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Northern Ireland Environment Agency  
Water Management Unit

## General Planning Guidance Note

A Guidance Note for Planning Officers and  
Applicants for Planning Permission. June 2010

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## **Disclaimer**

This simplified guidance is based on legislation that is subject to change and does not constitute formal legal advice. Compliance with the law remains the user's responsibility. If you have concerns over compliance, you must contact Northern Ireland Environment Agency (NIEA). Printed versions of this document may be out of date – Please check the NIEA website for the most up-to-date version.

## 1. Introduction

The Water Management Unit (WMU) is the unit within the Northern Ireland Environmental Agency (NIEA) with responsibility for the protection of the water environment.

The role of WMU in the planning system is to act as a consultee to the Department of the Environment's (DOE) Planning Division.

Once an applicant makes a planning application, DOE Planning will forward consultees a copy of the application form, all relevant plans and any other supporting documents that are submitted with the planning application. The role of WMU is thus to advise DOE Planning of the likely or potential impacts of the proposed development on the water environment during its construction, operation and eventual decommission, if applicable.

To fully determine the potential impact of a development on the water environment WMU may require detailed information. Often there is not enough information available in the planning application for WMU to fully determine the likely impact on the water environment. In such cases WMU may recommend that DOE Planning request further information from the applicant. Unfortunately this can delay the planning process.

In some cases, the level of information required, and the time and resources required to assess it, is too detailed to be included in a planning application. Under such circumstances WMU will not be able to provide DOE Planning with a definitive assessment of the development's water impact, but will rather state that it has no objection in principle to the development but that the applicant will have to apply for the relevant licence, permit, consent or authorisation (hereby referred to as statutory permissions). All water quality issues will then be fully assessed through the statutory permission application process. However, there is no guarantee that a statutory permission will be granted.

Unfortunately this creates a situation whereby DOE Planning must then either approve or reject planning permission without full knowledge of the environmental impact of the development on the water environment.

**To avoid this situation, WMU recommends that developers should apply for the required statutory permissions prior to applying for planning permission.**

If WMU are asked to comment on a planning application for a development for which the applicant is already in possession of the necessary statutory permissions, WMU should be able to respond positively to that planning application, as all environmental impacts on the water environment will have been known and assessed during the statutory permission application process.

Conversely, if the applicant has made an application for a statutory permission and it has not been granted, WMU will object to the proposed development unless alternative proposals have been put forward.

In these circumstances, WMU will be able to make an informed response on the proposed development to DOE Planning. DOE Planning will therefore be able to make a decision on whether or not to approve planning permission in the full knowledge that all impacts on the water environment have been fully assessed.

## 2. Scope Of This Guidance Note

This guidance note is intended for use by Planning Officers and by anybody who is proposing to make an application for planning permission to DOE Planning. It should be used as a decision making tool for developers to identify potential impacts on the water environment that may be caused by their proposed development.

This guidance note encourages proposed developers to take a proactive approach to the potential impact of their proposed developments on the water environment. This entails contacting and liaising with WMU prior to making an application for planning permission and where necessary, applying for and ensuring the necessary statutory permissions have been granted before submitting a planning application.

This note is also intended to inform those responsible for developing such sites about the issues which should be considered and the information they should be submitting with their planning application to ensure a timely and informed response from WMU.

WMU plan to produce a number of development-specific planning guidance notes to supplement this general note.

### 3. Statutory Water Quality Requirements For Developments

WMU has a responsibility to ensure that developments or activities related to a development, which have a potential impact on the water environment, comply with a number of statutory requirements. Developers should use this guidance note to help them identify their legal requirements. Once developers have identified their legal requirements, it is recommended that they contact WMU to apply for and gain the relevant statutory permissions prior to applying for planning permission.

#### **Will my proposed development need a discharge consent?**

- If your proposed development will make a discharge to the water environment, during the construction or operational phases e.g. sewage effluent, site drainage or process effluent, or has the potential to make a discharge, you may require a discharge consent issued under the Water (Northern Ireland) Order 1999<sup>1</sup>.
- You may also require a separate discharge consent for site drainage during the construction phase of any proposed development you may undertake. Please note that a separate consent will require a separate application.
- To obtain a discharge consent you should first contact the WMU's Industrial Consents Team for an application form. Further information and an application form can also be downloaded from NIEA's website at <http://www.doeni.gov.uk/niea/water-home.htm> It is important to note that an application can take up to four months to process.

