Civil Engineering Contractors Association

# Waste Classification & Permitting In Construction

Guidance for the construction industry on the Waste Permitting Regime.

ceca

# Foreword

The guidance contained within this document has been produced by members of the CECA Environment Committee as it is perceived that the interpretation of waste regulations for the construction industry can be problematic.

Understanding the environmental permitting regime can be onerous in the need to search for the appropriate guidance which exists in many different places and then relate them to construction operations. It was considered appropriate that the industry needed to produce its own succinct advice for those in construction and the following guidance and flow charts are the result.

The meaning and interpretation of legislation is ultimately a matter for the Courts to decide –the guidance produced in this document is the understanding of legislation by members of the CECA Environment Committee and this should be taken into account when applying this guidance to on-site situations. If in doubt contact your local Environment Agency / NRW / SEPA office to seek approval where necessary.

The guidance and flow charts contain numerous links to websites. Sometimes these links are broken or changed by the website owners. CECA accepts no responsibility for the currency of these websites. At the time of producing this guidance all websites were extant.

CECA wishes to thank members of the Environment Committee for the production of this guidance.

If anyone has any queries on the content of this document or seeks further advice then in the first instance contact Peter Crosland at CECA - petercrosland@ceca.co.uk.

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# Contents

# 1. Introduction

This guidance note has been written in consultation with industry representatives to provide a single source of reference bringing together the various options under the Waste Permitting Regimes.

The guidance is designed for anyone dealing with waste in construction – from Estimators and Planners investigating options at design stage through to Project Managers, Site Agents, Engineers etc. managing waste on a project, as well as for Environmental Advisors ensuring legal compliance is achieved.

The guidance is split into two sections – Guidance and an Appendix. The Appendix contains a number of Flowcharts. The Flowcharts can be used to quickly identify whether the material in question is a waste or not and if it is, the options available to use or dispose of it. The guidance itself then provides a more detailed description of each of the options as well as links to relevant webpages and other guidance.

The Flowcharts are split into two sections – materials arising on site and materials being imported to site. Within these sections, there are several Flowcharts for the various materials that are commonly produced and/or used and which may be subject to waste controls. ***Note: this is not an exhaustive list.***

# 2. Definitions & Acronyms

Waste = see section on 'Definition of Waste' in section 4.

Materials = include aggregates, excavation arisings (soils, clay, dredgings, made ground), demolition arisings etc. Excludes invasive plant contamination.

Aggregates = a granular material used in construction, excluding soils and clays

Soils = including topsoil, subsoil, parent material and underlying geology

Site = a single identifiable site including an area covered by a specific planning permission/detailed design statement eg. pipeline route, proposed road, flood defence scheme

Treatment = physical, chemical or biological techniques/ processes that change the material to make it suitable for use but excluding typical soil improvement processes (see Definition of Waste section)

CL:AIRE = Contaminated Land: Applications in Real Environments

NRW = Natural Resources Wales

Throughout Wales, NRW responsibilities include:

- Adviser: principal adviser to Welsh Government, and adviser to industry and the wider public and voluntary sector, and communicator about issues relating to the environment and its natural resources
- Regulator: protecting people and the environment including marine, forest and waste industries, and prosecuting those who breach the regulations that we are responsible for
- Designator: for Sites of Special Scientific Interest – areas of particular value for their wildlife or geology, Areas of Outstanding Natural Beauty (AONBs), and National Parks, as well as declaring National Nature Reserves
- Responder: to some 9,000 reported environmental incidents a year as a Category 1 emergency responder
- Statutory consultee: to some 9,000 planning applications a year
- Manager/Operator: managing seven per cent of Wales' land area including woodlands, National Nature Reserves, water and flood defences, and operating our visitor centres, recreation facilities, hatcheries and a laboratory
- Partner, Educator and Enabler: key collaborator with the public, private and voluntary sectors, providing grant aid, and helping a wide range of people use the environment as a learning resource; acting as a catalyst for others' work
- Evidence gatherer: monitoring our environment, commissioning and undertaking research, developing our knowledge, and being a public records body
- Employer: of almost 1,900 staff, as well as supporting other employment through contract work

SEPA = Scottish Environmental Protection Agency

Across Scotland, SEPA responsibilities can be described as follows:

*"As an organisation with a strong science base, we constantly assess the quality of our environment by monitoring our air, land and water and use our findings to advise government, industry and the public on environmental best practice.*

*"We help business and industry to understand and comply with their environmental responsibilities and legislation and have a range of enforcement powers which we can apply to ensure that regulations are complied with. In addition, we work in partnership with other agencies, organisations and policy makers, to increase environmental understanding and build consensus on environmental priorities and issues... (continued overleaf)*

*"We are also responsible for delivering Scotland's flood warning system, working with the Scottish Government to deliver Scotland's Zero Waste Plan, operating the Scottish aspect of the Radioactive Incident Monitoring Network and work with the Health and Safety Executive to control the risk of major accidents at industrial sites. "*

EA = Environment Agency. Within England the EA is responsible for:

- regulating major industry and waste
- treatment of contaminated land
- water quality and resources
- fisheries
- inland river, estuary and harbour navigations
- conservation and ecology

It is also responsible for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea.

# 3. Overview of Options

The Appendix to this document contains various Flowcharts. Use of the appropriate Flowchart will lead to one or more options available to use or dispose of the material in question. These are described in more detail in the following pages of this guidance, but include:

Waste Exemptions – these allow certain waste activities deemed to be low risk or trivial to be carried out without the need for an Environmental Permit

Environmental Permits – allow those waste activities considered 'medium or higher risk' to be undertaken

CL:AIRE Definition of Waste Code of Practice (version 2) – a voluntary CoP that allows reuse of contaminated and uncontaminated excavated materials within the same site and the reuse of uncontaminated materials between sites. [Note: this does not apply in Scotland]

Quality Protocol – a document written for a particular waste material that clearly explains what has to be done to produce a fully-recovered, non-waste, quality product

Position Statements & Regulatory Guidance – provide clarification on how the Regulator will enforce the legislation in particular circumstances

Position statements are known as Regulatory Decisions in Wales

Low Risk Waste Activities – these are low risk waste operations that the EA have identified as not covered by an exemption but which do not justify enforcement of a Permit

These are called Low Risk Waste Recovery Operations in Wales. [Note: this does not apply in Scotland]

# 4. Definition of Waste

Waste is defined as "any substance or material we discard, intend to discard or are required to discard" (Waste Framework Directive). It applies to materials brought to site as well as material sent away from site. Reasons why a material may be considered 'waste' include:

- It is not needed on the site where it was produced (e.g. surplus to requirements)
- It is not suitable for use without treatment / processing (e.g. crushing, screening)
- It is not the primary product that was set out to be produced (e.g. steel slag, PFA, colliery spoil)
- There is not an identified use for it at the time it is produced (even if one is "found" later e.g. a noise bund)

To carry out any activity involving waste – storage, treatment, use or disposal – requires some form of permit, which must be held by the organisation carrying out the activity (although it doesn't matter who actually applies / pays for it, if applicable).

## 4.1 When a material is not waste

The revised Waste Framework Directive excludes certain materials from the definition of waste, including:

*"Uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated."*

This applies whether the use is immediate or whether the material has to be stored temporarily before use – it is not waste, so no waste controls are required for the use or for the storage.

### 4.1.1 When a material is reused and doesn't become waste

Reuse means a material is used againfor the same purpose as was originally intended and therefore never becomes waste material.

Examples of reuse in the construction industry include:

- items that are leased and used several times by a number of people as long as they are fit for re-use
- wooden pallet being reused as a pallet as long as it is fit for re-use as a pallet and it is not contaminated
- roof tiles removed, stored and then reused on another building
- herras fencing transferred to another project as long as it is fit for reuse.

## 4.2 Soil Improvement techniques which do not require permitting

Certain treatments undertaken purely for the purpose of improving geotechnical properties and creating a suitably engineered soil are not considered waste treatment activities and therefore do not make the material being treated 'waste'.

These include:

- Lime/Cement Stabilisation
- Vibro Compaction
- Dynamic Compaction
- Surcharging
- Piling
- Soil Reinforcement
- Reinforced Concrete Raft Foundations

Further details can be found in Appendix 8 of the CL:AIRE Definition of Waste Code of Practice:

http://www.claire.co.uk/projects-and-initiatives/dow-cop/28-framework-and-guidance/111-dow-cop-main-document

### 4.3 Waste 'Duty of Care' - England and Wales

Construction companies have a legal duty to responsibly manage waste 'Duty of Care requirements'. This is governed by various legislation including: The Waste (England and Wales) Regulations 2011, The Hazardous Waste (England and Wales) Regulations 2005, The List of Wastes (England) Regulations 2005 and The Environmental Permitting (England and Wales) Regulations 2010, Environmental Protection (Duty of Care) (Scotland) Regulations 2014, Waste Regulations (Northern Ireland) 2011.

