

Appendix A.20.1

Key Legislation, Policy & Guidance

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Appendix A.20.1 – Summary of Key Legislation, Policy and Guidelines Referenced in Chapter 20, Resource and Waste Management

1. Legislation

1.1 European Legislation

1.1.1 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance)

Directive 2008/98/EC, known as the “Waste Framework Directive” came into force on 12th December 2008, and Ireland had two years from this date to implement it into national law. It provides for a general framework of waste management requirements and sets the basic waste management definitions for the EU.

The Directive lays down the five-step hierarchy of waste management options, with waste prevention as the preferred option, followed by re-use, recycling, recovery and safe disposal, in descending order. In addition, the Directive also deals with the issue of ‘end of waste’ and clarifies the definitions of recovery, disposal and by-product. The directive states that, “The recovery of waste and the use of recovered material as raw materials should be encouraged in order to conserve natural resources.”

1.1.2 Directive 2008/98/EC amending Directive 2008/98/EC on waste

This Directive amends the Waste Framework Directive or Directive 2008/98/EC. It provides a number of updated waste management definitions. The Directive allows Member States to use economic instruments including taxes and levies as an incentive for the application of the waste hierarchy. The Directive was transposed into national law in August 2020 - S.I. No. 322 of 2020.

The Directive sets targets for the preparing for re-use and the recycling of municipal waste as follows:

- By 2025, at a minimum 55% (by weight) will be prepared for re-use or recycling.
- By 2030, at a minimum 60% (by weight) will be prepared for re-use or recycling; and
- By 2035, at a minimum 65% (by weight) will be prepared for re-use or recycling.

With regards construction and demolition waste, Member States must take measures to promote selective demolition in order to enable removal and safe handling of hazardous substances, facilitate re-use and high-quality recycling. It obligates Member States to take measures to prevent waste generation including reduction of waste generation in processes related to construction and demolition, taking into account best available techniques.

1.1.3 Commission Decision of 18 December 2014, amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European parliament and of the Council (2014/955/EEC) and Commission Regulation (EU) No 1357/2014 of 18 December 2014, replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives

This decision (referred to as ‘the List of Waste’ (LoW)) and regulation consolidate the legislation relating to waste classification and allow the generators of waste to classify the waste as hazardous or non-hazardous and in the process assign the correct List of Waste entry codes. Each list of waste entry is a six-digit code which is closely linked to the list of the main characteristics which render waste hazardous contained in Annex III to the Waste Framework Directive. It is noted that Council Regulation (EU) 2017/997 of 8 June 2017 amending Annex 111 to Directive 2008/98//EC of the European parliament and of the Council as

regards the hazardous property HP 14 'Ecotoxic' provides additional criteria in relation to determining whether the ecotoxicity of wastes would result in a hazardous classification.

1.2 National Legislation

1.2.1 Circular Economy and Miscellaneous Provisions Act 2022

The Circular Economy and Miscellaneous Provisions Act 2022 aims to place the Whole-of-Government Circular Economy Strategy 2022-2023, and the commitment to a circular economy, on a clear statutory footing.

This Act places the Strategy and the commitment to a circular economy on a clear statutory footing. It underpins Ireland's shift from a "take-make-waste" linear model to a more sustainable pattern of production and consumption, that retains the value of resources in our economy for as long as possible and that will to significantly reduce our greenhouse gas emissions. The Act is a key step in the successful transition of Ireland's economy to a circular economy and is evidence of Government's commitment to the achievement of that goal.

1.2.2 Climate Action Plan 2024

The Climate Action Plan (CAP) 2024 represents the third annual update to Ireland's CAP 2019 and was published on 20th December 2023. CAP 2024 establishes sectoral emission ceilings and the implementation of carbon budgets and represents a roadmap to halve Ireland's emissions by 2030 and reach net zero by no later than 2050.

CAP 2024 notes that Ireland currently has a circularity rate of 1.8% which is below the EU average of 12.8% and indicates significant capacity for improvement.

Several actions are presented in CAP 2024 which are of direct relevance to the Project.

