



# PUBLIC CONSULTATION WASTE ACTION PLAN FOR A CIRCULAR ECONOMY

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SUBMISSION OF POSITION PAPER BY THE CONSTRUCTION & DEMOLITION WASTE POLICY  
COMMITTEE OF THE CONSTRUCTION INDUSTRY FEDERATION

**SUBMITTED TO:**

WASTE ACTION PLAN CONSULTATION  
WASTE POLICY & RESOURCE EFFICIENCY  
DEPARTMENT OF COMMUNICATIONS, CLIMATE ACTION & ENVIRONMENT  
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**SUBMITTED BY:**

CONSTRUCTION & DEMOLITION WASTE POLICY COMMITTEE OF THE CONSTRUCTION INDUSTRY  
FEDERATION

**DATE:**

FRIDAY 21<sup>st</sup> FEBRUARY 2020

## **CIF CONSTRUCTION & DEMOLITION WASTE POLICY COMMITTEE**

### **THE POLICY COMMITTEE SEEKS TO WORK WITH INDUSTRY WITH THE FOLLOWING OBJECTIVES:**

- a) Support establishment of Construction Sector Waste Resource Group
- b) Represent the industry so that appropriate, effective and efficient facilities are available to industry for use of construction products, soil and stone and other construction and demolition waste
- c) Liaise with other representative bodies and agencies in support of industry objectives

### **1.0 PUBLIC CONSULTATION**

The Construction & Demolition Waste Policy Committee welcomes the above consultation and the opportunity to provide feedback from an industry perspective. As construction activity grows, the industry is facing costly issues in the treatment of construction and demolition waste, the management of soil and stone material and the limited capacity in available facilities.

This opportunity is taken to reiterate some of the barriers currently in the industry restricting the sector reaching a circular economy and unless action is taken to address the deficits of our current delivery mechanisms these barriers will escalate further.

### **2.0 CONSTRUCTION & DEMOLITION WASTE**

The following position paper outlines C&D Waste relevant to Ireland, a review of the current status within the industry in Ireland together with a comparison at European level and finally recommendations for the short term and actioning of policy and recommendations.

## 2.1 CONSTRUCTION & DEMOLITION WASTE STATUS IN IRELAND

### WASTE FACILITY CAPACITY

The CIF welcomes the recent increase in threshold limits for waste facility permits for soil and stone. These came into operation on 11th September 2019. The maximum quantity of 'Class 5 material' that can be recovered under a waste facility permit issued by a local authority will increase from 100,000 to 200,000 tonnes maximum over a facility's lifetime. Each local authority will continue to be responsible for all decisions on waste facility permits within their functional area. Each local authority may specify a maximum lifetime intake of up to 200,000 tonnes or less if deemed appropriate.

However, this will not be adequate to meet the requirements of contractors and developers, and several facilities are reaching capacity in autumn of any year. The Environmental Protection Agency (EPA) licenses larger facilities located to areas of activity close to city and urban areas. However, these often reach capacity well within their annual timeframes, forcing companies to transport waste substantial distances.

### ARTICLE 27: SOIL & STONE

Classification of soil and stone, where appropriate as a by-product, brings significant economic benefits as the material can be appropriately handled outside of waste legislation. The environmental benefits are also considerable, as the process facilitates the circular economy.

There is still not enough clarity and consistency in the acceptance criteria for Article 27 Notifications on soil and stone. The EPA issued 'Guidance on Soil and Stone By-Products in the context of Article 27 of the European Communities (Waste Directive) Regulations 2011' in June 2019. It now clarifies that notifications must be by the material producer or one who makes the notification with the express written consent of the material producer.