You will need to comply with the Duty of Care Code of Practice:

https://www.gov.uk/government/publications/waste-duty-of-care-code-of-practice

#### 4.3.1 Prior to Waste being removed

Before a company is instructed to remove waste from the waste producer (e.g. construction site or office) the following documentation must be obtained:

- Waste Carrier's Registration – This document is provided by the company to show they are registered with the Environmental Regulator and can legally transport waste. A copy of the certificate must be retained and regular checks undertaken to ensure the registrations are still in date. Certificates are valid for 3 years.

- Environmental Permit or Exemption – Any facility that receives waste to store, treat or dispose requires a permit or exemption from the Environmental Regulator. A full copy of the permit or exemption must be obtained, and the list of 'permitted' wastes and the quantities allowed should be checked against the waste being removed and retained by the site/office in case of audit or inspection.

### 4.3.2. Removal of Waste

All waste which leaves site and transfers to another party (e.g. waste carrier) must be accompanied by documentation which acts as a record of the waste movement.

- For Non-Hazardous waste, a waste transfer note must accompany each movement.
- For Hazardous waste, a hazardous/special waste consignment note must accompany each movement.

Waste transfer notes must be kept for 2 years and consignment notes for 3 years, and they must be available to the regulator upon request.

The minimum requirements for a non-hazardous waste transfer note include:

- The relevant European Waste Catalogue (EWC) code from the List of Waste contained in Technical Guidance WM3 e.g. 17.01.01
- An accurate written description of the waste which is referenced within the List of Wastes e.g. Concrete ('Muck away' is not a waste description)
- Whether the waste is loose or in a container and the type and size of container (e.g. skip, drum, bin, bag, tanker etc.)
- The time, date and place of transfer
- The Standard Industrial Classification Code (SIC) which describes the producer of the waste (2007)[1]
- Company names and addresses of the transferor (waste producer) and transferee (waste carrier) and their representative's signature
- The waste carrier's registration number

1. England & Wales only

- If the waste carrier holds an environmental permit, the permit number[1]
- If the waste carrier is also a broker, their waste broker registration number[1]
- Confirmation that the waste hierarchy has been applied. The waste hierarchy is the order of preference for waste disposal options i.e. reduce, reuse, recycle, recover and dispose (best to worst). Consideration needs to be given as to whether the best disposal option has been chosen, e.g. could the recyclable elements have been segregated and removed separately for greater diversion from landfill?[1]

In addition it is good practice to identify on the Waste Transfer Note the destination of the waste so that this can be checked against the permits/exemptions that have been received.

In England and Wales the hazardous waste consignment notes must contain all information as above, plus the following:

- Consignment note code (or number), starting with the hazardous waste premises code (this is generated either by the company in England or by NRW in Wales)
- Hazardous waste premises code
- The standard industry classification (SIC) code of the process giving rise to the waste (from the 2007 list)
- The chemical / biological components in the waste and their concentrations
- Physical form of the waste (gas, liquid, solid, powder, sludge or mixed)
- The relevant Hazard Property Code (from WM3), e.g. HP1 - explosive, HP7 - carcinogenic
- Part E - where the receiving facility signs to acknowledge that they have received the waste (this should be received within three months of the waste being removed).

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In Scotland, hazardous waste is known as 'special waste' and must be transferred using special waste consignment notes obtained from SEPA prior to the waste being moved. Process as follows:

- Five copies of the special waste consignment note must be completed (Part A - Consignment Details and Part B - Description of the Waste) by the waste producer (or Consignor)
- One copy must be sent to SEPA prior to waste being removed
- The Waste Carrier must complete Part C - Carriers Certificate, on all four remaining copies
- The Consignor must complete Part D - Consignor's Certificate and retain one copy (for three years)
- The Waste Carrier must take the remaining three copies, ensure they travel with the waste and are given to the receiving waste facility (Consignee) on delivery of the waste
- The waste facility must complete Part E - Consignee's Certificate on receipt of the waste then retain one copy, give one copy back to the waste carrier, and issue one copy to SEPA.

For multiple movements an Annual Waste Transfer Ticket can be used provided that the waste is regularly being taken by the same waste carrier to the same waste management facility. The Annual Waste Transfer Note must contain all the information an individual Waste Transfer Note includes (Detailed above), except for a specific date and time which is replaced by the expected frequency of waste movements.

Multi-load consignment note for hazardous waste differ from non-hazardous 'season tickets' as more than one type of waste can be specified. All waste types must be stored separately to prevent cross contamination, however they can be collected at the same time, by the same contractor and on the same consignment note.

### 4.4. Waste Classification

If you are producing waste, as part of your 'Duty of Care' you must classify the waste:

- before it is collected, disposed of or recovered
- to identify the controls that apply to the movement of the waste
- to complete waste documents and records
- to identify suitably authorised waste management options
- to prevent harm to people and the environment.

For most wastes, you will need to identify if the waste has a hazardous property before you can classify or describe it.

A waste classification exercise may be required even if the site is greenfield, there may be historical contamination present or agricultural use with heavy pesticides. If a Phase I desk assessment (or other) has confirmed little evidence of contamination and the material is naturally occurring and you are certain there is no contamination risk a waste classification exercise is not required.

#### 4.4.1. Identifying which codes apply to the waste

The next step is to identify how the waste is classified in the List of Waste (LoW). This classification identifies what assessment is needed before a LoW code can be assigned to the waste. List of Waste (LoW) is a catalogue of all wastes divided into 20 chapters which can be found in Appendix A of 'WM3' The Waste Classification: Guidance on the classification and assessment of waste (1st edition, 2015) .

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/427077/LIT_10121.pdf

### 4.4.2 : Identify the assessment needed to select the correct code(s)

The waste producer should then determine if an assessment is needed and how it affects the classification of the waste. The assessment needed depends on the type of code(s) identified. Codes are divided into four types of entry:

- wastes that may be hazardous or non-hazardous, known as 'mirror hazardous' and 'mirror non-hazardous' entries – waste soil falls into this category - see Figure 1 below
- wastes that are always hazardous, known as 'absolute hazardous' entries e.g. 13 07 01* fuel oil and diesel
- wastes that are always non-hazardous, known as 'absolute non-hazardous' entries, e.g. 15 01 01 paper and cardboard packaging

Figure 1 - The Law and Waste Soil

Waste Soil is legally classified under a 'mirror entry' (e.g. two possible codes):

- 17 05 03* soil and stones containing hazardous substances
- 17 05 04 soil and stones other than those mentioned in 17 05 03*

To identify which code applies to any soil the waste producer must determine:

- What hazardous properties are present
- Their concentration
- Their chemical classification
- And whether this is above the hazardous waste threshold

The code 170504 cannot be legally assigned until this assessment has been made.

### 4.4.3 Determine the chemical composition of the waste

To assess whether the waste has a hazardous property you first need to know its composition. This can be obtained from the following sources:

- from the manufacturers safety data sheet if the waste is a manufactured product whose composition has not changed - if the composition has been altered during storage or use you should not rely fully on this information. You should check that the safety data sheet is up to date (chemicals rules are updated every year)

- by sampling and analysing the waste to determine its composition

For waste soil a series of tests should be undertaken, ideally with a UKAS accredited laboratory including heavy metals, hydrocarbons,(TPH), polyaromatic hydrocarbons (PAHs), PCBs, asbestos (in accordance with the "Industry Profiles" (Department of the Environment) and "Contaminated Land Reports". Note, Waste Acceptance Criteria (WAC) tests are not suitable for classification purposes. WAC is used to determine suitability for disposal in landfill.

Analysis results of the chemical testing could enable a Hazardous Property Assessment (HPA) to be undertaken. Systems such as 'Haz Waste Online' are available to assist organisations with this process, however they do charge subscription and training fees.

The HPA helps to determine if the waste is hazardous, and the waste producer must have evidence that this assessment has been undertaken for all 'mirror' entry wastes produced.

# 5. Waste Exemptions - England and Wales

Some waste activities are considered to be sufficiently 'low risk' to be exempt from the Environmental Permitting regime and may be carried out under a waste exemption. There are a number of exemptions prescribed in Schedule 3 to the Environmental Permitting (England and Wales) Regulations 2010, which cover a range of Storage, Use, Disposal and Treatment activities.

All exemptions contain conditions relating to the allowed use / treatment, so it is important that the associated guidance is read carefully and any conditions followed. A registered exemption is invalid if the conditions specified are not implemented. It is also an offence to carry out an exempt activity without it being registered.

Exemptions should be considered as simply a registration to inform the regulator (EA/SEPA/NRW) that an activity will be carried out at a certain location and that the operator intends to work within the conditions specified for that exemption.

If a use/deposit/disposal of waste exemption exceeds its limits it will effectively become an illegal waste site and may subsequently be subject to landfill tax. You may want to seek assurances from those taking your waste that they are compliant with the rules.

Note that the limits relating to wastes allowed under an exemption are often aggregated for the different types of waste permitted and not for each waste stream – refer to the full guidance for the relevant exemption for details.

