



APPENDIX 12-4

LEGISLATIVE AND POLICY FRAMEWORK



Rialtas na hÉireann
Government of Ireland



Arna chomhchistiú ag
an Aontas Eorpach
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European Union



Tionól Reigiúnach
Oirthir agus Lár-Tíre
Eastern and Midland
Regional Assembly



Fáilte
Ireland



ROS
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Comhairle Contae
Ros Comáin
Roscommon
County Council



The Hodson Bay Waterfront Park Project is co-funded by the Government of Ireland and the European Union through the EU Just Transition Fund

EIA Legislation

EIA Directive 85/337/EEC as amended by 97/11/EC and 2003/35/EC requires that certain developments be assessed for likely environmental effects before planning permission can be granted. The EIA Amendment Regulations, SI 93 OF 1999 specifies in Section 2(b) of the Second Schedule, 'Information to be contained in an Environmental Impact Statement', that among other factors, information is to be provided on:

'Material assets, including the architectural and archaeological heritage, and the cultural heritage'.

Each of these assets is addressed within this assessment report.

Cultural Heritage Legislation***Archaeological Monuments/Sites***

Archaeological heritage is protected primarily under the edited. Section 2 of the 1930 National Monuments Act defines the word 'monument' as including:

'any artificial or partly artificial building, structure, or erection whether above or below the surface of the ground and whether affixed or not affixed to the ground and any cave, stone, or other natural product whether forming part of or attached to or not attached to the ground which has been artificially carved, sculptured or worked upon or which (where it does not form part of the ground) appears to have been purposely put or arranged in position and any prehistoric or ancient tomb, grave or burial deposit, but does not include any building which is for the time being habitually used for ecclesiastical purposes'.

Under the 1994 Act, provision was made for a Record of Monuments & Places (RMP). The RMP is a revised set of SMR (Sites and Monuments Record) maps, on which newly discovered sites have been added and locations which proved not to be of antiquity have been de-listed by the National Monuments Service.

In effect, the National Monuments Act 1930-2014, as amended provide a statutory basis for:

- Protection of sites and monuments (RMPs)
- Sites with Preservation Orders
- Ownership and Guardianship of National Monuments
- Register of Historic Monuments (pre-dating AD 1700)
- Licensing of archaeological excavations
- Licensing of Detection Devices
- Protection of archaeological objects
- Protection of wrecks and underwater heritage (more than 100 years old)

In relation to proposed works at or in the vicinity of a recorded archaeological monument, Section 12 (3) of the National Monuments (Amendment) Act 1994 states:

'When the owner or occupier (not being the Commissioners) of a monument or place which has been recorded [in the Record of Monuments and Places] or any person proposes to carry out, or to cause or permit the carrying out of any work at or in relation to such monument or place, he shall give notice in writing of his proposal to carry out the work to the Commissioners and shall not, except in the case of urgent necessity and with the consent of the Commissioners, commence the work for a period of two months after having given the notice.'

Archaeological artefacts

Section 2 of the 1930 National Monuments Act (amended) defines an archaeological object as (in summary) any chattel in a manufactured or partly manufactured state or an unmanufactured state but with an archaeological or historical association. This includes ancient human, animal or plant remains.

Section 9 (1) of the National Monuments (Amendment) Act 1994 states that any such artefact recovered during archaeological investigations should be taken into possession by the licensed archaeological director and held on behalf of the state until such a time as they are deposited accordingly subsequent to consultation with the National Museum of Ireland.

Architectural Sites

In 1997 Ireland ratified the Granada Convention on architectural heritage. This provided the basis for a national commitment to the protection of the architectural heritage throughout the country. The Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act 1999 and Local Government (Planning and Development) Act 2000 made the legislative changes necessary to provide for a strengthening of the protection of architectural heritage. The former Act has helped to provide for a forum for the strengthening of architectural heritage protection as it called for the creation of a National Inventory of Architectural Heritage which is used by local authorities for compiling the Record of Protected Structures (RPS). The Record of Protected Structures (RPS) is set out in each respective county's Development Plan and provides statutory protection for these monuments.

Section 1 (1) of the Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act, 1999 states:

‘architectural heritage means all—

- (a) structures and buildings together with their settings and attendant grounds, fixtures, and fittings,
- (b) groups of such structures and buildings, and
- (c) sites, which are of architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest”.

The 1999 Act was replaced by the Local Government (Planning and Development) Act 2000 where the conditions relating to the protection of architectural heritage are set out in Part IV of the Act. Section 57 (1) of the 2000 Act states that:

‘...the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of –

- (a) the structure, or
- (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest’.