The guidance calls for all notifications to ensure each and all by-product conditions are met, namely;

- a) Further use of the soil and stone is certain;
- b) The soil and stone can be used directly without any further processing other than normal industrial practice;
- c) The soil and stone are produced as an integral part of a production process; and
- d) Further use is lawful in that the soil and stone fulfil all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

The new guidance also contains an advisory period for determination by the EPA. The EPA will take a risk-based approach to make determinations and will endeavour to make determinations in all cases by either agreeing with the economic operators' decision or determining that the notified material is a waste. The stated advisory period is 10 weeks from the time of placing on the register with the potential for a six-week additional consultation period if further clarifications are required.

The CIF has argued that this 10-week time period is excessive. If clarity is to be provided to all notifiers after the initial time periods and additional consultations have lapsed, it would mark the first step forward in streamlining an overly complex process for members.

#### **ARTICLE 28: DECLASSIFICATION OF MATERIAL FOR USE AS AN AGGREGATE**

The CIF is aware that an individual application has been approved by the EPA for the 'End of Waste Status to Crushed Concrete for Road Planning'. The full extent and details of the application and conditions are currently unknown.

However, a positive application finding could provide a roadmap for a potential national application for crushed concrete for industry.

It is known that the timeline from initial consultation through assessment, application, submission, clarification and ultimate decision can take 12 to 18 months, depending on the application. To bring forward and seek approval for a national application would require the above as a minimum plus an additional three-month European consultation timeline in addition to the national judgement.

## 2.2 EUROPEAN OVERVIEW

Approximately 374 million tonnes of construction and demolition waste was generated in 2016 making it the largest waste stream in the EU by weight. Construction and demolition waste is defined as a priority area in the EU according to the Circular Economy Action Plan (EC 2015), while the revised Waste Framework Directive (WFD 2008/98/EC, amended 2018/851) sets a mandatory target for its recovery of 70 per cent by 2020.

The recent Circular Economy Package, launched by the European Commission, places a priority on waste management policy making, namely that of the transition to a circular economy.

However only with a circular economy-inspired action waste plan in the built environment will there be positive contributions to increasing the prevention, reuse and recycling of construction and demolition waste.

In a circular economy, raw materials are not taken out of their cycles, but remain in the economy for as long as possible through their efficient and smart use. Their value is preserved by optimising reuse or high-grade recycling. In the built environment, this means buildings and construction elements being designed to be easily adaptable with a limited amount being demolished.

Building materials or building elements should be quickly and efficiently recovered, resulting in high-quality materials remaining in a closed loop. It is important to widen the scope of any action plan which can influence waste management to cover all stages of the lifecycle of buildings and other structures. A circular economy action made in the early stages of a building's lifecycle will affect the management of the building's waste significantly.

## 2.3 IRISH OVERVIEW

As construction activity grows, the Irish Construction Industry is facing costly issues in the treatment of construction and demolition waste, the management of soil and stone material and the limited capacity in available facilities. A recent study and contribution by the CIF outlined some of the legal and administrative difficulties in dealing with C&D streams

<p>Present legal or administrative procedures for the classification of waste or materials for end-of-waste or by-product</p>	<p>Article 27: Notifications for Soil &amp; Stone as a by-product. Regulated nationally through the Environmental Protection Agency - EPA</p> <p>Article 28: End of Waste - Applications for declassification of a material for further use as an aggregate. Regulated nationally through the Environmental Protection Agency - EPA</p>
<p>Administrative and legal difficulties with the classification of waste or materials as end-of-waste or by-product.</p>	<p><b>Article 27: Notifications for Soil &amp; Stone as a by-product</b></p> <p><b><u>Administrative</u></b></p> <ul style="list-style-type: none"> <li>• EPA resources are limited.</li> <li>• 10-week advisory period for analysis by the EPA for notifications placed on the register causes much uncertainty for industry.</li> <li>• Increasing annual quantity of Article 27 notifications undetermined.</li> <li>• No statutory requirement for determination under waste legislation.</li> </ul> <p><b><u>Legal</u></b></p> <ul style="list-style-type: none"> <li>• Changing EPA Guidance for the Article 27 process causes confusion and uncertainty.</li> <li>• Varying producer interpretations of the EPA Guidance for the Article 27 process between by-products.</li> <li>• Current judicial review cases against determinations made by the EPA on Article 27 notifications.</li> </ul> <p><b>Article 28: End of Waste</b></p> <p><b><u>Administrative</u></b></p> <ul style="list-style-type: none"> <li>• No timeframe for review of applications at national level.</li> <li>• There is a lack of precedence or an existing roadmap available as no previous applications have been approved for crushed concrete through a national standard.</li> </ul> <p><b><u>Legal</u></b></p> <ul style="list-style-type: none"> <li>• EOW status for individual applications is determined by national interpretation of the governing agency and their interpretation of the Waste Directive.</li> <li>• Interpretation of the Directive by applicants can be conflicting due to lack of clarity around requirements for a successful application.</li> </ul>