***If you cannot comply with the conditions of a waste exemption, you may need an Environmental Permit for the activity instead.***

The full list of waste exemptions available (with the exception of those regulated by the local authority) can be found on the gov.uk website under the following categories:

- **Treatment of waste exemptions**
- **Disposal of waste exemptions**
- **Storage of waste exemptions**

There are three exemptions which are regulated by the local authority instead of the EA/NRW, the one of relevance to the construction industry is:

- **T7 – Treatment of waste bricks, tiles & concrete by crushing, grinding or reducing in size**

Note that quantity limits apply to this exemption – see the text of the Environmental Permitting (England & Wales) Regulations 2010 for full details.

Some of the Storage exemptions do not need to be registered with an Authority ('Non Waste Framework Directive Exemptions'):

- Temporary storage of waste at place of production
- Temporary storage of waste at a place controlled by the producer
- Temporary storage at a collection point

Exemptions are free, last for 3 years (they can be renewed within one month of expiry if still required) and can be applied for online or by email or post through the relevant website:

England: https://wasteexemptions.service.gov.uk/

Wales:https://naturalresources.wales/apply-for-a-permit/waste/register-your-waste-exemptions/?lang=en

It is best to apply for all the waste exemptions you are likely to need for a site at the same time, as any additions / amendments to a registration will need to be notified to the EA/NRW in writing.

A waste exemption applies to the site for which it is registered and only one of each type of exemption may be registered for a site during the three years for which it is valid. Separate guidance has been developed on 'the meaning of 'place' in relation to farms and linear networks'.

The table below lists some of the waste exemptions that may be of use to the construction industry ***(Note: this list is not exhaustive, users should always check the EA/NRW website for current requirements)***.

| Exemption no. | What it allows |
|---|---|
| U1 | Use of waste in construction |
| U2 | Use of baled end-of-life tyres in construction |
| U3 | Use of waste in the construction of entertainment or educational installations |
| U8 | Use of waste for a specified purpose |
| U12 | Spreading mulch |
| U13 | Spreading of plant matter to confer benefit |
| T5 | Screening and blending of waste |
| T6 | Treatment of waste wood and waste plant matter by chipping, shredding, cutting, or pulverising |
| T7 | Treament of waste bricks, tiles & concrete by crushing, grinding, or reducing in size |
| T15 | Treament of waste aerosol cans |
| D1 | Deposit of waste from dredging on inland waters |
| S1 | Storage of waste in secure containers |
| S2 | Storage of waste in a secure place |

# 6. Waste Exemptions - Scotland

Some waste activities are considered to be sufficiently 'low risk' to be exempt from the Waste Management Licensing regime and may be carried out under a waste exemption. Waste exemptions must be applied for / registered through SEPA - application forms are available on the SEPA website: http://www.sepa.org.uk/regulations/waste/activities-exempt-from-waste-management-licensing/

Note - SEPA is currently consulting on a new Integrated Authorisation Framework which will replace current regimes for waste, water, etc. The waste exemption regime will be disappearing in the next couple of years. The guidance will be updated accordingly when the changes occur.

Exemptions are divided into 'Simple Exemptions' and 'Complex Exemptions'.

Simple exemptions are free, require only basic information to be given about the site / activity and can be registered online and the activity carried out immediately. Simple exemptions do not expire.

Complex exemptions attract a cost and must be registered at least 21 days before the activity is to be carried out using the forms provided on the SEPA website. A complex exemption lasts for 12 months but may be renewed if required.

There are also two 'non-notifiable' exemptions (Paragraphs 40 & 41) which allow the temporary storage of waste e.g. in skips on site.

All exemptions contain conditions relating to the allowed use / treatment, so it is important that the associated guidance is read carefully and any conditions complied with. It is an offence to carry out an exempt activity without it being registered or to breach a condition of an exemption.

The table below lists some of the waste exemptions that may be of use to the construction industry ***(Note: this list is not exhaustive, users should always check the SEPA website for current requirements).***

| Exemption no. | What it allows |
|---|---|
| Paragraph 7 | The treatment of land for agricultural benefit or ecological improvement |
| Paragraph 9 | The reclamation or improvement of land |
| Paragraph 13 | Manufacture of specified goods from specified wastes |
| Paragraph 15 | Beneficial use of waste without further treatment |
| Paragraph 16 | The screening of specified wastes |
| Paragraph 19 | Waste for construction and other "relevant work" |
| Paragraph 21 | Chipping, etc. waste plant matter |
| Paragraph 24 | Size reduction of bricks, tiles or concrete |
| Paragraph 25 | The deposit of dredging wastes |
| Paragraph 34 | Keeping or deposit of spent railway ballast |
| Paragraph 40 | Secure storage of non-liquid waste other than at the place of production |
| Paragraph 41 | Temporary storage of waste at the place of production |

# 7. Environmental Permits

**Applicable in England & Wales only** – there are currently no standard Waste Management Licenses available in Scotland for construction activities. If you want to carry out a waste activity that is not covered by a Quality Protocol, exemption, Position Statement or Regulatory Guidance, contact your local SEPA office for further advice.

If there is no waste exemption or other option for the activity you wish to undertake or if you cannot comply with the limits & conditions of these other options, you will need to apply for an Environmental Permit. ***Note:- if an activity is very low risk, the EA/NRW may consider it as a 'Low Risk Waste Activity' and allow it to go ahead without the need for a Permit or exemption – this needs to be discussed on a case-by-case basis with the local EA/NRW office.***

There are two types of Environmental Permit – Standard and Bespoke. The Regulator for most types of waste Permit is the Environment Agency/NRW, however, Part B installations are regulated by the Local Authority.

Pre-application advice on permitting is available from EA/NRW and will help you get your application right first time and allow us to make a decision more quickly. Please look at the EA/NRW guidance and talk with the relevant regulator before you decide to apply.

In Wales, this service is provided free of charge up to a certain amount of time depending on the type of permit, please be aware any time beyond this is charged at a flat rate:

- Bespoke permits – up to 15 hours
- Standard permits – up to 1 hour

## 7.1 Standard Permits

Standard Permits are based on a set of 'standard rules' – if you can comply with all the rules for the particular activity then you can apply for the Standard Permit. A Standard Permit is a Tier 2 Permit for the purposes of the charging and assessment schemes.

Requirements for a Standard Permit include:

- **Timescale** - the EA/NRW have up to 3 months from submission of all required information to determine an application for a Standard Permit

- **Planning permission** – evidence of planning permission (or that planning permission is not required) must be submitted as part of the application

- **Costs** – Standard Permits attract an application fee, annual subsistence and a surrender fee. The current fee-scale can be found here:

England - https://www.gov.uk/government/publications/environmental-permitting-ep-charges-scheme-april-2014-to-march-2015

Wales - https://naturalresources.wales/media/678821/environmentalpermittingchargingguidance2016-17.pdf

- **Technical Competence** – the applicant must nominate a 'technically competent' person, who must be on site at least 20% of the time and have the authority to ensure compliance with the Permit. Currently there are two approved schemes for individuals:

1. EPOC (Environmental Permitting Operator's Certificate)

2. CMS (Competence Management Scheme).

The table below lists some of the Standard Permits that may be of use to the construction industry ***(Note: this list is not exhaustive, users should always check the gov.uk website for current requirements)***.

| Permit no. | What it allows |
|---|---|
| SR2010No7 | Use of waste in construction (up to 50,000 tonnes of waste) |
| SR2010No8 | Use of waste in construction (up to 100,000 tonnes of waste) |
| SR2010No9 | Use of waste for the reclamation, restoration, or improvement of land (up to 50,000 tonnes of waste) |
| SR2010No10 | Use of waste for the reclamation, restoration, or improvement of land (up to 100,000 tonnes of waste) |
| SR2010No11 | Mobile plant for the treatment of waste to produce soil, soil substitutes, and aggregate |
| SR2010No 12 | Treatment of waste to produce soil, soil substitutes, and aggregate (up to 75,000 tonnes) |
| SR2010No18 | Storage and treatment of dredgings for recovery |

A full list of Standard Permits for waste operations can be found on the gov.uk website here:

England - https://www.gov.uk/government/collections/standard-rules-environmental-permitting#treatment-to-produce-aggregate-or-construction-materials

Wales - https://naturalresources.wales/apply-for-a-permit/waste/waste-permitting/apply-for-a-new-standard-permit-for-waste-operations/?lang=en

### 7.2 Bespoke Permits

A Bespoke Permit must be applied for if there is no Standard Permit for the activity you wish to carry out or if you are unable to comply with all the 'standard rules' (e.g. if the site is within 500 metres of a SSSI / SAC / SPA, etc.). The EA/NRW have up to 4 months from submission of all required information to determine an application for a Bespoke Permit. Charges will vary depending on the activity and consultation with the EA/NRW will probably be required.

### 7.3 Mobile Crushers/Screeners

Any mobile crusher/screener employed to treat material on site (e.g. concrete, bricks, rubble) must have a 'Part B' Environmental Permit from the local authority in which their main office is located, unless they meet the "triviality" criteria (see Defra guidance below for further details). A copy of this Permit, and evidence of its deployment, if applicable, should be obtained for site records.

Where a crusher is processing waste (e.g. demolition material, excavated soil/stones) a further exemption or Permit may be required, as follows:

1. **Where the associated waste activity would usually fall under a T5 or T7 waste exemption**

- The Part B Permit will include relevant conditions to ensure compliance with the waste legislation, so there is no requirement to also register a T7 exemption.