1.2.3 Waste Management Acts, 1996, as amended and Regulations Made under the Acts

The Waste Management Act, 1996 was enacted in May 1996 and sets out the responsibilities and functions of various persons in relation to waste. This was subsequently amended by a number of subsequent acts including the Waste Management (Amendment) Act 2001 and the Protection of the Environment Act 2003. The Act:

- Prohibits any person from holding, transporting, recovering or disposing of waste in a manner which causes or is likely to cause environmental pollution.
- Requires any person who carries on activities of an agricultural, commercial or industrial nature to take all such reasonable steps as are necessary to prevent or minimise the production of waste.
- Prohibits the transfer of waste to any person other than an authorised person (i.e. a holder of a waste collection permit or a local authority).
- Requires the Environmental Protection Agency (EPA) to make a national plan in relation to hazardous waste.
- Requires local authorities to make waste management plans in relation to non-hazardous waste.
- Imposes certain obligations on local authorities to ensure that a service is provided for collection of household waste and to provide facilities for the recovery and disposal of such waste.
- Enables the Minister for the Environment and Local Government to make Regulations for various purposes to promote better waste management.
- Provides for substantial penalties for offences including fines, imprisonment and/or liability for clean-up measures.

1.2.4 Waste Management (Collection Permit) Regulations, 2007, S.I. No 820 of 2008, as amended

Waste from the Project may only be collected by the holder of a waste collection permit or a local authority. Waste collection permits are granted in accordance with the Waste Management (Collection Permit) Regulations, 2007 as amended. Waste storage and collection areas on site should be designed to prevent environmental pollution. These regulations were amended and updated in 2008, 2012 and 2019.

1.2.5 Waste Management (Shipments of Waste) Regulations 2007, S.I. No. 419 of 2007

Where waste from the Project is exported outside of Ireland for recovery or disposal the National Transfrontier Shipment (TFS) Office within Dublin City Council must be notified. Certain financial guarantees must be in place and a certificate issued by the National TFS Office prior to the waste movement taking place.

1.2.6 S.I. No. 323 of 2020 - European Union (Waste Directive) Regulations 2020 amending European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011

The amended regulations which were adopted in 2011 significantly changed the provisions of the Waste Management Acts, 1996 to 2008.

The 2011 regulations are now amended by S.I. No. 323 of 2020 - European Union (Waste Directive) Regulations 2020 giving effect to Directive 2018/851 of the European Parliament and of the Council of 30 May 2018 on waste as per the above. This amends definition of “waste” and “non-hazardous waste”.

The Regulations define “waste disposal” and “waste recovery” as well as setting out tests which must be complied with in order for material to be described as a “by-product” or achieve “end of waste” status.

The Regulations formally set out the following waste hierarchy which shall apply as a priority order in waste prevention and management legislation and policy:

- Prevention
- Preparation for re-use
- Recycling
- Other recovery (including energy recovery); and
- Disposal

The Regulations require that all waste management plans and hazardous waste management plans in existence at the commencement of the Regulations shall be evaluated by 31 December 2012 and where appropriate be revised to be brought into line with Directive 2006/12/EC on Waste.

The Regulations also require the Environment Agency to establish a waste prevention programme by December 2013.

1.2.7 European Union (Waste Directive) Regulations 2020 S.I. No. 323 of 2020

These regulations give effect to Directive 2018/851 of the European Parliament and of the Council of 30 May 2018 on waste as per the above.

This provides new definitions for a number of key terms including “waste” and “non-hazardous waste”, “bio-waste”, “waste management”, “waste prevention”, “backfilling” and “construction and demolition waste”.

2. Policy

2.1 European Policy

2.1.1 8th Environmental Action Programme, European Commission (2022)

The 8th Environmental Action Programme came into force in May 2022 and will guide European environment policy until 2030 and will form the basis for achieving the United Nation's 2030 Agenda and its Sustainable Development Goals.