<p>Waste Streams for End of Waste</p>	<p>Currently no EOW status for crushed concrete exists to a national standard.</p> <p>Article 27: Soil &amp; Stone by-product status is determined by the producer. Currently limited confirmations exist from the EPA regarding these notifications.</p>
<p>Waste streams industry has experienced legal and administrative difficulties in acquiring an end-of-waste status.</p>	<p><b>Article 28 EOW – Crushed Concrete</b></p> <p><b>Difficulties</b></p> <ul style="list-style-type: none"> <li>• No mandatory timeframe for assessment or determination of applications.</li> <li>• No process or policy in place to provide a roadmap or precedence for successful applications.</li> <li>• The private industry is required to present a solution.</li> </ul> <p><b>Nature of material:</b> Crushed Concrete  <b>Origin:</b> Material resulting from demolition works  <b>Intended Use:</b> Reuse as an aggregate  <b>Conditions:</b> Requiring processing for safe further reuse</p>

## 2.4 EUROPEAN & IRELAND COMPARISON

Construction and demolition waste accounts for the largest waste stream in the EU, with increasing production volumes and high recovery rates. Although this may suggest that the construction sector is highly circular, assessment of waste management practices in Ireland indicate that construction and demolition waste recovery is largely based on backfilling operations and low-grade recovery, such as using recycled aggregates in road sub-bases in a limited number of situations.

EUROPEAN TRENDS COMPARIBLE WITHIN IRELAND
EU countries are on track to fulfil the 70 % recovery target of 2020, with most countries already exceeding the target in 2016.
The high recovery rates of construction and demolition waste in Europe are mostly achieved by using recovered waste for practices such as backfilling and low-grade recovery applications, reducing the potential to move towards truly circular waste management.
Increased waste prevention and increased recycling can be achieved by tackling the lack of trust in the quality of secondary materials, lack of information on the composition of materials used in existing buildings
Circular economy-inspired actions, facilitated by measures such as standardising secondary raw materials and sharing information among stakeholders, have a high potential to contribute to increased waste prevention and to higher and better-quality recycling.

To create an effective circular economy requires identification of potential circular economy actions during the whole lifecycle of construction products from design to end of life.

PHASE	ACTION
Material production phase:	New high-grade products with high recycled content;
Design phase:	Design for disassembly;
Construction phase:	Materials passports;
Use phase:	Lifetime extension of existing structures;
End-of-life phase:	Selective demolition.



## 2.5 LINEAR VERSUS CIRCULAR ECONOMY

LINEAR VS CIRCULAR ECONOMY	
<b>Linear Economy</b>	A circular economy represents a fundamental alternative to the linear 'take-make-consume-dispose' economic model. The linear model assumes that natural resources are available, plentiful, easy to source and cheap to dispose of. However, the linear model is not sustainable, as evidenced by the limited capacity available to the Irish Construction Sector.
<b>Circular Economy</b>	The circular economy is restorative in nature, and it aims to maintain the utility of products, components and materials for as long as possible while also retaining their value. It minimises the need for new inputs of virgin materials and energy, while reducing environmental pressures linked to resource extraction, emissions and waste management.