2. **Where the associated waste activity would usually require an Environmental Permit**

- In addition to the Part B Permit, an Environmental Permit for the waste activity must also be applied for. This is most likely to be Standard Permit SR2010No11 or SR2010No12 (although could be a Bespoke Permit if the Standard conditions cannot be met).
- It is possible to apply to Defra on a case-by-case basis for the Part B Permit and the Standard or Bespoke Permit to be regulated by the same body (i.e. the local authority or the EA/NRW) rather than for them to be regulated separately.

See section 40 of Defra's *General Guidance Manual on Policy & Procedures for A2 and B Installations* for further information.

### 7.4 Applying for a Permit

Application forms and guidance for both Standard and Bespoke Permits can be found on the gov.uk website here:

England - https://www.gov.uk/guidance/waste-environmental-permits

Wales - https://naturalresources.wales/apply-for-a-permit/waste/waste-permitting/?lang=en

# 8. Quality Protocols

Quality Protocols explain when a waste-derived material can be regarded as a non-waste product and no longer subject to waste controls. Producers are not obliged to comply with a Quality Protocol, but if they don't then the material is likely to be considered waste and require an appropriate Permit or other form of consent e.g. waste exemption.

There are a number of Quality Protocols that may be relevant to the construction industry:

- Aggregates from inert waste
- Pulverised Fuel Ash and Furnace Bottom Ash
- Aggregate from waste steel slag

These can be found on the gov.uk website here:

https://www.gov.uk/government/collections/quality-protocols-end-of-waste-frameworks-for-waste-derived-products

## 8.1 Quality Protocol for Aggregates from Inert Waste

This Protocol deals with the production of aggregates from inert construction, demolition and excavation wastes and outlines the steps that need to be taken for the final product to be considered a 'non-waste'.

To complement the Quality Protocol, an online checklist is available to assist those procuring recycled aggregates to determine whether the supplier is complying with the Protocol:

http://www.qpchecker.info/

The Aggregate Quality Protocol excludes soils, clays, and fine grade material (eg sand). Although soils and stones are acceptable inputs to the process the fine grade material remains

a wasteonce processed, due to the high risk of contamination from other mixed waste.

***Note: Delivery Tickets accompanying loads of recycled aggregate produced in line with this must include a statement that the aggregate was produced to a quality scheme meeting the Quality Protocol.***

A common issue with recycled aggregates is the presence of asbestos and other physical and chemical contaminents. In the event of receiving contaminated aggregate (eg with asbestos) which has been received under the Quality Protocol, this material must be rejected and the Environment Agency notified.

### 8.2 Quality Protocol for the use of Pulverised Fuel Ash and Furnace Bottom Ash in bound applications

This Protocol sets out the end-of-waste criteria for PFA and FBA arising from combustion of coal, with or without co-combustion materials. It covers the use of PFA and FBA in designated bound and grout applications only (i.e. not for use as bulk fill) and states that end-of-waste is reached provided that the material:

- Requires no further processing before use; and
- Meets the requirements of an approved product standard

Processors have a requirement to maintain records, provide information to purchasers and produce a statement detailing the product has been manufactured to Quality Protocol and confirmation of good practice.

### 8.3 Quality Protocol for Aggregate from Waste Steel Slag

Applicable to England, Wales and Northern Ireland, this Protocol sets out the three processes by which slag can be produced (basic oxygen steel making, electric arc furnace and argon oxidation decarburisation) and the defined construction uses including aggregate for sub-base, capping, fills and pipe bedding – all unbound uses, as well as several uses for bound and semi-bound materials.

Records need to be maintained and a number of standard and specifications demonstrated to allow use.

# 9. Regulatory & Other Position Statements

Where no exemption / Permit exists for an activity, or where clarification is required on a particular issue, the EA/SEPA may develop a Regulatory Position Statement outlining how they will regulate in that situation. In Wales, NRW produce Regulatory Decisions that are comparable to these and there are a number of Regulatory Position Statements that pre-date the establishment of NRW in 2013 which may also be applicable in Wales. For information on whether a Regulatory Decision or Regulatory Position Statement is applicable in Wales, please contact NRW.

Companies may carry out an activity covered by a Regulatory Position Statement or Regulatory Decision as long as they comply with all conditions set out therein.

Current Regulatory Position Statements relating to waste can be found here:

England: https://www.gov.uk/government/collections/basic-rules-environmental-permitting-regulatory-positions

Scotland: http://www.sepa.org.uk/regulations/waste/guidance/

Some of the Regulatory Position Statements / guidance that may be of use to the industry are outlined in the table below ***(Note: this list is not exhaustive, users should always check the gov.uk website for current requirements)***.

| ENGLAND |
| --- |
| Using manufactured topsoil for recovery operations |
| Using treated asphalt waste |
| Use of PAS 108 tyre bales in civil engineering and landfill infrastructure works |
| Regulation of the use of unbound pulverised fuel ash and furnace bottom ash |
| Burning of waste on campfires and bonfires |
| Deposit and dewatering of non-hazardous silts from Sustainable Drainage Systems on land |
| Leaving asbestos pipe in excavations |
| Dewatering building sites and other excavations |
| |
| SCOTLAND |
| Guidance on the production of fully recovered asphalt road planings |
| Recycled aggregates from inert waste |
| On-site management of Japanese Knotweed and associated contaminated soils |
| Promoting the sustainable reuse of greenfield soils in construction |

# 10. CL:AIRE Definition Of Waste Code Of Practice

**(Note: applicable to England and Wales only)**

The CL:AIRE Definition of Waste: Development Industry Code of Practice (CoP) provides a framework which allows the reuse excavated materials on-site or their transfer between sites, without being classified as waste. It therefore provides an alternative to the use of Environmental Permits or exemptions.

The scenarios supported by the CoP are:

- the direct transfer of clean uncontaminated soil from one development site to another
- the reuse of both contaminated and uncontaminated excavated materials on their site of origin
- the establishment of a network of sites within a Hub and Cluster arrangement, between which both contaminated and uncontaminated material can be transferred
- the operation of fixed soil treatment facilities to produce a non-waste product

The key document required to comply with this voluntary CoP is a Materials Management Plan, which sets out the site details, site investigation and risk assessment results, calculations of material quantities and procedures to track the materials.

The CoP provides the template which must be used for a Materials Management Plan:

http://www.claire.co.uk/projects-and-initiatives/dow-cop/29-executing-sustainable-remediation/116-materials-management-plan-mmp

Other requirements include:

- A Remediation Strategy or Design Statement (depending on whether the material is contaminated or not)
- A Qualified Person to verify implementation
- A Verification Report which records where the material has been used

The Qualified Person must meet certain requirements as set out in Appendix 6 of the Code of Practice, including:

- Chartered status
- Relevant qualifications
- Minimum 5 years relevant experience
- Independent of the project
- Has attended a recognised minimum one day training course on the CoP
- Is registered with CL:AIRE and paid the annual registration fee

Full details can be found in the CoP on the CL:AIRE website here:

http://www.claire.co.uk/projects-and-initiatives/dow-cop/28-framework-and-guidance/111-dow-cop-main-document

### 10.1 Register of Materials

CL:AIRE has also established a register of materials, aiming to link material holders with service providers or organisations requiring materials.

Organisations involved in the management of development sites are encouraged to register key information on materials and services that fall within the scope of the CoP with CL:AIRE, where they will be held confidentially until CL:AIRE become aware of an opportunity for them, at which point they will make introductions between the relevant organisations.

The service is free and details of how to participate can be found on the CL:AIRE website here: http://www.claire.co.uk/projects-and-initiatives/cl-aire-register-of-materials

# 11. Low Risk Waste Activities

**(Note: applicable to England and Wales only)**

Low Risk Waste Activities are those waste operations that the EA/NRW have identified as not being covered by a waste exemption or other position, but that is low-risk enough not to justify enforcement of an Environmental Permit. They can be considered as 'candidate exemptions' (see section 5 above) which may be brought into the exemptions system at a future date.

The current list of Low Risk Waste Activities can be found on the gov.uk website:

https://www.gov.uk/government/publications/low-risk-waste-activities-guidance

In Wales, these are known as "Low Risk Waste Recovery Operations" and may differ from those in England. For information on whether specific LRW activities are applicable in Wales please check with NRW.