A key objective of the programme reiterates the EU's long-term vision of living well and within planetary boundaries by 2050. There is a special focus on turning waste into a resource, with more prevention, re-use and recycling, and phasing out wasteful and damaging practices like landfilling. By 2030, there are six priority objectives for the European Union and member states:

- Achieving the 2030 greenhouse gas emission reduction target and climate neutrality by 2050.
- Enhancing adaptive capacity, strengthening resilience, and reducing vulnerability to climate change.
- Advancing towards a regenerative growth model, decoupling economic growth from resource use and environmental degradation, and accelerating the transition to a circular economy.
- Pursuing a zero-pollution ambition, including for air, water and soil, and protecting the health and well-being of Europeans.
- Protecting, preserving, and restoring biodiversity, and enhancing natural capital; and
- Reducing environmental and climate pressures related to production and consumption (particularly in the areas of energy, industry, buildings and infrastructure, mobility, tourism, international trade and the food system).

2.1.2 European Commission Circular Economy Strategy (2015; 2018; 2020)

In December 2015, the European Commission adopted an ambitious Circular Economy Package, which includes revised legislative proposals on waste to stimulate Europe's transition towards a circular economy.

The Circular Economy Package consists of an EU Action Plan for the Circular Economy that establishes a programme of action, with measures covering the whole cycle: from production and consumption to waste management and the market for secondary raw materials. The annex to the action plan sets out the timeline when the actions will be completed.

The proposed actions will contribute to "closing the loop" of product lifecycles through greater recycling and re-use and bring benefits for both the environment and the economy. The revised legislative proposals on waste set clear targets for reduction of waste and establish an ambitious and credible long-term path for waste management and recycling. Key elements of the revised waste proposal include:

- An EU target for recycling 65% of municipal waste by 2030.
- An EU target for recycling 75% of packaging waste by 2030.
- A target to reduce landfill to maximum of 10% of all waste by 2030.
- A ban on landfilling of separately collected waste.
- Promotion of economic instruments to discourage landfilling.
- Simplified, improved definitions and harmonised calculation methods for recycling rates throughout the EU.
- Concrete measures to promote re-use and stimulate industrial symbiosis - turning one industry's byproduct into another industry's raw material; and

- Economic incentives for producers to put greener products on the market and support recovery and recycling schemes (e.g., for packaging, batteries, electric and electronic equipment, vehicles).

The Circular Economy Package was updated in 2018 to comprise a new set of measures including:

- A Europe-wide EU Strategy for Plastics in the Circular Economy.
- A Communication on options to address the interface between chemical, product and waste legislation.
- A Monitoring Framework on progress towards a circular economy at EU and national level; and
- A Report on Critical Raw Materials and the circular economy.

Key legislative measures adopted to date under the plan include:

- Directive (EU) 2018/851 amending Directive 2008/98/EC on waste.
- Directive (EU) 2018/850 amending Directive 1999/31/EC on the landfill of waste.
- Directive (EU) 2018/852 amending Directive 94/62/EC on packaging and packaging waste; and
- Directive (EU) 2018/849 amending Directives 2000/53/EC on end-of-life vehicles, Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and Directive 2012/19/EU on waste electrical and electronic equipment.

2.1.3 European Commission, 2020. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A new Circular Economy Action Plan For a cleaner and more competitive Europe. COM (2020).

The European Commission has adopted a new Circular Economy Action Plan, which is one of the main blocks of the European Green Deal, Europe’s new agenda for sustainable growth.

The new Action Plan announces initiatives along the entire life cycle of products, targeting for example their design, promoting circular economy processes, fostering sustainable consumption, and aiming to ensure that the resources used are kept in the EU economy for as long as possible.

The new Action Plan introduces legislative and non-legislative measures targeting areas where action at the EU level brings real added value.

- The new Circular Economy Action Plan presents measures to:
- Make sustainable products the norm in the EU.
- Empower consumers and public buyers.
- Focus on the sectors that use most resources and where the potential for circularity is high such as: electronics and ICT; batteries and vehicles; packaging; plastics; textiles; construction and buildings; food; water and nutrients.
- Ensure less waste.
- Make circularity work for people, regions, and cities; and
- Lead global efforts on circular economy.