### IMPLEMENTING A CIRCULAR ECONOMY

Many challenges linked with previous or current building practices, hamper the transition to a circular economy in the built environment. To make an economy truly circular, it is necessary to take additional measures by focusing on the whole lifecycle of construction products in a way that preserves resources and closes the loop.

The introduction of reuse solutions, the reduction of material consumption and use of lower-carbon alternatives, especially in design and construction phases, will provide significant environmental benefits – waste prevention and less waste generated.

COMMON BARRIERS TO A CIRCULAR ECONOMY
Manufacturing processes using waste as input material will only work when production costs are lower than the cost of using virgin materials and market uptake can be assured. In the future, a shortage in primary resources may change these market conditions in regions with limited mineral resources. Policy measures may have a strong influence on these market conditions through for example taxes of virgin materials, green procurement, taxes on landfilling or end of waste etc.
In addition to the economic factors, the quality of building products and materials is crucial for the uptake of circular economy solutions. Lack of available documented information regarding the origins of waste and data on the composition of construction products can create doubts about their quality. The use of traceability systems for recyclables and reusable products is integral to a future successful end of waste outlet i.e. reuse of crushed concrete to a national standard for an approved aggregate.

The importance of building information modelling (BIM) as a tool for material inventories and traceability as it carries information on construction products during their whole lifecycle up to the demolition stage. Passports for building materials can also be created to include information for maintenance, reuse and recycling. Traceability systems, BIM and materials passports can all support pre-demolition audits for identifying reusable and recyclable construction products. Policies can promote these system and technologies through above examples.

The delay in measurable circular economy gains in the construction industry may discourage stakeholders from acting on new material or product management solutions. A successful implementation of circular economy concepts requires support from all stakeholders in the production and supply chain.

Standardisation will play an important role in the assessment of performance of secondary materials / aggregates in products replacing virgin ones and in the design of construction products. Standardisation is often the base for certificates which our national standard body will seek. Some standards include overspecification to secure performance, but this can lead to the increased use of raw materials. When standards are revised, attention could be paid to the evaluation of whether experience in construction performance and the introduction of tools to track material quality, including non-destructive testing methods, could support changes in material requirements.

### 3.0 CIF CONSTRUCTION & DEMOLITION POLICY COMMITTEE RECOMMENDATIONS

1. Coordinate a deliverable action plan to target the specific challenges presented above relating to C&D Waste Management

ACTION PLAN FOR A CIRCULAR ECONOMY		
Barrier	Challenge	Pathway
Price competition with virgin alternatives.	Stakeholders preference to more economical and credible proven solution. The processing costs required for secondary material use is prohibitive over virgin material use.	A competitive secondary material market would create demand for both quantity and quality of waste material, thus directly increasing circularity.
Confidence in quality and structural properties of secondary materials.	Stakeholders tend to choose virgin materials that are quality assured through warranties and standards and as approved by the relevant standards bodies.	Engaging in the development of standards for secondary raw materials would increase the trust in their properties and quality.
Hazardous substances content	Polluted materials are not suitable for recycling, and removal of the hazardous content is costly	Develop technology for efficient removal of hazardous substances and reduce use of hazardous materials in new construction

Lack of data on existing construction / buildings	The composition of material streams from demolition activities is not easily achieved	Pre-demolition audits and, in the future, material passports help register the type and volume of materials in the existing building stock
Time delay	The time delay between implementing a circular action and tangible benefits are difficult to measure	TBC

2. Implement and action the recommendations presented by the Construction Waste Resource Group and associated Thematic-Groups. Report and recommendations of Waste Flow and Enforcement Sub-Group outline in Appendix 1.
3. Implement and action the recommendations presented by all sub-groups of the Construction Waste Resource Group.
4. Coordinate a state led education and awareness programme.
5. Establish a concentrated technical working group of industry professional and stakeholders to coordinate a national End of Waste application for aggregates.