The table below lists some of the Low Risk Waste Activities that may be of use to the construction industry ***(Note: this list is not exhaustive, users should always check the gov.uk website for current requirements).***

| Ref No. | Activity description |
|---|---|
| LRW333 | The recovery of inert waste by leaving a road in-situ, where that inert waste is utilised as a defined engineering operation |
| LRW400 | The reuse of concrete wash waters and cement fines (from storage of wash waters) at construction sites |
| LRW401 | The reuse of silty wash waters and silt at construction sites |
| LRW417 | The treatment by physical dewatering of cement washings at construction sites pending recovery of the water at the concrete suppliers |
| LRW418 | The beneficial use of hazardous railway sleepers and telegraph poles in the construction of buildings, fences, barriers, containment, or similar above-ground construction |
| LRW427 | The spreading of specified waste from the construction of conservation ponds on agricultural land to confer benefit |
| LRW472 | The secure storage of non-hazardous bitumen (17 03 02) at depots for the purpose of recovery elsewhere |
| LRW521 | The treatment of road sweeping wastes from business sites by screening |

# 12. Flowcharts

### Section A - Materials Arising On Site

A1 - Naturally occurring excavated materials, eg soils, clays, dredgings, stone, etc

A2 - Previously used aggregates & demolition material, e.g. made ground, haul roads, demolished buildings/structures

A3 - Bitumen-bound materials, e.g planings, asphalt, tarmac

### Section B - Materials Being Imported To Site

B1 - Naturally occurring excavated materials, e.g. soils, clays, dredgings, stone, etc.

B2 - Recycled bituminous asphalt (planings)

### Section C - Flowcharts Relevant To Scotland

C1 - Naturally occurring excavated materials, eg soils, clays, dredgings, stone, etc.

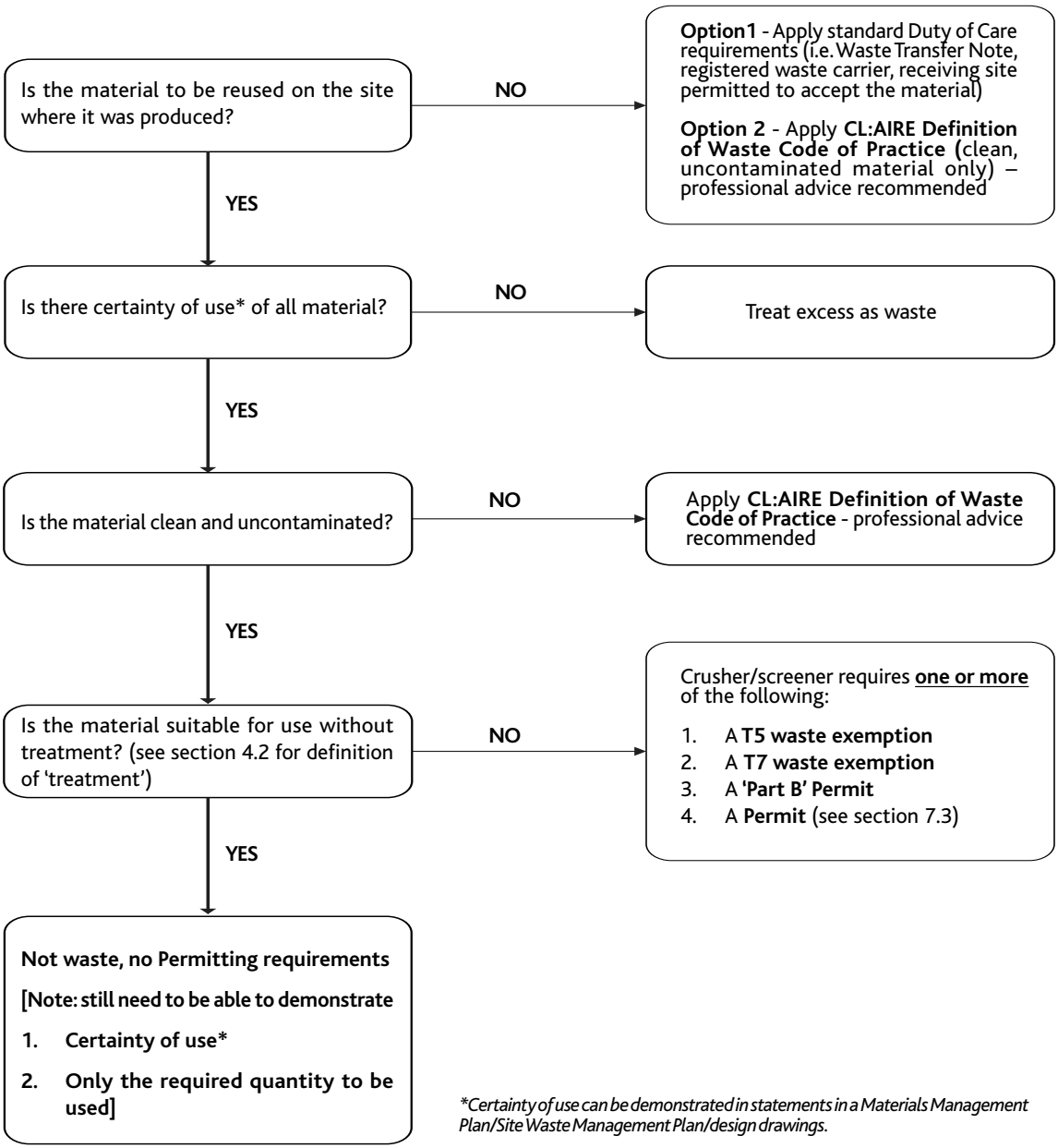
C2 - Making and using aggregate from site-won demolition waste