2.1.4 European Commission (2019) European Green Deal

The European Green Deal, published by the European Commission in December 2019, provides an action plan to boost the efficient use of resources by moving to a clean, circular economy while cutting pollution and restoring biodiversity.

The plan outlines investments needed and financing tools available. It explains how to ensure a just and inclusive transition.

2.2 National Policy

2.2.1 The National Waste Management Plan for a Circular Economy 2024-2030

The National Waste Management Plan for a Circular Economy 2024-2030 was published in March 2024 and replaces the Regional Waste Management Plans. The plan sets out a framework for the prevention and management of waste in Ireland for the period 2024 to 2030.

The plan recognises climate change as a key driver for both behavioural change and improved waste management practices. The ambition of the plan is 0% total waste growth per person over the life of the plan with an emphasis on non-household wastes including waste from commercial activities and the construction and demolition sector. This ambition is underpinned with a comprehensive series of targets, policies, actions and a suite of key deliverables.

Key challenges identified in the plan include resources, organisational capability, policy requirements, specific material stream targets, the provision of infrastructure and waste generation.

The plan aims to shift Ireland towards a more circular economy where resources are reused or recycled as much as possible and therefore waste generation is minimised. Maintaining and enhancing existing waste services will provide a platform for improved circular behaviours and practices to accelerate the transition to a more circular economy. A successful circular economy will improve consumption behaviours and reduce waste generation and will have wider environmental benefits through reduced greenhouse gas emissions and reduced biodiversity loss.

2.2.2 A Waste Action Plan for a Circular Economy – Ireland’s National Waste Policy 2020-2025

This plan is a roadmap for Ireland’s waste planning and management. This plan shifts focus away from waste disposal and looks instead to how we the preservation of resources through the creation of a circular economy.

The plan sets out a range of aims and targets for the State and the measures by which these will be achieved, including increased regulation and measures across various waste areas such as Circular Economy, Municipal Waste, Consumer Protection and Citizen Engagement, Plastics and Packaging, Construction and Demolition, Textiles, Green Public Procurement and Waste Enforcement.

Section 11 of the plan sets out the delivery roadmap to achieve the targets, policies and actions identified to reach the plan’s ambition within the Construction and Demolition Sector.

Of the challenges facing the sector, the plan establishes the target to prepare for reuse, recycling, and other material recovery (including beneficial backfilling operations using waste as a substitute) of 70% by weight of construction and demolition non-hazardous waste (excluding natural soils and stone).

2.3 Regional Policy

2.3.1 Construction and Demolition Waste Soil and Stone Recovery / Disposal Capacity – Eastern Midlands Region / Connacht Ulster Region / Southern Region and RPS (2016)

This report was undertaken on behalf of the Irish regional waste management offices to analyse the national waste capacity market for safe treatment of waste soils. A review was undertaken of soil waste generation and available capacity to accept soil waste in authorised facilities within the three waste regions. The report identifies that the future authorised capacity available to recover soil and stones is an issue in each waste region in the context of likely strong construction activity. Possible options recommended include existing capacities at existing sites and the use of Regulation 27 By Product notifications.

2.3.2 Galway City Development Plan 2023-2029

The Galway City Development Plan sets out Galway City’s policies and objectives for the development of the City over the Plan period. Galway City Council include a number of policies within Chapter 9 Environment and Infrastructure which are of relevance, including the following:

Policy 9.8 Waste Management

1. Secure the provision of waste management facilities and infrastructure with appropriate provision for minimisation, recovery and recycling of waste and regulate waste operations in a manner which reflects the ‘polluter pays’ and ‘proximity’ principles with particular emphasis on large waste producers, in accordance with the objectives of the Connacht Ulster Regional Waste Plan 2015-2021, except in relation to incineration and emerging legislation on the transition to a circular economy and the National Waste Action Plan for a Circular Economy 2020-2025.

2. Have a waste management system in the city in line with EU and national policies, which prioritises waste prevention, minimisation, recycling and reuse and accords with the outcomes of the Circular Economy Bill 2021 and the associated strategy.

