capable of environmentally acceptable extraction will not be permitted.
- *Policy IR18 Waste Management in New Development:* All development should minimise waste during construction and operation, particularly through site waste management. The layout and design of development should provide for the collection and storage of waste and recyclable materials, including composting facilities and the vehicular collection of waste.

Fife Council Local Development Plan (FIFEplan), 2017

4.5 Fife's Local Development Plan (FIFEplan) sets out the planning policies and proposals for the development and use of land within the Fife Council Area for the period 2014 to 2026. The FIFEplan supersedes the previous local plans: Fife Minerals Subject Local Plan (2011); Dunfermline & West Fife Local Plan (2012); Mid Fife Local Plan (2012); and St Andrews & East Fife Local Plan (2012).

4.6 Those policies of relevance to this assessment include:

- *Policy 3 Infrastructure and Services:* Development must be designed and implemented in a manner that includes inter alia: measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of recycling facilities.
- *Policy 11 Low Carbon Sustainable Buildings:* Planning permission will only be granted for new development where it has been demonstrated that inter alia: construction materials come from local

or sustainable sources and facilities are provided for the separate collection of dry recyclable waste and food waste.

- *Policy 13 Natural Environment and Access:* Development proposals will only be supported where they protect or enhance natural heritage and access assets including inter alia: carbon rich soils (including peat).
- *Policy 15 Minerals:* Minerals that are, or may be, of economic or conservation value will be protected from development which could prevent or jeopardise their extraction. Prior extraction of minerals should be facilitated and encouraged for any substantial new development sites, in line with national policy, with the aim of preventing sterilisation of minerals.

5 Client Level

Transport Scotland Corporate Plan 2017–20, 2017

- 5.1 Transport Scotland's Corporate Plan showcases how Transport Scotland will take forward the Scottish Government's priorities and focus investment over the period 2017 to 2020 to continue to support the strategic outcomes for transport: improved journey times and connection, reduced emissions, and improved quality, accessibility and affordability.
- 5.2 The plan states that protecting Scotland's physical and natural environment is key, and that Transport Scotland's Environmental Sustainability policies, projects and interventions will, amongst other things, manage carbon emissions. This will include reducing Transport Scotland's own corporate operational emissions via actions identified in its Carbon Management Plan, capturing carbon information from its schemes and publishing its annual corporate sustainability performance.
- 5.3 Sustainable procurement will underpin all its activities, and its project delivery cycle will continue to mainstream the principles of sustainable development.

DMRB GG 103 Introduction and general requirements for sustainable development and design, 2019

- 5.4 DMRB GG 103 introduction and general requirements for sustainable development and design specifies the principles, requirements and advice to be applied to all design lifecycle stages, from inception through to end of first life.
- 5.5 Those principles, requirements and advice relevant to this assessment include:
- *Serve to support a sustainable economy:* Opportunities to reduce disturbance effects on local economies shall be identified and, where relevant, incorporated into design (e.g. measures to minimise changes to the productivity of environmental resources upon which local business depend (for example loss of mineral resources)).
 - *Represent good 'whole life' value across the design life of road infrastructure:* Whole life costing shall be used to inform all design decisions, particularly when demonstrating the pay back periods for, and cost benefits of, innovations. Measures to reduce the need for maintenance, repair, refurbishment, and replacement to increase design life shall be identified and, where feasible, incorporated into the design.
 - *Embrace innovation:* Innovations (design, technology, practice, behaviour, other) that deliver enhanced sustainable development outcomes shall, where relevant, be identified, and subject to necessary approvals required by Highways England, incorporated into the design.
 - *Use responsibly sourced materials that minimise adverse impacts on people and their environment:* Designs shall not restrict the use of materials with proven sustainability credentials.

- *Be resource efficient and reflect a circular approach to the use of materials:* Design solutions shall seek to minimise the consumption of materials and the generation of waste. Opportunities to reuse site-won materials or arisings from on-site demolition, where available, should be identified, assessed and incorporated into design. Safe design solutions that enable deconstruction, demounting and decommissioning to facilitate future high value recycling, re-manufacture or re-use at end of first life, shall be identified and where feasible incorporated into design.