C3 - Importing materials to site for use

C4 - Recovery and re-use of asphalt road planings

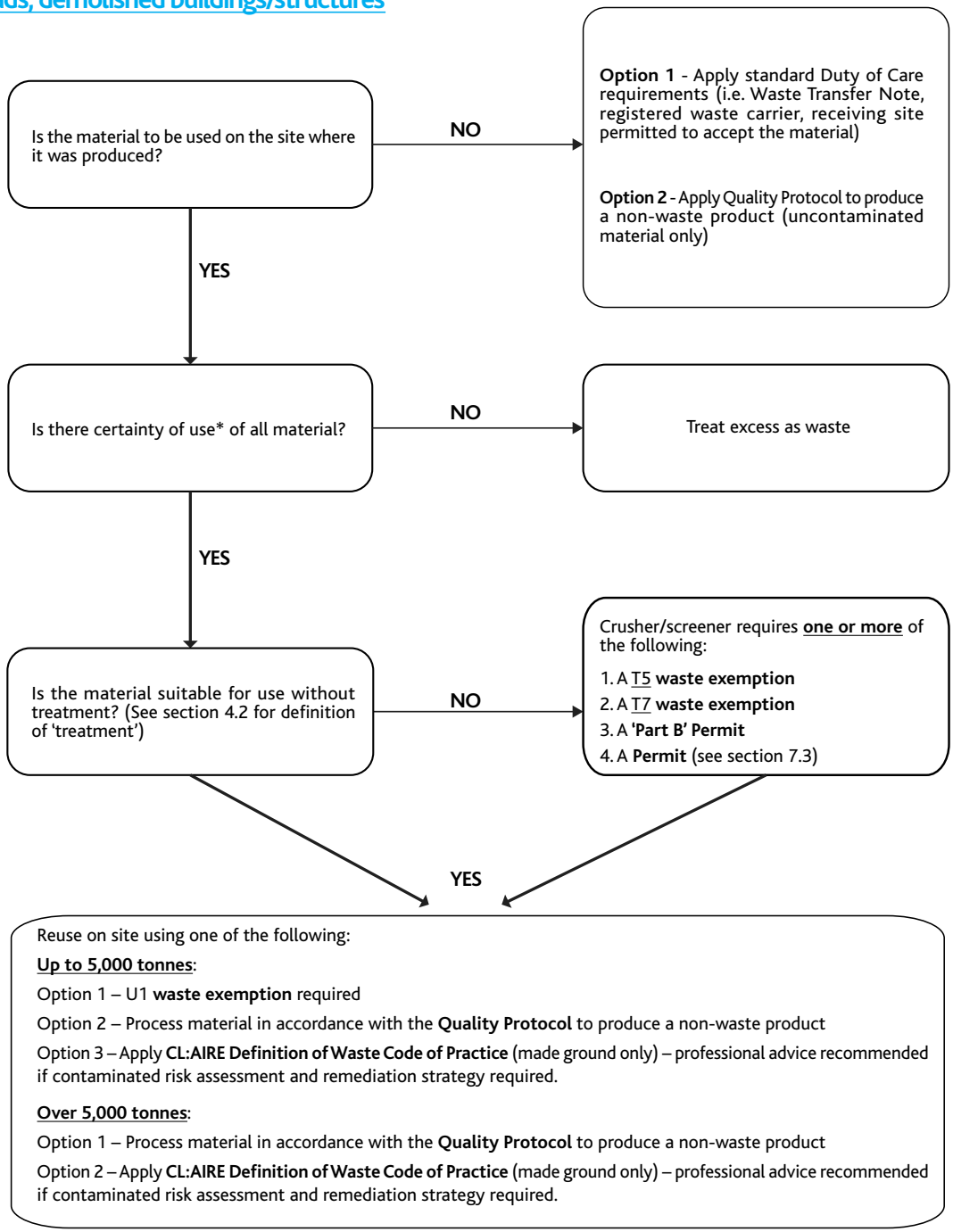
# Section A: Materials Arising on Site

## A1: Naturally occurring excavated materials - eg soils, clays, dredgings, stone, etc.



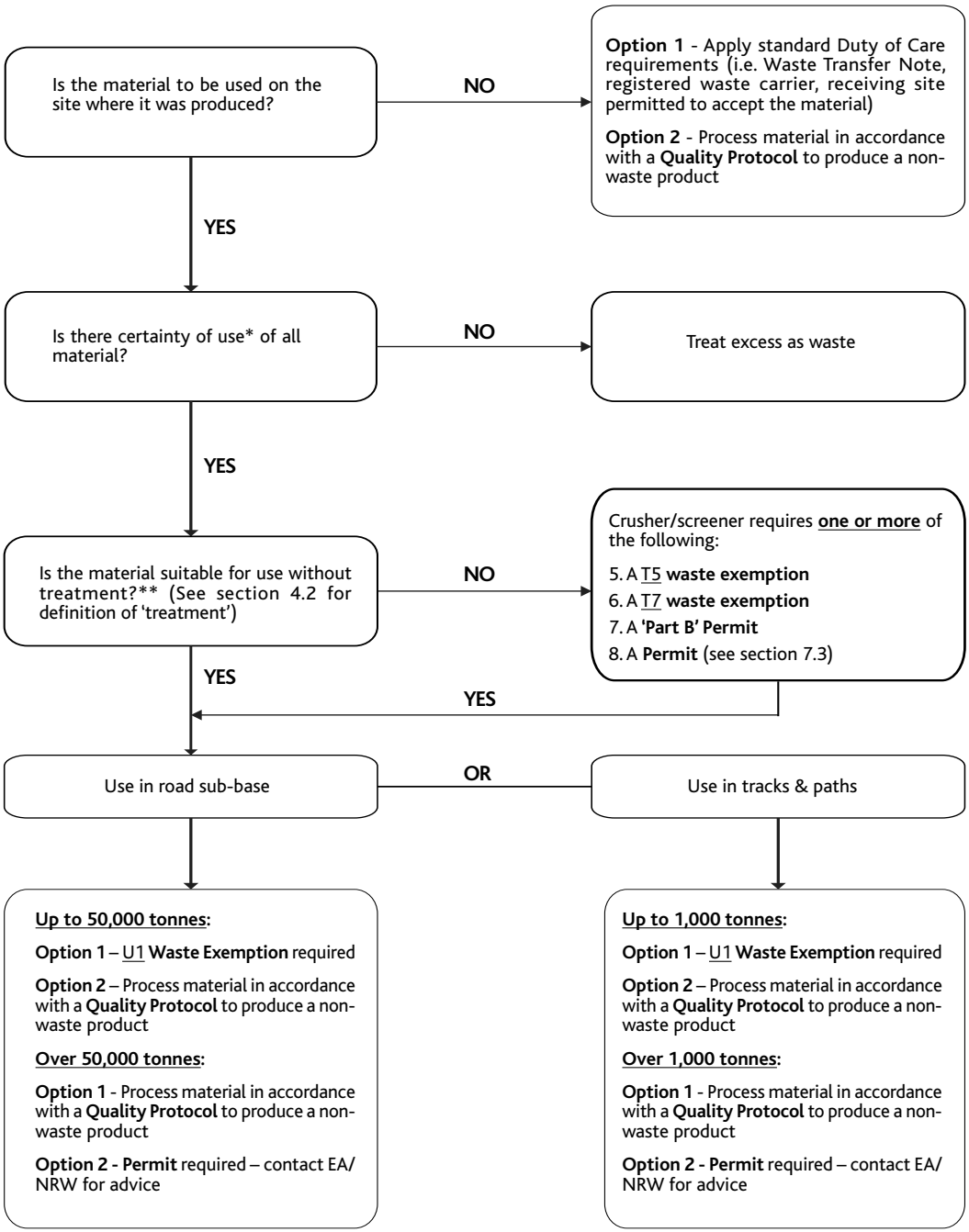

*Certainty of use can be demonstrated in statements in a Materials Management Plan/Site Waste Management Plan/design drawings.

## A2 Previously-used aggregates & demolition material, eg made ground, haul roads, demolished buildings/structures




**Certainty of use can be demonstrated by statements in Materials Management Plan/Site Waste Management Plan/design drawings*

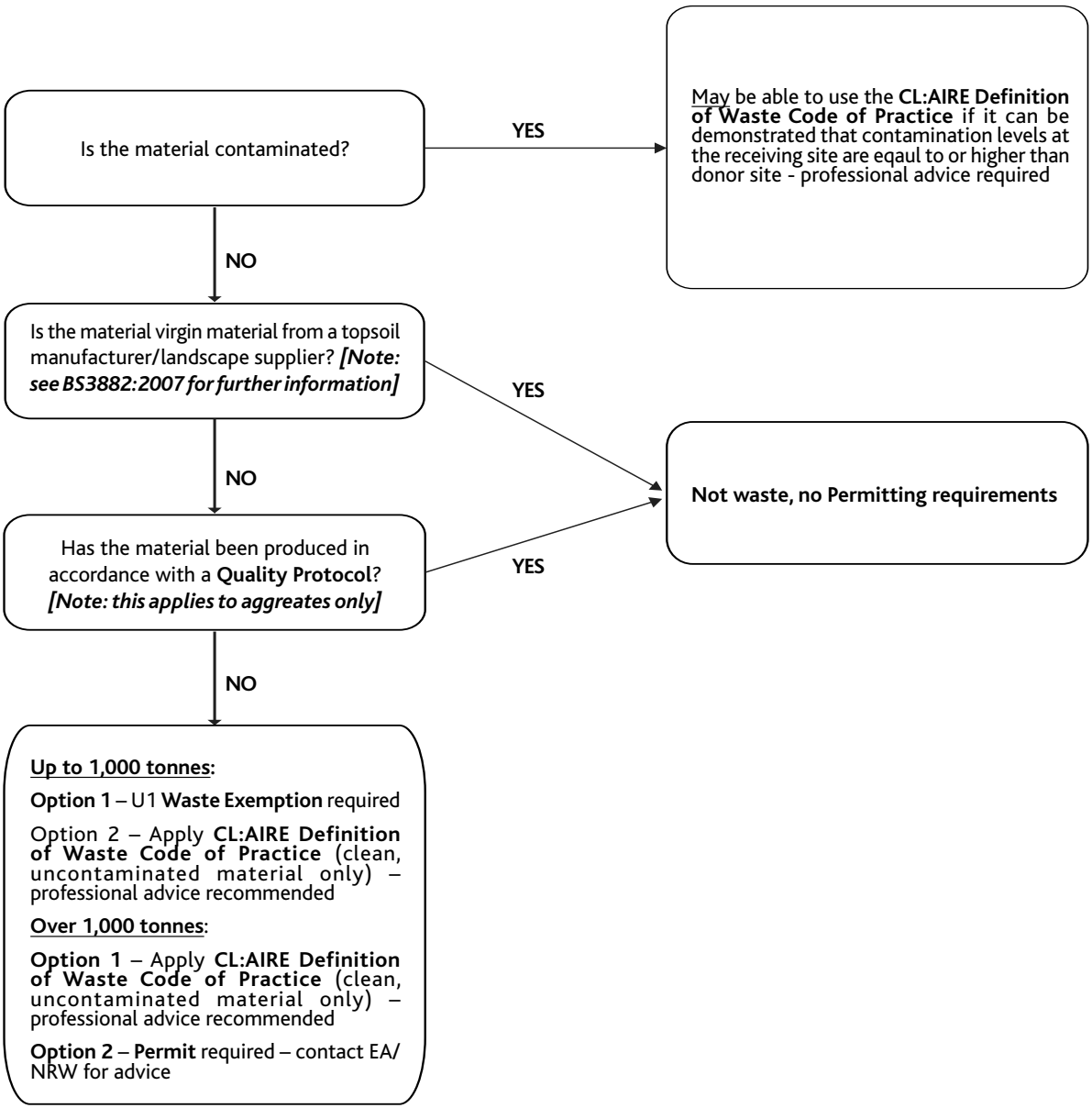
## A3 Bitumen Bound Materials (eg panings, asphalt, tarmac)