Report Prepared By: Constriction & Demolition Waste Policy Group CIF

\*Sources: Construction Waste Resource Group & Thematic Sub Groups, Construction and Demolition Waste: Challenges and opportunities in a circular economy – European Environment Agency

## **APPENDIX 1**

Construction Waste Resource Group:  
Waste Flows and Enforcement Sub-Group

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## **1.0 INTRODUCTION**

The Construction Waste Resource Group was established by the Department of Communication, Climate Action and Environment (DCCA) in Q2, 2018. Subsequently, a number of Thematic Groups were formed. The Waste Enforcement Regional Lead Authorities (WERLAs) were actioned with chairing the Waste Flows and Enforcement Thematic Group. This Group met on the 31st October and 6th December in 2018 and the 29th January and 11th March in 2019. This final report outlines the main findings and recommendations.

## **2.0 MEMBERS**

Brian White (Chair) EMWERLA, Christian Nea TII, Cian O’Hora IMS, Conor Walsh IWMA, Donal Rigney Roadstone, James Benson CIF, Leo Duffy NWCP, Nick Bond SWERLA, Pat O’Halloran Barnmore, Sean Scott CUWERLA, Maria Douglas EMWERLA, Richard Kennedy ENVA, Celine Kavanagh NWCP. Ms. Mary Conway, Deputy City Planner was invited to attend the meeting on the 29th January. Ms Conway presented on how Dublin City Council deal with waste management issues within the planning process and took questions from the members.

## **3.0 OBJECTIVES**

Under the Terms of Reference, the Group were tasked with:

- Establishing mechanisms for tracking Construction & Demolition (C&D) waste flows including any regulatory changes required. This final report:
  - Identifies waste flows;
  - Sets out source, pathway and receptors for waste flows;
  - Makes recommendations on improving the tracking of waste flows including any regulatory changes required.
- Discussing issues and setting out proposals in relation to enforcement of C&D wastes, the final report:
  - Sets out the current waste enforcement landscape in relation to C&D waste;
  - Identifies gaps and weaknesses in enforcement;
  - Makes recommendation for changes to reduce or eliminate gaps in enforcement including any regulatory changes.

## 4.0 CONSTRUCTION & DEMOLITION WASTE FLOWS

In identifying flows through a recognised model, the group identified tracking of flows in order to further identify gaps in the current systems.

### 4.1 Identify Waste Flows

The Source, Pathway Receptor Model was used to identify waste flows.

#### 4.1.1 Waste Flows – Source

The primary source for C&D waste is construction sites. It remains the responsibility of the original waste producer to ensure waste is treated correctly. Waste transferred to an authorised collector does not discharge this responsibility as outlined in Section 32 of the Act. Information on C&D waste from construction sites can be gathered from:

- **Planning Permissions**  
Planning Permissions, C&D Waste Management Plans (WMPs) and Commencement Notices provide a wealth of information on the source of C&D waste. At the earliest possible stage, Waste Enforcement Authorities and Planning Authorities should liaise together to ensure proper waste management is considered at the initial stages of planning. If a project meets the thresholds set out in the “Best Practice on the Preparation of Waste Management Plans for Construction and Demolition Projects” published in 2006 a C&D WMP should be prepared. The C&D WMP is a valuable source of information and its key objective is to manage waste generated in accordance with the waste hierarchy.
- **Major National Projects and Dredging Operations of Rivers and Ports**  
Major national projects including the Governments long term overarching strategy, Project 2040, provide information on current and planned projects. Local Authorities should make themselves aware of these projects at the earliest possible stage.
- **Material Recovery Facilities and Waste Transfer Stations**  
Material Recovery Facilities and Waste Transfer Stations can be a source of segregated C&D waste and C&D fines.

Information on construction activity is also available from consents applicable to other Government Departments.