DMRB LA 110 Material assets and waste, 2019

- 5.6 DMRB LA 110 Material assets and waste sets out the requirements for assessing and reporting the effects on material assets and waste from the delivery of motorway and all-purpose trunk road projects.
- 5.7 The National Application Annexes to DMRB LA 110 set out any specific requirements of the UK devolved Overseeing Organisations (Highways England, Transport Scotland, Welsh Government and Department for Infrastructure Northern Ireland 2019) covering 'regional and national aggregate recycled content targets' and 'target for recovery of construction and demolition waste' for use with DMRB LA 110. However, the Scotland National Application Annex to DMRB LA 110 states that there are no specific requirements for Transport Scotland supplementary or alternative to those given in DMRB LA 110.
- 5.8 Those requirements of relevance this assessment include:
- the England recycled aggregate target of 25% shall be used, in the absence of a Scottish equivalent target, in the environmental assessment of material assets and waste;
 - the environmental assessment shall evidence how recovery of construction and demolition waste has been maximised through the design and mitigation process; and
 - at least 70% (by weight) of non-hazardous construction and demolition waste shall be subjected to material recovery in accordance with the Waste Framework Directive.

Transport Scotland, Road Asset Management Plan for Scottish Trunk Roads, 2016

- 5.9 The Road Asset Management Plan (Scotland) identifies Environmental Sustainability as one of their main objectives and specifically commits "...To protect the environment by minimising carbon emissions and promoting and encouraging the use of sustainable practices and materials used on road maintenance work".

6 Guidance

SEPA Guidance IS IT WASTE Understanding the definition of waste, 2006

- 6.1 This guidance sets out a framework of factors to be considered in establishing whether a particular substance or object is likely to fall within the scope of the definition of waste given in the Waste Framework Directive (2008/98/EC) and adopted in the UK. However, it is not a substitute for legal or policy advice and this document does not attempt to address all the legal considerations.
- 6.2 This guidance has been produced by the Waste Policy Unit to assist SEPA staff in understanding when a substance or object becomes waste and when something that has become waste may cease to be a waste.
- 6.3 SEPA suggests that it is important to read the whole document to appreciate the range of principles that should be applied to the decision making process. Where there is any dubiety about a decision, advice should be sought from the Waste Policy Unit or Legal Team.

SEPA, Northern Ireland Environment Agency (NIEA), Natural Resources Wales and the Environment Agency, Technical Guidance WM3: Waste Classification, 2015

- 6.4 This guidance on the classification and assessment of waste provides direction on waste classification in England, Scotland, Northern Ireland and Wales. It is a comprehensive reference manual for anyone involved in producing, managing and regulating waste. Appendix A includes the waste classification codes, also referred to as List of Waste or European Waste Catalogue codes for hazardous and non-hazardous waste. This document does not provide guidance on the packaging and labelling of waste for transport.
- 6.5 Under waste Duty of Care a business must classify the waste it produces: before it is collected, disposed of or recovered; to identify the controls that apply to the movement of the waste; to complete waste documents and records; to identify suitably authorised waste management options; to prevent harm to people and the environment. This guidance should be used by anyone that produces, manages or regulates waste. For most wastes, the waste holder will need to identify if the waste has a hazardous property before it can classify or describe it. This guidance explains how to assess if the waste displays a hazardous property and how to classify it.

SEPA Guidance Recycled Aggregates from Inert Waste, 2013

- 6.6 This guidance clarifies the point at which recycled aggregates manufactured from inert waste, in SEPA's view, cease to be waste and waste management controls are no longer required. If all of the requirements outlined in this guidance are met, the Recycled Aggregate will not be regulated as waste once dispatched from the site for a certain use.