## **Will my proposed development need a Marine Licence?**

- If your proposed development will involve any construction works that will occur within 50 metres of the Mean High Water Spring Tide mark you may require a licence under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009<sup>2</sup> (a Marine Licence). Please note this also applies to proposed pipeline outfalls terminating in the sea.
- You should therefore notify WMU's Marine Assessment and Licensing Team if you plan any work close to the coast so that they can determine if you will require a Marine Licence. Further information can be found at [http://www.doeni.gov.uk/niea/water-home/marine\\_construction\\_and\\_deposits.htm](http://www.doeni.gov.uk/niea/water-home/marine_construction_and_deposits.htm) It is important to note that a Marine Licence application can take up to four months to process.

## **Will my proposed development need an abstraction/impoundment licence?**

- If your proposed development will involve an abstraction (taking water from a water source) or an impoundment (a pool of water formed by a dam or pit) an appropriate abstraction/impoundment licence issued under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006<sup>3</sup> may be required. In such circumstances you should contact the Abstraction and Impoundment Licensing Team of WMU to determine if you require a licence.
- Further information and an application form can also be downloaded from NIEA's website at <http://www.doeni.gov.uk/niea> It is important to note that an application for an abstraction/impoundment licence can take up to four months to process.

## Will my proposed development have an agricultural use?

- Any construction (or substantial alteration) of silage, slurry or agricultural fuel oil storage must comply with the Schedules of Requirements of The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003<sup>4</sup> (SSAFO). As well as design, construction and storage capacity standards, the SSAFO Regulations require that any new (or substantially altered) silage, slurry and agricultural fuel oil stores are located at least 10 m from any waterway.
- Under The Nitrates Action Programme Regulations (Northern Ireland) 2010<sup>5</sup> any run-off meeting the definition of slurry must be collected in a slurry tank. Run-off meeting the definition of dirty water must be collected with the slurry or in a separate dirty water tank. **Only clean water should be disposed of to a soakaway or waterway.**
- If the proposed development has a related activity which will involve the disposal of waste products e.g. pesticides or sheep dip to land, a groundwater authorisation, issued under The Groundwater Regulations (Northern Ireland) 2009<sup>6</sup>, will be required.
- If you are proposing to make a planning application for an agricultural development, you should contact the Agricultural Regulations Team of WMU to discuss their requirements before making a planning application.
- Further information and a SSAFO Leaflet and Guidance document can be found on NIEA's website at [http://www.doeni.gov.uk/niea/water-home/agri\\_regs.htm](http://www.doeni.gov.uk/niea/water-home/agri_regs.htm)



## **Do I need to submit an Environmental Statement?**

- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012<sup>7</sup> describe a range of developments that will require or are likely to require an environmental impact assessment (EIA). Developments listed and described under Schedule 1 of the Regulations will always require an EIA and therefore the preparation and submission of an Environmental Statement. Developments listed and described in Schedule 2 of the Regulations may require an EIA if it is located wholly or in part in a “sensitive area<sup>8</sup>” or exceeds one of the relevant thresholds set out in Schedule 2.
- Once a developer has submitted a development proposal to DOE Planning, WMU will be asked to advise DOE Planning as to whether an EIA is required.
- Development proposals which include agricultural water management projects, such as spray irrigation, which involve the impoundment, abstraction and/or diversion of water from surface, or groundwater sources, may be required to submit an Environmental Statement under the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005<sup>9</sup> as part of an abstraction/impoundment licence application. In such circumstances you should contact the Abstraction and Impoundment Licensing Team of WMU.

## 4. Construction Of The Proposed Development

The construction phase of any development has the potential to cause significant water pollution through a failure to control potential pollutants, such as sediments, oil, fuel, concrete etc. As part of WMU's response to a planning application, WMU will make a number of recommendations regarding the construction phase of the project to ensure that best practice methods are used to reduce and mitigate the potential for pollution of the water environment.

- As stated in Section 3, a number of statutory provisions may be required during the construction phase of the development.
- The use of Sustainable Drainage Systems (SuDS) to deal with site drainage **may** remove the need for a discharge consent, under the Water (Northern Ireland) Order 1999<sup>1</sup>, during the construction phase. Construction of SuDS should comply with the design and construction standards as set out in the CIRIA manual (C697)<sup>10</sup> and the CIRIA site handbook for the construction of SuDS (C698)<sup>11</sup>. Both documents can be downloaded from the CIRIA website at <http://ciria.org/suds/publications.htm>
- WMU's Pollution Prevention Team may also require the developer to produce method statements for the work to be carried out on site, which should document any pollution mitigation planned to be put in place for the duration of the works. It is desirable that method statements are submitted with planning applications.
- WMU will recommend that the developer strictly follows the guidance provided by the relevant Pollution Prevention Guidelines (PPGs). PPGs can be downloaded at <http://www.environment-agency.gov.uk/netregs/links/107968.aspx> PPGs outline statutory responsibilities for businesses and provide guidance on good practice to reduce pollution risk. Each PPG is targeted at a particular industrial sector or activity and applies across the UK. WMU's Pollution Prevention Team may also wish to visit the site to advise the developer on potential problems and potential mitigation measures.