3. Support the objectives and targets of the Connacht Ulster Regional Waste Plan 2015-2021 relating to Galway City and any subsequent Waste Plans.

The following policy within Chapter 2 Climate Action also seeks to promote the circular economy:

Policy 2.1 Circular Economy

Support a successful transition to a circular economy where waste and resources are minimised in accordance with emerging legislation and national strategy including the Circular Economy Programme 2021-2027.

3. Guidance

3.1 EPA (2021) Best Practice Guidelines for the Preparation of Resource Management Plans for Construction and Demolition Projects

These guidelines supersede the ‘Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Waste Projects’ which were published by the Government in July 2006.

The replacement guidelines reflect current waste legislation and policy including ‘A Waste Action Plan for a Circular Economy Ireland’s National Waste Policy 2020-2025’ published in September 2020.

Since the publication of the 2006 guidelines, waste management legislation and policy have evolved towards prioritising waste prevention and life cycle thinking as follows:

- An increased emphasis on waste prevention, in line with the waste hierarchy, through established principles such as designing out waste and the use of green procurement; and
- The guidelines have also been prepared to promote more circular design and construction principles in line with the EU Circular Economy Action Plan under the EU Green Deal. The circular economy model tries to avoid using unnecessary resources in the first place and keep resources ‘in flow’ by means of effective and smart reuse and recycling strategies reducing the use of virgin materials.

The guidelines provide a practical and informed mechanism to document the prevention and management of C&D wastes and resources from design to construction or demolition of a project. They provide clients, developers, designers, practitioners, contractors, sub-contractors and competent authorities with a common approach to preparing and determining Resource and Waste Management Plans (RWMP) for the construction and demolition sector in Ireland.

The guidelines address the best practice approach for the following phases of a project:

- Prior to Construction – including the stages of design, planning and procurement in advance of works on site; and
- During Construction – relating to the effective management of resources and wastes during construction or demolition operations.

3.2 European Commission (2016) EU Construction & Demolition Waste Management Protocol

This protocol was published by the European Commission in September 2016.

The overall aim of the protocol is to increase confidence in the C&D waste management process and the trust in the quality of C&D recycled materials. This will be achieved by:

- Improved waste identification, source separation and collection
- Improved waste logistics
- Improved waste processing
- Quality management; and
- Appropriate policy and framework conditions.

3.3 EPA (2019) Guidance on Soil and Stone By-products in the context of Article 27 of the European Communities (Waste Directive) Regulations 2011

Regulation 27 of the European Communities (Waste Directive) Regulations, 2011, as substituted by Regulation 15 S.I. No. 323 of 2020, states the following:

‘the Agency shall take appropriate measures to ensure that a substance or object, resulting from a production process, the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met:

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

Decisions made by economic operators under Regulation 27 must be notified to the Environmental Protection Agency. Conditions a) to d) must be satisfied for a Regulation 27 notification to be successful.

The purpose of the guidance is to inform economic operators how to prevent waste soil and stone by classifying it as a by-product in accordance with the legislation and the EPA’s regulatory approach to determinations on soil and stone by-products. This guidance document covers soil and stone only.

It is aimed at local authorities, developers, the construction sector, the waste management sector and consultants.

Its environmental objective is by making certain that excess uncontaminated soil and stone is beneficially used with no overall adverse impacts on the environment or human health, a material producer will ensure that the material is regarded as a by-product rather than a waste.

3.4 EPA (2020) By Product - Guidance Note. A guide to by-products and submitting a by-product notification under Article 27 of the European Communities (Waste Directive) Regulations, 2011

This guidance note published in 2020 applies to all other sectors and materials apart from soil and stones. It aims to inform economic operators how to prevent waste by classifying it as a by-product in accordance with the applicable Regulations.

3.5 EPA (2020) End of Waste Guidance Part 1 and Part 2

Part 1: describes the context and benefits and introducing the end-of-waste test to potential under Regulation 28.

Part 2: provides guidance for applicants on how to address the requirements of the end-of-waste test under Regulation 28 of the European Communities (Waste Directive) Regulations, 2011.