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From: O'Malley Vincent <Vincent.O'Malley@tii.ie>
Sent: 21 February 2020 15:04
To: wastecomments
Cc: Nea Christian; Hughes Helen
Subject: Public Consultation: Waste Action Plan for a Circular Economy

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To whom it may concern:

Transport Infrastructure Ireland (TII) welcomes the opportunity to express its view on the development of a new Waste Action Plan for Ireland.

Environmental Levies

In relation to the introduction of a waste recovery levy and an increase in the landfill levy, TII requests that the effects of such measures on illegal dumping be considered. TII also asks whether the introduction of a waste recovery levy would lead to a reduction in the amount of waste being recovered. TII suggests that increased enforcement may be required if these measures are progressed. In line with comments previously made by TII in other fora, it would ask that environmental levies in respect of the recovery or disposal of invasive alien plant species (and associated material) be eliminated or, where appropriate, not be introduced in order to encourage the appropriate processing of this material.

Institutional Arrangements and Role of Regulatory Bodies

Given the role of the Minister for, and the Department of, Housing, Planning and Local Government in the context of planning policy and legislation, TII queries whether this person and body should be mentioned in Chapter 2.

Circular Economy

Having regard to the consultation questions raised in Section 7.7, TII would like to make the following points:

- The reduction, recycling and recovery of construction and demolition waste in the construction industry is an area that has significant potential for transformation in Ireland.
- The creation of a Circular Economy Action Plan with sectoral-specific targets by Government would help Ireland's transition to a Circular Economy.
- The organisation of sectoral-specific training could be warranted.

Construction and Demolition

In relation to the proposed revision of the 2006 guidelines, TII understands that the *Best Practice Guidelines on the Preparation of Waste Management Plans for Construction & Demolition Projects* (2006) are 'Ministerial guidelines' within the meaning of Section 28 of the Planning and Development Act 2000, as amended, with the relevant Minister being the Minister for Housing, Planning and Local Government. As Section 28 Ministerial guidelines, planning authorities and An Bord Pleanála must have regard to them in the performance of their functions (Sections 28(1) and (2)). TII considers it important that any revised guidelines have sufficient status in law, e.g. that revised guidelines are reissued as Ministerial guidelines under Section 28.

In relation to construction and demolition waste generally, TII considers that the implementation, administration and, where appropriate, transposition of the following law requires significant and timely improvement in order to facilitate the use of recycled materials in construction:

- Article 27 of the European Communities (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011) relating to by-products;

- Article 28 of the European Communities (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011) relating to end-of-waste status; and,
- Article 24 (Exemptions from permit requirements) and Article 25 (Conditions for exemption) of the Waste Framework Directive (Directive 2008/98/EC, as amended) relating to exemptions and conditions for exemptions.

Recycled materials of potential relevance to linear infrastructure development include: soil and stones, road planings and crushed concrete.

TII notes that changes to specifications, standards, works requirements, etc., to facilitate the appropriate use of recycled materials in construction projects are also required. Without such changes, incentives to use recycled materials and changes to legal procedures may have limited success. While TII have powers to set standards for national road construction, TII asks whether the National Standards Authority of Ireland would have a role in promoting such changes and driving the production of circular economy standards for the wider construction sector. TII believes that on-site segregation could be encouraged by contractually requiring construction contractors to create and maintain detailed construction and demolition waste management plans. Such plans should be the subject of regular audits by clients. The implementation of Green Public Procurement and the setting of selection or award criteria related to anticipated environmental performance could also assist in this regard.

The application of whole-life costing, natural capital and ecosystem accounting and the consideration of externalities in developing business cases for infrastructure projects could improve Ireland's transition to a Circular Economy.

By-Products and End-of-Waste

TII is supportive of initiatives that would increase the use of by-products and end-of-waste material, however, TII considers that proposals to charge fees in respect of by-product notifications and end-of-waste applications should be carefully considered. Whilst the setting of fees at a low level might have the benefit of reducing speculative notifications and applications, setting fees at a high level would potentially be inconsistent with a desire to increase the use of by-products and end-of-waste material. TII is aware that additional resourcing may be necessary to prioritise this nationally-important area.

In specific relation to end-of-waste status, TII believes that the Government should seek to establish a group to apply for national end-of-waste decisions for appropriate products, e.g. road planings, aggregates, incinerator bottom ash. It might be appropriate that TII is represented on such groups.

Exemptions

As a general point, TII believes that Ireland's transposition, and subsequent application, of the Waste Framework Directive should be subject to high-level review in order to facilitate Ireland's transition to a Circular Economy. TII queries whether Ireland's current waste management regime ensures that the level of 'regulatory burden' is proportionate to the risk to human health and the environment. TII notes that the system applied in the United Kingdom appears to be more streamlined and proportionate.

Relating to this general point, TII believes that Ireland (pursuant to Article 24 of the Waste Framework Directive) should consider, in respect of certain low-risk scenarios, waiving the requirement for a permit for the:

- a) disposal of their own non-hazardous waste at the place of production; or
- b) recovery of waste.

TII notes that Ireland (pursuant to Article 25 of the Waste Framework Directive) must '*lay down, in respect of each type of activity, general rules specifying the types and quantities of waste that may be covered by an exemption, and the method of treatment to be used.*' These rules must, TII notes, ensure that waste management is carried out without endangering human health or harming the environment. Furthermore, TII notes, rules relating to disposal should consider best available techniques. TII suggests that exemptions relating to the disposal (at the place of production) and recovery of soil and stones, road planings, concrete aggregate, peat and invasive alien plant material should be considered. TII believes that there is a particular and urgent need to create such exemptions in relation to invasive alien plant material.

Waste Enforcement

In relation to waste enforcement, TII believes that significant improvements to waste-related criminal law and its enforcement appear warranted. However, TII believes that there should also be a focus on relevant civil and administrative law, which potentially better implement the polluter pays principle and might be more easily litigated.

Waste Data & Waste Flows

TII believes that all waste should be tracked from the site of creation to final destination. Modern innovative solutions should, it considers, be investigated to enable this.

Research and Innovation

TII considers that: construction and demolition waste; and, the specification of recycled materials in construction projects, are important research areas to be prioritised.

Green Public Procurement (GPP)

TII believes that all public authorities should identify what sustainability means for their activities and, subsequently, embed these principles into their procurement processes. TII believes that sustainable public procurement, rather than Green Public Procurement, should be the aim of the public sector. Sustainable public procurement would have a greater positive impact on the environment, society and economy over the entire lifecycle of projects. Sustainable public procurement could contribute significantly to an organisation's stated sustainability objectives and goals. On the issue of Green Public Procurement, TII would like to highlight the following issues:

- Current specifications and standards may not allow the use of recycled materials;
- Current procurement practices often do not encourage the use of recycled materials or the minimisation of waste production;
- Current waste management law does little to support the use of recycled materials;
- In order to have Green Public Procurement, one needs to be able to measure sustainability issues. For example, TII is developing a 'carbon tool' in order to measure the amount carbon associated with the construction and operation of linear infrastructure projects. Significant work is required to development such measuring tools.

Yours faithfully,
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