## Could my proposed development site be contaminated?

- Northern Ireland, like other parts of the UK, has a legacy of land affected by contamination, often arising from its past industrial use (e.g. shipbuilding, textiles, petrol stations, etc.) but also from natural or diffuse sources. It is not known how much land is contaminated, although DOE records estimate that there are over 11,000 sites across Northern Ireland that have had some form of previous industrial use. Such industrial use may have left a legacy of contamination of the soil and groundwater.
- If the developer suspects that the proposed development site may potentially have contamination issues the developer should contact the Land Quality Team of NIEA's Land and Resource Management Unit to discuss the issue before making a planning application.
- Further information can be found on NIEA's website at [http://www.doeni.gov.uk/niea/land-home/land-quality/contaminated\\_land-2/contaminated\\_land\\_guidance-2.htm](http://www.doeni.gov.uk/niea/land-home/land-quality/contaminated_land-2/contaminated_land_guidance-2.htm)

## Culverting

- The modification of watercourses by human activity does not help to deliver good surface water status for water bodies as required under the Water Framework Directive. WMU also considers that in many cases, culverting results in unnecessary damage to river channels and loss of habitat and adversely impacts on fish and mammals. It also hinders the investigation of pollution and the enforcement of unconsented or unacceptable discharges. It is WMU's experience that culverting small watercourses also tends to reduce the expectation that the water quality of such water bodies should be protected, and leads to them being treated as mere conduits to larger, more significant watercourses, rather than as watercourses in their own right.
- WMU are therefore opposed to culverting and would urge that any proposed culverting complies with Planning Policy Statement 15: Planning and Flood Risk Policy FLD 4<sup>12</sup>.

## 5. Operation Of The Proposed Development

**The planning application should clearly detail how waste water (sewage) from the site will be dealt with:**

- WMU recommends that, where possible, all developments should connect to the mains sewage network. Planning applications should therefore include a copy of any confirmation from Northern Ireland Water Limited (NIW) that permission for the proposed development to connect to the mains sewage network has been granted.
- Where it is not possible to connect the development to the mains sewer, the applicant should detail alternative arrangements for dealing with waste water from the development. If these alternative arrangements require an effluent discharge to the water environment, it is desirable that the applicant has applied for and been granted consent to discharge, prior to applying for planning permission.
- The applicant should ensure that waste water and surface water drainage systems are kept separate to avoid waste water being incorrectly directed to the surface water system, which may cause pollution. Conversely, surface water should not be directed to the waste water system as this may overload the sewer causing a discharge to the water environment.
- To obtain a discharge consent you should first contact the Industrial Consents Team of WMU for an application form. Further information and an application form can also be downloaded from NIEA's website at <http://www.doeni.gov.uk/niea/water-home.htm> It is important to note that a discharge consent application can take up to four months to process.

**A submitted planning application should clearly detail how surface water from the site during its operation, i.e. once it is built, will be dealt with:**

- As stated in Section 3, a number of statutory provisions may be required during the operation of the development.
- WMU recommends that the storm drainage from the site should be designed according to the principles of Sustainable Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways. The developer should refer to CIRIA manual C697<sup>10</sup>. The manual provides best practice guidance on the planning, design, construction, operation and maintenance of Sustainable Drainage Systems (SuDS) to facilitate their effective implementation within developments.
- The discharge of storm water to the water environment may require a consent to discharge if it is deemed to be potentially polluting. The discharge of clean rainwater does not need a consent to discharge, under the Water (Northern Ireland) Order 1999<sup>1</sup>.
- Further information can be found on NIEA's website at <http://www.doeni.gov.uk/niea/water-home.htm> or by contacting the WMU's Industrial Consents Team. It is important to note that a discharge consent application can take up to four months to process.

## **6. Why Is It Desirable To Have Statutory Permissions And Pollution Prevention Plans In Place Prior To Applying For Planning Permission?**

It is an offence under the Water (Northern Ireland) Order 1999<sup>1</sup> to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

Conviction of such an offence may incur a fine of up to £20,000 and / or three months' imprisonment. It is therefore vitally important that the developer has ensured that measures are put in place to prevent pollution of surface or groundwater as a result of the activities on site during construction and thereafter.

Although it is not a statutory requirement to have the relevant permissions in place prior to applying for planning permission, it is desirable and will help WMU make an informed and timely response to DOE Planning. If all the relevant permissions have been granted, it is extremely unlikely that WMU would object to the granting of planning permission.