#### 4.1.2 Waste Flows – Pathway

There are both authorised and unauthorised pathways for C&D waste.

Authorised pathways include but are not limited to:

- Waste transported by vehicles holding a valid Waste Collection Permit (WCP), administered by the National Waste Collection Permit Office (NWCPO);
- Waste transported by Waste Transfer Forms (WTFs), administered by the National Transfrontier Shipment Office (NTFSO);
- Incidental works carried out by Local Authorities;
- Repatriated waste materials.

Unauthorised pathways include, but are not limited to:

- Waste transported by vehicles that do not hold a valid WCP;
- Waste that is transported contrary to the conditions of a WCP;
- Waste that is incorrectly notified under the Article 27;
- Waste that is brought to unauthorised sites;
- Misclassification of waste.

#### **4.1.3 Waste Flows – Receptor**

Receptor sites can be divided into authorised facilities and unauthorised sites. Authorised facilities include EPA licenced sites and Local Authority permitted sites and Local Authority sites authorised by the EPA under CoR. The NTFSO is the competent authority in Ireland for the export and import of waste and for movements of hazardous waste within Ireland.

Unauthorised receptor sites include, but are not limited to:

- Illegal disposal sites;
- Facilities without proper authorisations;
- Authorised sites accepting waste that is contrary to the conditions of their licence or permit.
- Sites accepting waste incorrectly notified under Article 27.

#### **4.2 Current Waste Flow Tracking System**

The main sources for tracking information on waste flows are:

- The NWCPOs Annual Return system (for WCP holders, Local Authority permitted facilities, CoR sites and waste collected by Local Authorities);
- The EPAs Annual Environmental Reporting system (for EPA licenced sites and Local Authority CoR sites including hazardous waste returns);
- TFS documentation.

Unauthorised sites can be identified from reports through the national complaint's procedure, anomalies in annual return data and Local Authority and EPA inspections.

#### **4.3 Limitations of Current Tracking of Waste Flows**

The main limitations identified by the group to the current tracking of waste flows are:

4.3.1 Inconsistency in guidance available for site owners/operators/waste enforcement officers on classification of waste materials; see 6.1.



- 4.3.2 Poor record keeping / lack of waste docket / inconsistency of waste docket; see 6.2.
- 4.3.3 Lack of standardisation of waste docket; see 6.2.
- 4.3.4 Transparency of data; see 6.2.
- 4.3.5 Lack of awareness and understanding by original waste producers of their obligations; see 6.9.
- 4.3.6 Lack of cradle to grave mass balancing per project; see 6.3.

## **5.0 ENFORCEMENT**

### **5.1 Current Waste Enforcement Landscape**

The Waste Management Act 1996, as amended, and associated regulations, creates a 'cradle to grave' responsibility for the management of waste. Under the Waste Legislation and associated regulations waste authorisations from nominated bodies, e.g. Local Authorities or the EPA are required to carry out any waste related activity. The Act sets out provisions for specific authorisations needed for both the collection of waste and its recovery/disposal. The reuse of material as a by-product and the potential end of waste status are dealt with under the European Communities (Waste Directive) Regulations 2011 S.I. No. 126 of 2011.

EC (Shipment of Hazardous Waste Exclusively within Ireland) Regulations, 2011 and Waste Management (Shipment of Waste) Regulations, 2007 are administered by the NTFSO.

The Waste Management (Landfill Levy) Regulations, 2015 details that a levy of €75 per tonne applies, currently, to all waste disposed of at a landfill. Landfill levy regulations imposes an obligation on Local Authorities to apply the levy on unauthorised activity. This was recently supported by recent High Court Judgement taken by Cork County Council.

The European Communities (Environmental Liability) Regulations 2008 establish a framework of environmental liability based on the 'polluter-pays' principle, to prevent and remedy environmental damage. The EPA has been designated as the competent authority for all aspects of these Regulations.