SEPA and the Quarry Products Association (QPA) Guidance on the Production of Fully Recovered Asphalt Road Planings, 2008

- 6.7 This guidance provides an agreed methodology for demonstrating when aggregate produced from source segregated asphalt road planings has been fully recovered to the extent that it has ceased to be waste for a particular proposed use. This is for the purpose of encouraging the use of recycled aggregates through clarification of the waste legislation.
- 6.8 If producers and users of such materials comply with this guidance it is likely that the material they produce will be considered to be a product rather than a waste.
- 6.9 Whilst producers and users are not obliged to comply with the guidance if they do not the processed material will remain to be classified as a waste and thus be subject to the requirements of the Waste Regulations.

SEPA Land Remediation and Waste Management Guidelines, 2009

- 6.10 This guidance sets out how SEPA will regulate the treatment and/or use of contaminated materials at the site of excavation. Subject to the six criteria set out in this guidance, SEPA will not regulate under waste legislation soil not requiring treatment and able to be used at the site of excavation as part of the development or land remediation project. But if these criteria cannot be met, SEPA will regulate the activities.
- 6.11 Excavated contaminated soil requiring treatment before it can be used will be regulated under waste legislation. Treatment of waste soil must be carried out within the terms of a Waste Management Licence (either a mobile plant licence or site licence).

SEPA Guidance Promoting the Sustainable Reuse of Greenfield Soils in Construction, 2010

- 6.12 This regulatory guidance document was produced to promote the sustainable reuse of greenfield soils. Excess soils from development sites are generally regarded as waste and so their use or disposal requires a Waste Management Licence or a registered exemption.
- 6.13 However, SEPA has adopted this regulatory position so that, in certain circumstances, it will not require a licence or exemption for the use of such soils. This guidance sets out the circumstances in which this regulatory position applies. If producers and users of greenfield soil comply with this guidance, SEPA will not regulate its use under waste legislation.

SEPA Guidance on Asbestos in Demolition Waste, 2015

- 6.14 The aim of this guidance is to provide users with a brief guide on how best to manage asbestos contaminated demolition wastes and to establish when it is necessary to consign that material as special waste to a site authorised to accept special waste.

Scottish Government Duty of Care Code of Practice, 2012

- 6.15 This Code of Practice explains the duties which apply to anyone who produces, keeps, imports or manages controlled waste in Scotland. The Code is made under section 34(7) of the Environmental Protection Act 1990 (as amended). Under section 34(10) of the 1990 Act, this Code is admissible as evidence in court and the court shall take it into account in determining any questions to which it appears to be relevant. The intention is that the Code will assist the courts, when hearing cases under Section 34 of the 1990 Act, in determining whether persons subject to the duty took reasonable measures to comply with it.

SEPA Technical Guidance on Activities Exempt from Waste Management Licensing, n.d.

- 6.16 Some activities involving waste materials are exempt from licensing if they meet the requirements detailed in Regulation 17 of the Waste Management Licensing (Scotland) Regulations 2011. Although an activity may be exempt from waste management licensing, it is still subject to statutory controls to prevent environmental pollution and harm to human health.
- 6.17 The controls under Regulation 19 relate to registration of exempt activities. The controls under Regulation 17 relate to certain conditions being met in order for the activity to be exempt, which includes the requirement that the activity must not endanger human health or harm the environment by presenting a risk to water, air, soil, plants or animals; causing nuisance through noise or odours; or adversely affecting the countryside or places of special interest. It is an offence to carry out an exempt activity without it being registered or to carry out an activity in breach of registration obligations.
- 6.18 Where an exempt activity relates to the storage, treatment or recovery of waste then operating out with the parameters specified for that activity may indicate that a waste disposal activity is taking place. In these circumstances, the activity would no longer be exempt and the waste holder would need to apply for a Waste Management Licence.
- 6.19 Exempt activities carried out under waste exemptions on construction sites often include:
- *Paragraph 7* - The treatment of land for agricultural benefit or ecological improvement;
 - *Paragraph 9* - The reclamation or improvement of land;
 - *Paragraph 11* - Baling, sorting, shredding etc. of specified wastes;
 - *Paragraph 13* - Manufacture of specified goods from specified wastes;
 - *Paragraph 17* - Storage of specified wastes in a secure place;
 - *Paragraph 18* - Secure storage of specified wastes on any premises;