## 7. Summary

By using this guidance note the applicant can identify and fulfil the main statutory requirements, required by WMU, prior to making an application to DOE Planning, WMU can respond to DOE Planning in an informed and timely manner.

If the applicant can demonstrate in their planning application that they have fulfilled the statutory requirements required by WMU, it is more likely that WMU can inform DOE Planning that they have no objection to the proposed development.

The inclusion of all the relevant information and statutory permissions will ensure a timely response from WMU and should also contribute to the issue of a timely planning decision from DOE Planning.

The pre-application checklist (Annex A) summarises this guidance note. It will increase potential applicants' awareness of what WMU's statutory and non-statutory requirements are for their proposed developments. It also sets out who the primary contacts are within WMU with regard to each requirement.

## 8. How Do I Contact Water Management Unit?

In the first instance you can find lots of useful information on our website at <http://www.doeni.gov.uk/niea/water-home> including application forms and guidance notes for applying for the relevant statutory permissions.

Alternatively, you can request information through our Information Management Team via email on [waterinfo@doeni.gov.uk](mailto:waterinfo@doeni.gov.uk)

You may wish to write to us at:

**Northern Ireland Environment Agency**  
**Water Management Unit**  
**17 Antrim Road**  
**Tonagh**  
**Lisburn**  
**BT28 3AL**

You can also contact WMU by telephone on the following number:  
**028 9262 3100.**



# ANNEX A - PRE-APPLICATION CHECKLIST

CHECKLIST QUESTIONS	YES/NO	Who Do I Contact?	What Do I Do Next?
1 Have I included details of waste water provision during the operation of the proposed development?	Y / N	WMU's Planning Coordination Team	WMU will not comment on planning consultations unless the applicant has clearly detailed how waste water (sewage) drainage will be dealt with. If NIW has permitted connection to the sewer the relevant confirmation should be included in the planning application.
2 Have I included details of storm drainage provision during the construction and operation of the proposed development?	Y / N	WMU's Planning Coordination Team	WMU will not comment on planning consultations unless the applicant has clearly detailed how storm drainage will be dealt with.
3 Do I need a discharge consent?	Y / N	WMU's Industrial Consents Team	If the consent is granted, include a copy with your planning application.
4 Do I need a discharge consent for the construction phase?	Y / N	WMU's Industrial Consents Team	If the consent is granted, include a copy with your planning application.
5 Do I need an Abstraction/Impoundment Licence?	Y / N	WMU's Abstraction and Impoundments Licensing Team	If a licence is granted, include a copy with your planning application.
6 Do I need a Marine Licence?	Y / N	WMU's Marine Assessment and Licensing Team	If a licence is granted, include a copy with your planning application.
7 Have I prepared method of working statement in line with relevant Pollution Prevention Guidelines?	Y / N	WMU's Pollution Prevention Team	Include a method of working statement with your planning application.
8 Does the site-use history indicate any potential contaminated land issues?	Y / N	LRM's Land Quality Team	If required, carry out a preliminary risk assessment of the site and include the results, in the form of a report, with your planning application.
9 Do the SSAFO and NAP Regulations apply to my development?	Y / N	WMU Agricultural Regulations Team	If so, provide documentation with your planning application as to how you have considered the SSAFO and NAP Regulations in your proposed development.
10 Do I require a Groundwater Authorisation?	Y / N	WMU Agricultural Regulations Team	If an authorisation is granted, include a copy with your planning application.

## 10. References

1. Water (Northern Ireland) Order 1999, SI 1999 No. 662 (N.I. 6)
2. The Marine and Coastal Access Act 2009, C. 23
3. Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006, SR 2006 No. 482
4. The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003, SR 2003 No. 319
5. The Nitrates Action Programme Regulations (Northern Ireland) 2010, SR 2010 No. 411
6. The Groundwater Regulations (Northern Ireland) 2009, SR 2009 No. 254
7. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012, SR 2012 No. 59
8. 'Sensitive Area' is defined as a designated Area of Special Scientific Interest (ASSI); a designated Area of Outstanding Natural Beauty (AONB); a designated National Park; a World Heritage Site; a scheduled Monument; or European Sites as defined in Regulation 9 of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 such as an SPA or SAC
9. The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005, SR 2005 No. 32
10. Construction Industry Research and Information Association, (Feb 2007), The SuDS Manual C697
11. Construction Industry Research and Information Association, (Feb 2007), Site Handbook for the Construction of SuDS C698
12. Planning Service (DOE), (June 2006), Planning Policy 15: Planning and Flood Risk



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Our aim is to protect, conserve and promote the natural environment and built heritage for the benefit of present and future generations.