### **5.2 Gaps and Weaknesses Identified in Enforcement**

The following were identified by the group as part of this project.

- 5.2.1 Inconsistency in guidance available for site owners/operators/waste enforcement officers on classification of waste materials; see 6.1.
- 5.2.2 Poor record keeping by operators / lack of waste docket / inconsistency of waste docket; see 6.2.
- 5.2.3 Lack of clarity within guidance on Article 27/28 process and potential abuse of the process; see 6.4.
- 5.2.4 Lack of End of Waste criteria; see 6.4.
- 5.2.5 Inconsistent enforcement from county to county; see 6.5.

- 5.2.6 Lack of resources for tackling serious environmental crime; see 6.6.
- 5.2.7 Identification and tracking of unauthorised movements and unauthorised sites; see 6.7.
- 5.2.8 The level of penalties and the lack of consistency across judicial areas; see 6.8.

## **6 RECOMMENDATIONS AND ACTIONS**

6.1 Ref. 4.3.1 and 5.2.1 Inconsistency in guidance available for site owners/operators/waste enforcement officers on classification of waste materials. The 2006 guidelines “Best Practice on the Preparation of Waste Management Plans for Construction and Demolition Projects” provides a WMP template and is the main point of reference for the Construction Sector. The WERLAs have also developed a draft guidance, for use by planners, developers and waste enforcement staff that includes a revised C&D waste management plan template and a suite of sample planning conditions.

Recommendations:

The Group recommends review and revision of the 2006 Best Practice document to take into account new regulations and up to date best practice. We also recommend that the review should have regard to the contents of the draft WERLA guidance and adopt its contents where appropriate. It was also stressed that the review should include a full stakeholder review during preparation. Notwithstanding the current or reviewed guideline document it should be noted that responsibility for waste remains with the original waste producer.

6.2 Ref. 4.3.2 and 4.3.4 Transparency of data; 4.3.3 Lack of standardisation of waste docket, and 5.2.2 Poor record keeping by operators / lack of waste docket / inconsistency of waste docket;

The information required in a waste docket is contained within condition 4.6 of the WCP.

### **Recommendations.**

In order to improve consistency across the sector and to improve data gathering this Group recommends standardised waste docket. This group recommends that any new WCDs should be future proofed by considering, but not limited to, the use of a barcoded electronic docket tracking system for the movement of waste and seek best international practise in this regard (Ref. EU Construction and Demolition Waste Management Protocol, 2016).

In order to improve the quality of Annual Environmental Returns (AERs) submitted to the NWCP from Waste Facilities/CoR sites we also recommend the following;

- That the DCCAE provide for a change in primary legislation to allow for the issue of FPNs for the non-completion of WCP docket in accordance with the requirements of the operator’s waste collection permit.
- That the DCCAE make regulatory change to allow for the issue of FPNs to Waste Facilities / CoR / WCP sites that do not submit a completed and/or inaccurate AERs and that this regulatory change be includes for the submittal of inaccurate / incomplete WCP AERs also.

It is noted that the NWCP have committed to the following actions which when implemented will ensure greater quality and accuracy of returns.;

- To hold a consultation process following which they will develop a proposed format for waste collection docket. The primary focus to ensure that all required information is recorded in accordance with the permit condition.
- Investigate the development of an online waste tracking system for the movement of C&D waste from cradle to grave. This should incorporate an early warning capacity forecast. The Waste Flows and Enforcement Sub-Group notes and supports the NWCPO's submitted proposal, for the monitoring of demolition C&D waste and monitoring of C&D site capacities, and that this proposal ( which is currently at concept stage) aims to use the existing data and AR systems to develop a site-of-origin based recording tool that can record C&D waste movements.
- Lead a group of relevant data holders to make proposals for a central repository for all data in a portal format that is consistent and accessible to the NWCPO for clarification and interrogation and for producing relevant query reports.

