



# Irish Waste Management Conference 2018

## Soil & Stone: Waste or By-Product

**David Flynn**

Programme Manager, Environmental Protection Agency

# Aim...

- 1) To help prevent waste by planning for your excess soil and stone materials to be **used elsewhere as a by-product** and not **discarded as a waste**.
- 2) To help people accept **by-product** soil and stone materials for use in construction (*and stay within the law*).

# Soil & Stone: waste or ‘by-product’?

In summary, excess soil and stone is a by-product if the following conditions are met;

- The further use is **certain**
- It is to be **used directly** without further processing (other than normal industrial practice\*).
- The soil and stone is produced as an **integral part** of your production process (e.g. building a road/ building).
- The further use is **lawful**

As a by-product, it is not “discarded” – it is not (and never was) a waste.

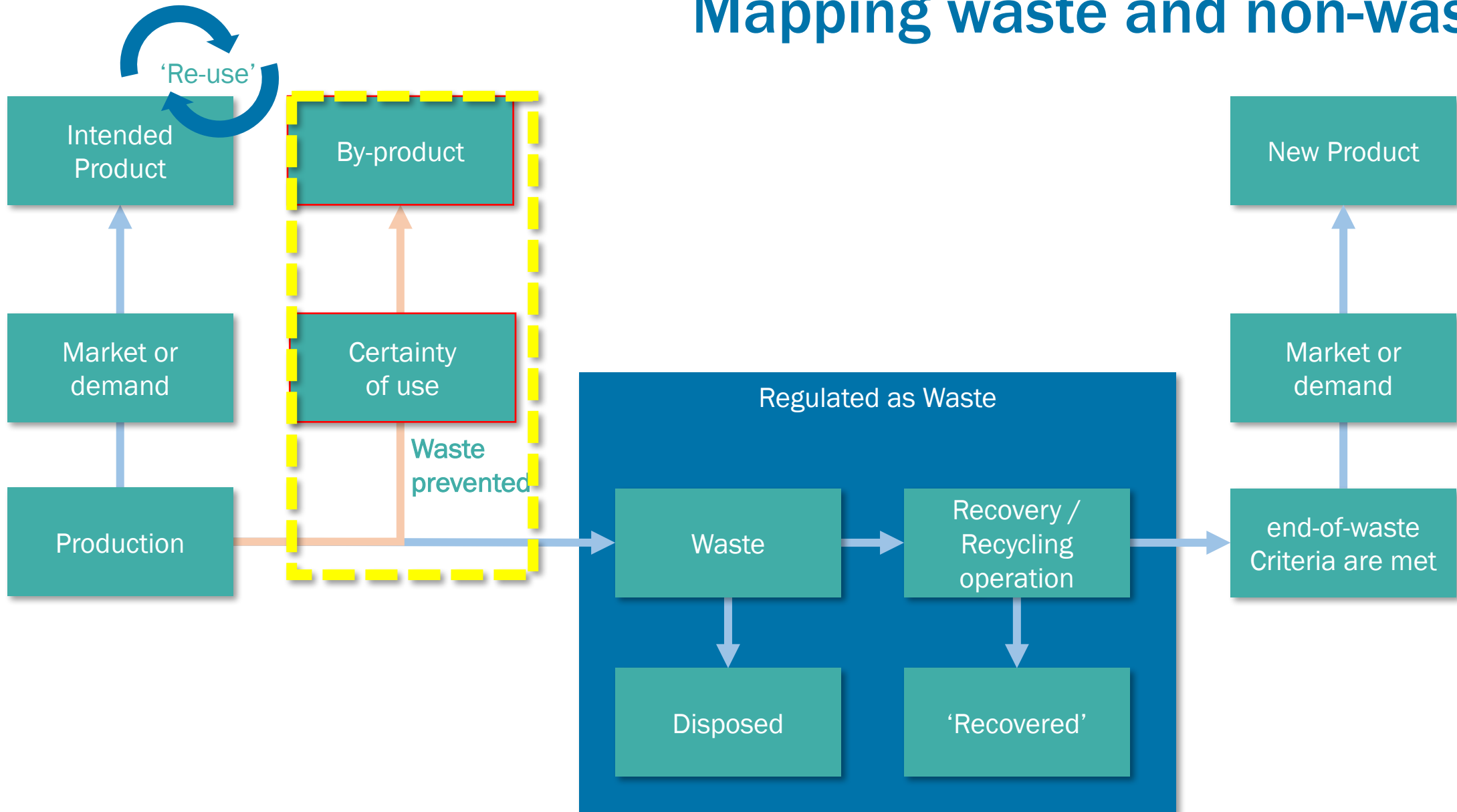
# Case study example



**55,000 tonnes** of stone, from the deepening of the north channel of Dingle Fishery Harbour

- Used in N86 Tralee to An Daingean Road Project
- Used directly, equivalent to quarried stone
- Produced as an integral part of harbour works
- Use is lawful and meets engineering specifications for use in the N86 Project

# Mapping waste and non-waste



# What is a waste?

## **'waste'**

means any substance or object which the holder discards or intends or is required to discard.

## **'waste holder'**

means the waste **producer** or the natural or legal person who is in possession of the waste.

## **'Prevention'**

means measures taken **before** a substance, material or product has become waste.