- *Paragraph 19* - Waste for construction and other "relevant work";
- *Paragraph 21* - Chipping etc waste plant matter;
- *Paragraph 24* - Size reduction of bricks, tiles or concrete;
- *Paragraph 25* - The deposit of dredging wastes;
- *Paragraph 30* - Burning plant tissue waste on land in the open;
- *Paragraph 33* - Keeping or deposit of peat excavation waste;
- *Paragraph 35* - The deposit of excavated material from a borehole or other excavation;
- *Paragraph 40* - Secure storage of non-liquid waste other than at the place of production; and
- *Paragraph 41* - Temporary storage of waste at the place of production.

SEPA, NIEA and the Environment Agency, PPG 6: Working at Construction and Demolition Sites, 2012

- 6.20 Pollution Prevention Guidelines (PPG) 6 was developed by the Environment Agency for England and Wales, the Northern Ireland Environment Agency for Northern Ireland and SEPA for Scotland.
- 6.21 A review plan for the PPGs is currently underway by SEPA and the other UK environmental regulators. The review will result in a replacement guidance series, Guidance for Pollution Prevention (GPPs). It is aimed that the new series will provide environmental good practice guidance for the whole UK, and environmental regulatory guidance directly to Northern Ireland, Scotland and Wales. For businesses in England, regulatory guidance is available from GOV.UK instead.
- 6.22 PPG 6 provides environmental good practical advice and guidance to help prevent pollution from construction and demolition sites. PPG 6 also make reference to environmental legal obligations, however some of this information is currently out-of-date and requires updating. Therefore, at the moment, in Northern Ireland, Scotland and Wales, PPG6 is to be considered as a source of information on good practice only.

SEPA Consigning Special Waste Guidance, 2006

- 6.23 This document is a guide to 'consigning special waste in Scotland'. Any movement of special waste – known as a consignment – is subject to regulation and must be monitored by its producer, consignor, carrier and consignee.
- 6.24 Any business that produces, collects, transports or disposes of special waste, must comply with the Special Waste Regulations 1996 (as amended). SEPA's guide to consigning special waste explains producers or operators' obligations in more detail.

7 Policy Assessment

- 7.1 Table 1 provides a summary of the alignment of the proposed scheme with the regulatory and policy context for materials and waste, and how compliance will be secured through the adoption of Mitigation Items identified in Volume 1 Chapter 13 (Material Assets and Waste).

Table 1: Legislative and Policy Compliance

Legislation/Policy	Compliance	How Secured (mitigation item cross reference)
European		
The EU Sustainable Development Strategy, 2006	Yes	M&W1 M&W2 M&W3 M&W4
The EU Waste Framework Directive 2008/98/EC	Yes	M&W1 M&W2 M&W3 M&W4 M&W5
The EU Circular Economy Package, 2018	Yes	M&W1 M&W2 M&W3 M&W4
National		
Department for International Development Agenda 2030, Delivering the Global Goals, 2017	Yes	M&W1 M&W2 M&W3
Scottish Government, The Environment Strategy for Scotland: vision and outcomes, 2020	Yes	M&W1 M&W2 M&W3 M&W4
Scottish Government, Climate Change Plan: third report on proposals and policies 2018-2032 (RPP3), 2018	Yes	M&W1 M&W2 M&W3 M&W4
Scottish Executive, Choosing our Future Scotland's Sustainable Development Strategy, 2005	Yes	M&W1 M&W2
Scottish Government, National Planning Framework 3, 2014	Yes	M&W1 M&W2 M&W3
Scottish Government, Scottish Planning Policy, 2014	Yes	M&W1 M&W2 M&W3 M&W4
The Climate Change (Scotland) Act 2009	Yes	M&W1 M&W2
Scottish Government, Making Things Last A Circular Economy Strategy for Scotland, 2016	Yes	M&W1 M&W2 M&W3 M&W4
Scottish Government, Safeguarding Scotland's Resources - Blueprint for a More Resource Efficient and Circular Economy, 2013	Yes	M&W1 M&W4
Scottish Procurement Directorate, Scottish Procurement Policy Note SPPN 09/2004 Procurement of Timber and Timber Products	Yes	M&W2
Scottish Government, Scotland's Zero Waste Plan, 2010	Yes	M&W3 M&W4
The Waste (Scotland) Regulations 2012 (as amended)	Yes	M&W3 M&W4
The Waste (Scotland) Regulations 2011 (as amended)	Yes	M&W4 M&W5
The Waste Management Licensing (Scotland) Regulations 2011 (as amended)	Yes	M&W4 M&W5