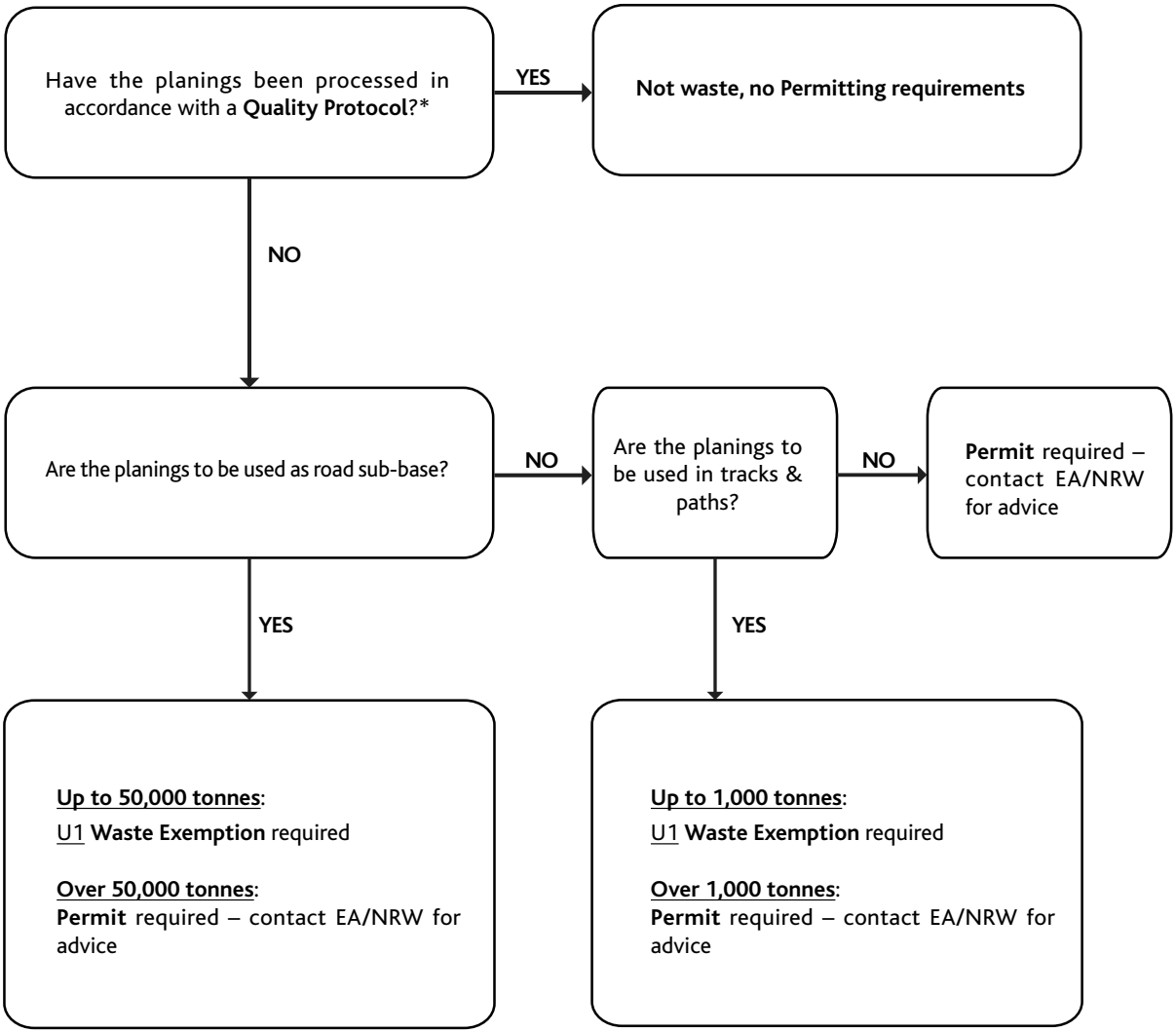

**Certainty of use can be demonstrated by statements in Materials Management Plan/Site Waste Management Plan/design drawings.*
*** Ensure that the material does not contain coal tar – follow guidance :https://www.adeptnet.org.uk/sites/default/files/documents/Managing%20Reclaimed%20Asphalt%20v2016-1a.pdf*

# Section B: Materials Being Imported To Site

## B1: Naturally Occurring Excavated Material (eg soils, clays, dredgings, stone, etc)



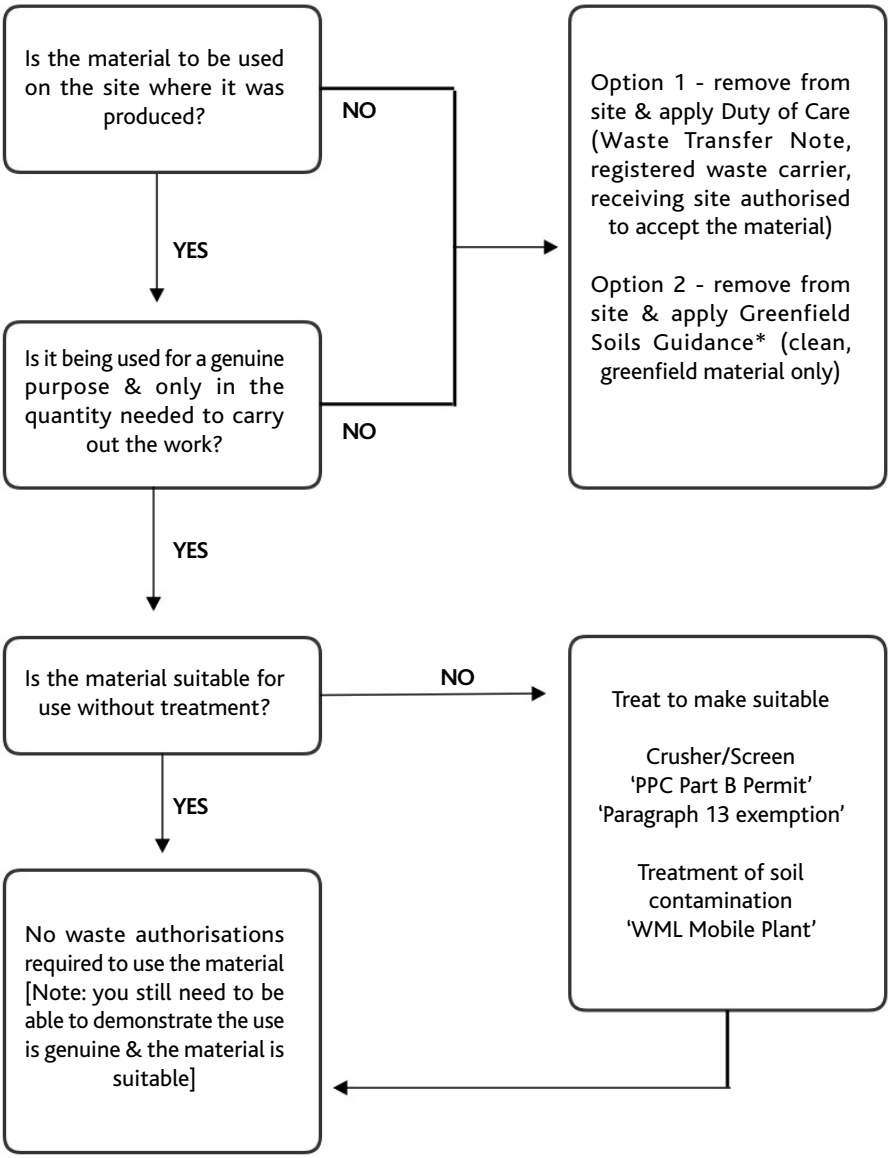
## B2: Recycled Bituminour Asphalt (planings)




**Ensure that the material does not contain coal tar - follow guidance here:*
*https://www.adeptnet.org.uk/documents/managing-reclaimed-asphalt-v2016*

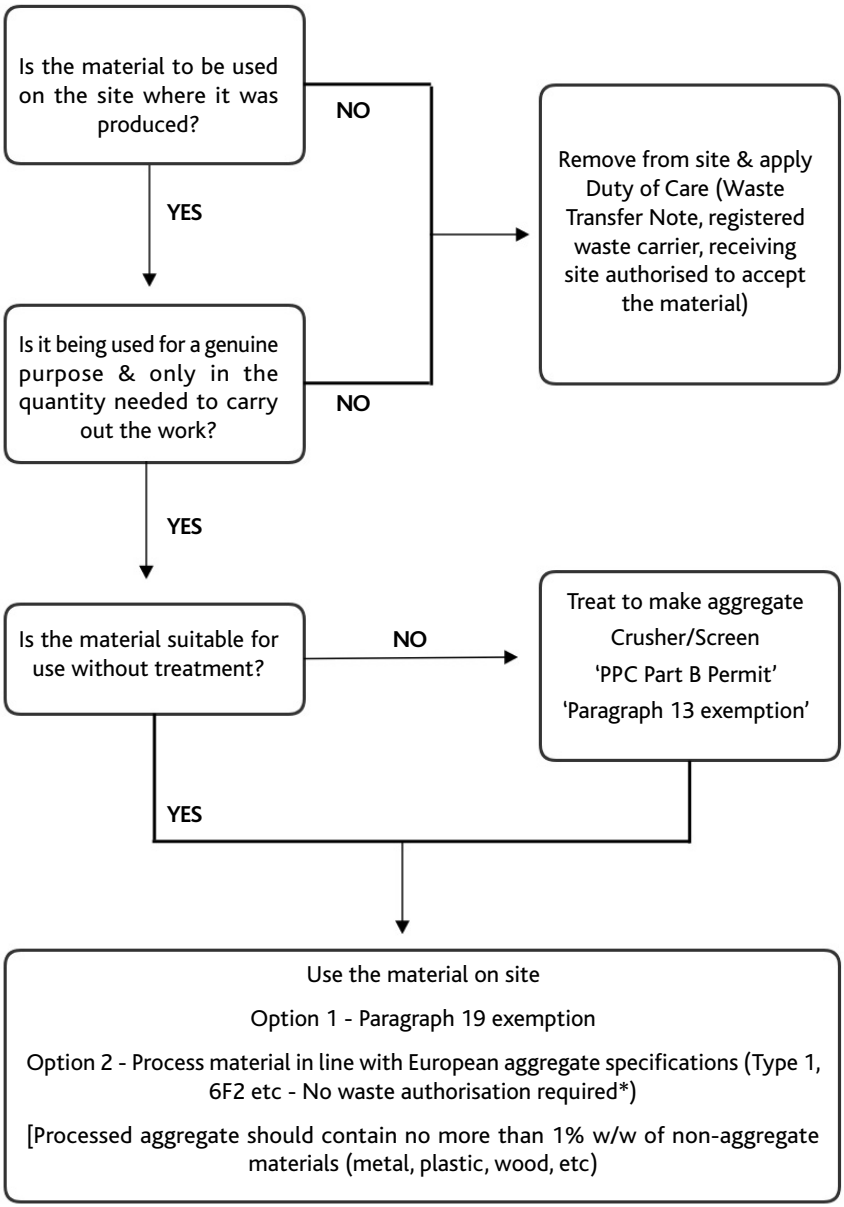
# Section C: Flow Charts Relevant To Scotland