# What is never a waste?

- Unexcavated land.
  - Including contaminated land,
  - buildings connected to land.
- Uncontaminated soil excavated during construction and reused on the site where it was excavated.

# Soil Waste Recovery Sites (Licensed)

- Suitable for 'clean' material – these sites do not have a base liner or engineered cap – not an engineered landfill.
- Standard landfill directive “Landfill WAC” are **not the applicable criteria** as these presume full protections of an engineered landfill site.



# Certainty of use

- Establish that there is an genuine **need** elsewhere for the material (*e.g. rock for engineering works, soil for landscape works*).
  - Show that the timescale of use is certain.
  - Show that the material is not a burden for the producer.
  - Show that it is replacing virgin materials.
  - Comparative financial gain for the producer can be an indicator of it being a by-product.

## Is use lawful...

- Show that the specific use will not lead to overall adverse environmental or human health impacts.
- Show that it fulfils all requirements for the specific use
  - Is it exempt development?
  - Has the use planning permission for the specific use?
  - Is the specific use within the terms of the planning conditions and/or any licence/permit.

# Using a by-product...

To avoid inadvertently accepting a waste onto your project site...

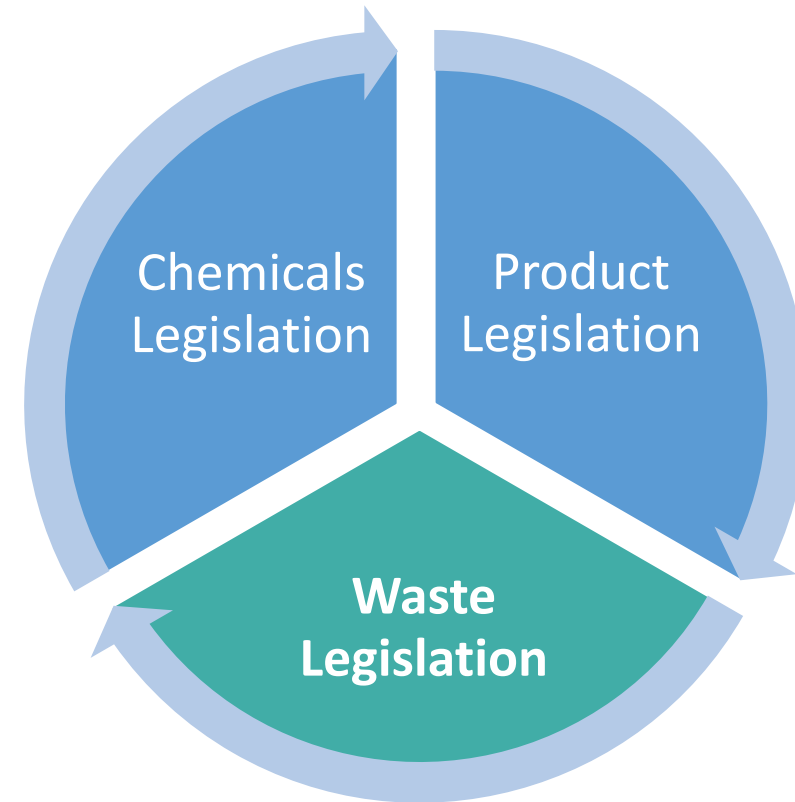
- Apply the same “by-product” tests.
- Look for the evidence of how the tests are met (not opinions...).
- Go and see the origin site, verify its origin and volumes.
- Have written contracts (...with the producer is better).
- Look for records and keep your own records.