Legislation/Policy	Compliance	How Secured (mitigation item cross reference)
The Environmental Protection (Duty of Care) (Scotland) Regulations 2014 (as amended)	Yes	M&W1 M&W2 M&W3
The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (as amended)	Yes	M&W4 M&W5
Pollution Prevention and Control (Scotland) Regulations 2012 (as amended)	Yes	M&W4 M&W5
The Landfill (Scotland) Regulations 2003 (as amended)	Yes	M&W4 M&W5
The Environmental Protection Act 1990 (as amended)	Yes	M&W4 M&W5
The Special Waste Regulations 1996 (as amended)	Yes	M&W4 M&W5
Waste Electrical and Electronic Equipment Regulations 2013 (as amended)	Yes	M&W4 M&W5
The Waste Batteries and Accumulators Regulations 2009 (as amended)	Yes	M&W4 M&W5
Landfill Tax (Scotland) Act 2014 (as amended)	Yes	M&W4 M&W5
Local		
The Strategic Development Planning Authority for Edinburgh and South East Scotland, Strategic Development Plan, 2013	Yes	M&W1 M&W2 M&W3 M&W4
Falkirk Local Development Plan 2, 2020	Yes	M&W1 M&W2 M&W3 M&W4
Fife Council Local Development Plan, 2017	Yes	M&W1 M&W2 M&W3 M&W4
Client		
Transport Scotland Corporate Plan 2017–20, 2017	Yes	M&W2
DMRB GG 103 Introduction and general requirements for sustainable development and design, 2019	Yes	M&W1 M&W2 M&W3 M&W4
DMRB LA 110 Material assets and waste, 2019	Yes	M&W1 M&W2 M&W3 M&W4 M&W5
Transport Scotland, Road Asset Management Plan for Scottish Trunk Roads, 2016	Yes	M&W1 M&W2 M&W3 M&W4
Statutory Guidance		
SEPA Guidance IS IT WASTE Understanding the definition of waste, 2006	Yes	M&W4 M&W5
SEPA <i>et al.</i> Technical Guidance WM3: Waste Classification, 2015	Yes	M&W4 M&W5
SEPA Guidance Recycled Aggregates from Inert Waste, 2013	Yes	M&W3 M&W4 M&W5

Legislation/Policy	Compliance	How Secured (mitigation item cross reference)
SEPA <i>et al.</i> Guidance on the Production of Fully Recovered Asphalt Road Planings, 2008	Yes	M&W3 M&W4 M&W5
SEPA Land Remediation and Waste Management Guidelines, 2009	Yes	M&W3 M&W4 M&W5
SEPA Guidance Promoting the Sustainable Reuse of Greenfield soils in construction, 2010	Yes	M&W3 M&W4 M&W5
SEPA Guidance on Asbestos in Demolition Waste, 2015	Yes	M&W4 M&W5
SEPA Duty of Care Code of Practice, 2012	Yes	M&W4 M&W5
SEPA Technical Guidance on Activities Exempt from Waste Management Licensing, n.d	Yes	M&W5
SEPA <i>et al.</i> PPG 6: Working at Construction and Demolition Sites, 2012	Yes	M&W4 M&W5
SEPA Consigning Special Waste Guidance, n.d.	Yes	M&W4 M&W5

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