## C1: Naturally-occurring excavated materials, eg soils, clays, dredgings, stone, etc



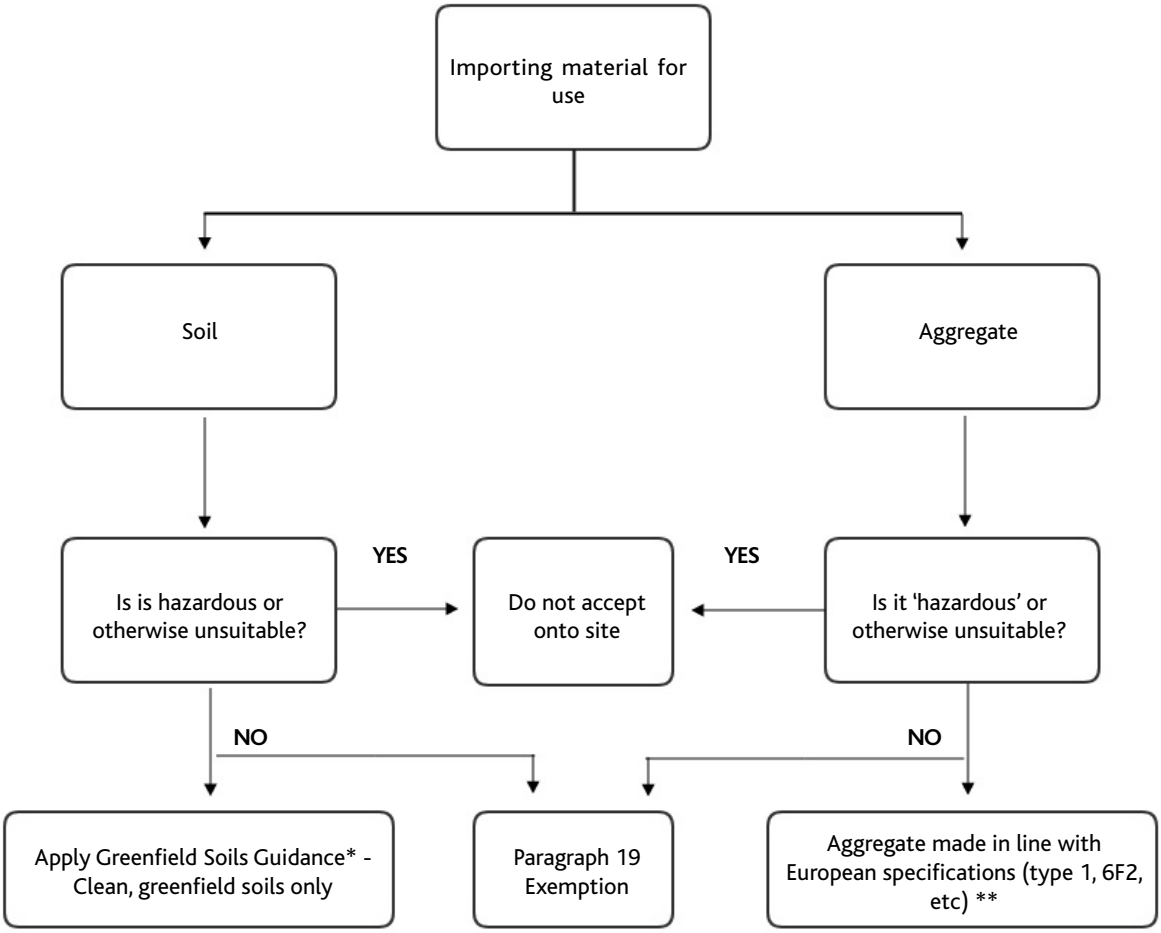

*Regulatory guidance: promoting the sustainable use of greenfield soils in construction

## C2: Making and using aggreate from site-won demolition waste




*Recycled Aggregates from Inert Waste [WST-G-033]

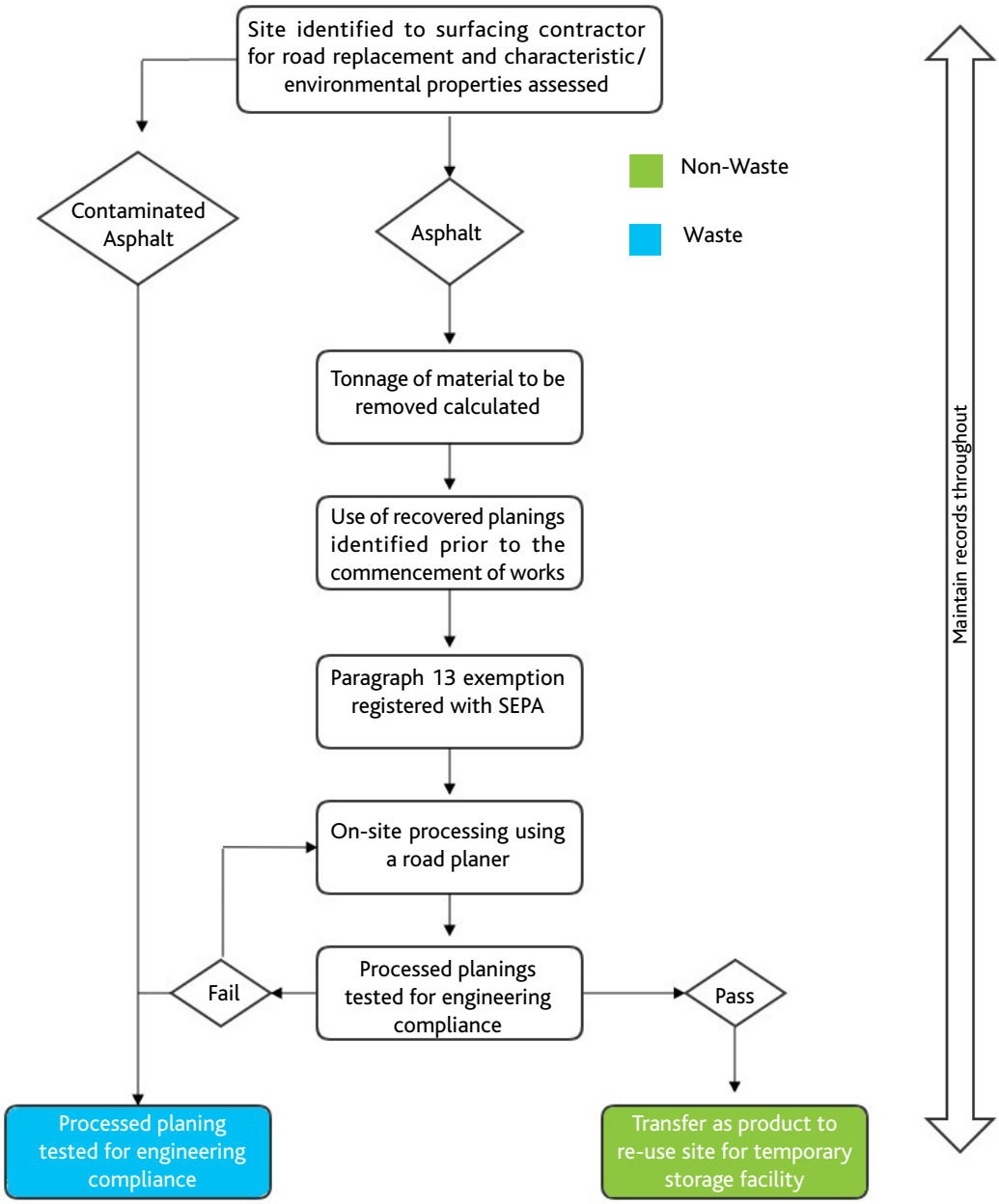
## C3: Importing materials to site for use




*Regulatory guidance: promoting the sustainable use of greenfield soils in construction

** Recycled Aggregates from Inert Waste [WST-G-033]

## C4: Recovery and re-use of asphalt road planings*




*Guidance on the production of fully-recovered asphalt road planings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