If it turns out to be waste, you will be a holder and will have legal responsibilities!

# The role of “end-of-waste”

*“In a circular economy, materials should only stay in the **waste phase temporarily** as the aim is that they should be recovered and reintroduced into the economy to replace primary materials.” –*

*COM(2018) 32 final*



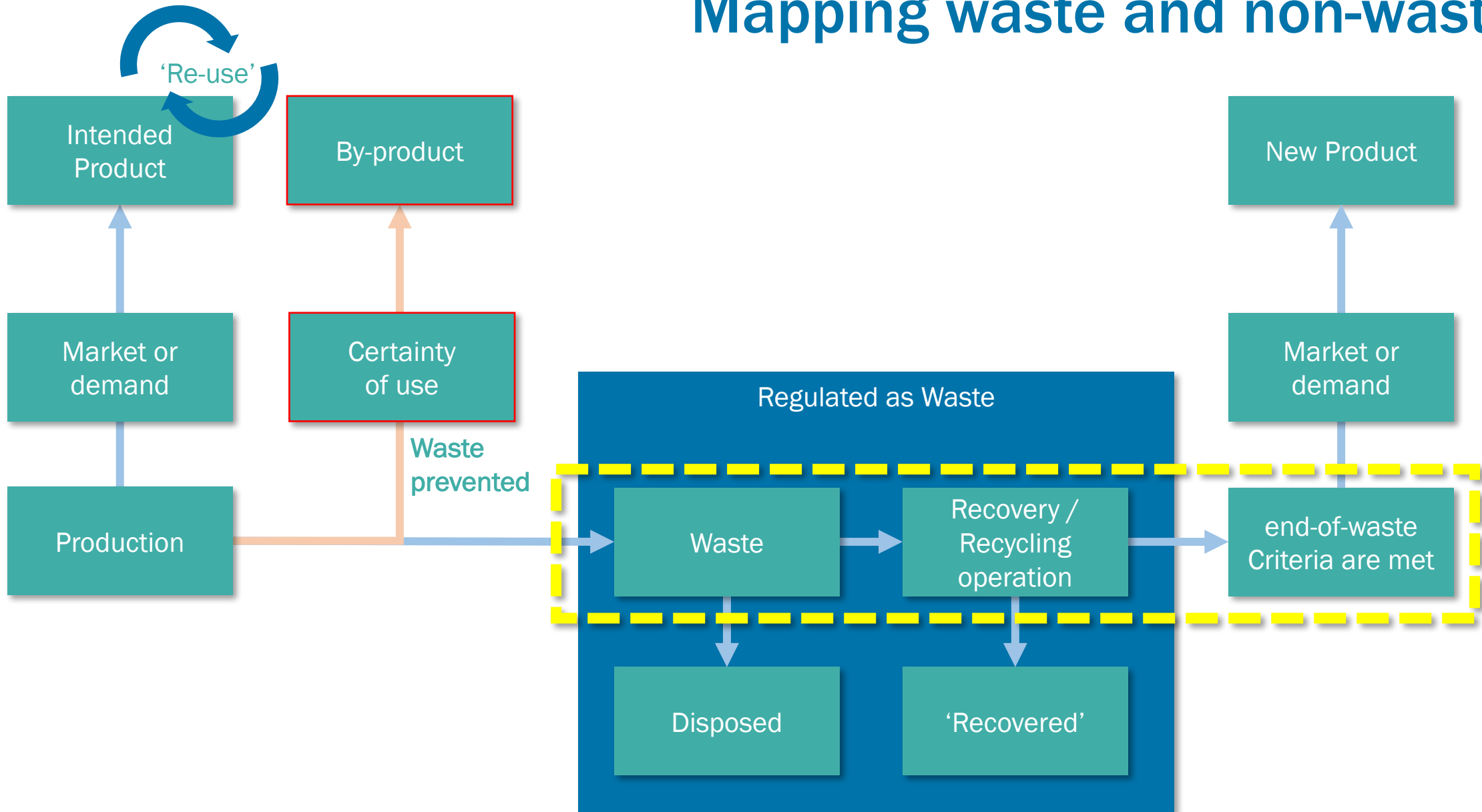
# End-of-waste

End-of-waste criteria for that product determine when the product ceases to be waste.

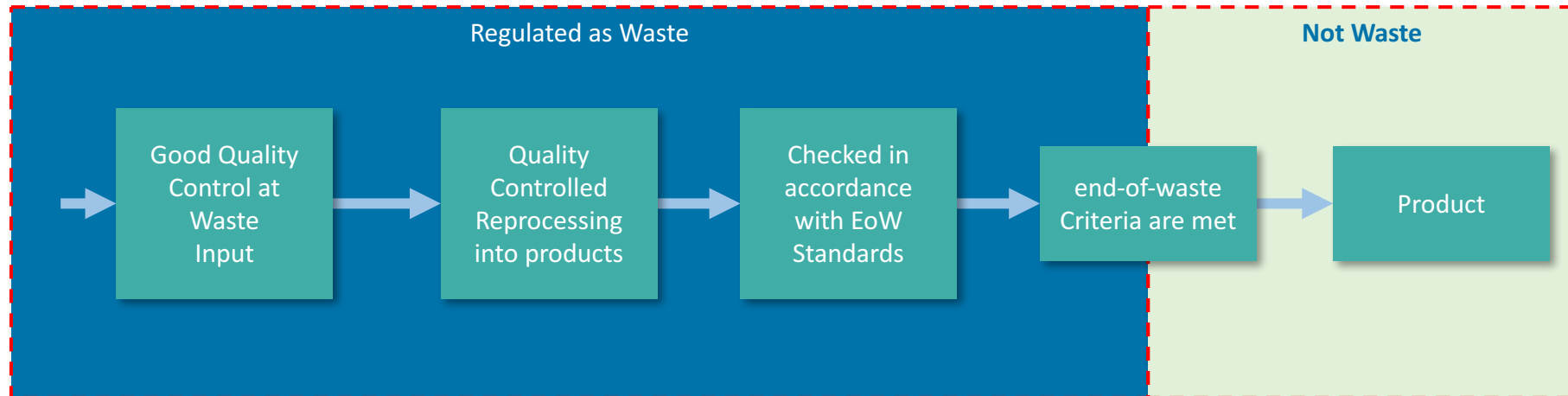
- commonly used for specific purposes;
- a demand exists;
- fulfils the technical requirements, legislation and standards; and
- the use will not lead to overall adverse environmental or human health impacts.

It is best to prevent the waste being generated in the first place.

# Mapping waste and non-waste



# Pathway to End-of-Waste



# Industry proposals on EoW for soil and/or stone?

- Is it commonly used for specific purposes?
- Is there a market for soil and stone?
  - firmly established market with supply and demand?
  - market price being paid for the material?
- Can it be used exactly as a non-waste can?
- Can it be moved, stored and used without environmental impacts?  
(above and beyond the material it is replacing).



## A few final points...

- Design phase planning helps preventing waste – don't leave it to the construction stage.
- Waste law is always interpreted so as to protect human health and the environment.
- The **intent** of the holder is key. Intent is inferred from the holder's actions.

If in doubt, ask – your local authority waste section or the EPA.

# Thanks

## Reminder of EPA Article 27 Soil & Stone Guidance Consultation

Submissions are invited by email only to [Article27@epa.ie](mailto:Article27@epa.ie) up until 5.00pm on 14 December 2018.

Details on consultation page at [epa.ie](http://epa.ie)