In this regard this group recommends that the DCCAE ensure the NWCPO be adequately resourced to take on all additional functions.

#### 6.3 Ref 4.3.6 Lack of cradle to grave mass balancing per project.

The need for greater public transparency for waste records arising from sites and going to authorised facilities was discussed by the group. The NWCPO confirmed that details of the permitted Waste Facility returns are made public in accordance with the decision of the Office of the Commission of Environmental Information, dated 24th April 2018. This decision clarifies that the NWCPO or any Local Authority, is required to release annual return data excluding the commercially sensitive aspect of that data i.e. the commercial inter-relationships between waste collector's and waste facilities. Where a request for data is received by the NWCPO, the annual return data can only be released in accordance with this decision.

#### **Action:**

The NWCPO will make all allowable information available on request.

#### 6.4. Ref. 5.2.3 Lack of clarity within guidance on Article 27/28 process and potential abuse of the process and 5.2.4 Lack of End of Waste criteria;

It was acknowledged by the Group that the Article 27 By-Product Notification system is being dealt with by the Article 27 End of Waste Thematic Group. However, with lack of clarity in current guidance, and in some application, both Article 27 and end of waste were identified as serious limitations to both tracking and enforcement. In the absence of end of waste criteria at community level Member States may decide on end of waste on a case by case basis. The EPA is the decision-making authority for end of waste in Ireland. To date we believe there have been no end of waste decisions under Article 28 in relation to C&D waste. Article 24 (Exemptions from Permit Requirements) and Article 25 (Conditions for Exemptions) should also be considered by the Art 27/End of Waste/Permit threshold Thematic Group.

#### **Recommendations**

Having considered this issue this group recommends the following;

- That the Article 27 notifications should be submitted within an approved timeframe. The Article 27 notification and decision-making system be better resourced by the EPA.
- That issues in relation to Article 27 and end of waste be dealt with as a matter of urgency by the EPA. That the EPA provide clear guidance on Article 27/28 for soil and stone, crushed concrete and road planings. This will allow for consistency in approach and ensure enforcement resources are directed in proportion to the risk.
- In order to achieve national recycling targets, a framework be organised for industry to come together with Government/EPA to facilitate national end of waste applications. To this end we recommend that the Government convene a national coordination group, to include all stakeholders. The group should be responsible for submitting national end of waste criteria to Europe for appropriate C&D waste. It should be noted that Industry can also apply for end of waste status on a case by case basis and we encourage industry to do so.
- The roll out of Waste Acceptance Criteria as soon as possible.

6.5 Ref. 5.2.5 Inconsistent enforcement from county to county;

#### **Actions**

- WERLA to continue to drive consistent national priority enforcement measures by Local Authorities.
- Adequate training on C&D and classification to be provided to all Local Authority enforcement staff. See also 4.3.1. and 5.2.1.

6.6 Ref. 5.2.6 Lack of resources for tackling serious environmental crime.

#### **Recommendation**

- The Group recommends the establishment of an Environmental Crime Unit to tackle serious environmental waste crime.

6.7 Ref. 5.2.7 Identification and tracking of unauthorised movements and unauthorised sites

#### **Action**

- Local Authorities and WERLAs to continue their use of Multi-Agency Groups to combine resources to tackle unauthorised activity.

6.8 Ref 5.2.8 The level of penalties and the lack of consistency in penalties across judicial areas.

#### **Recommendations**

- That the DCCAE raise with relevant Government Departments, the matter of lack of consistency in dealing with court cases on environmental crime across judicial administrative areas and the low level of penalties imposed.
- That the DCCAE produce a cost of waste crime report for Ireland.

6.9. Ref. 4.3.5 Lack of awareness and understanding of original waste producers of their obligations;

**Action:**

- That the WERLAs and DCCAE develop an awareness programme for original waste producers for obligations under Section 32(2A)(a) WMA which should then be incorporated into all appropriate training programmes.