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Rooaunalaghta Green Energy Project

Appendix 16-1

Legislation protecting the archaeological resource

ROOAUNALAGHTA
Green Energy

BUILT ON KNOWLEDGE

APPENDIX 16-1 LEGISLATION PROTECTING THE ARCHAEOLOGICAL RESOURCE

1.1 PROTECTION OF CULTURAL HERITAGE

The cultural heritage in Ireland is safeguarded through national and international policy designed to secure the protection of the cultural heritage resource to the fullest possible extent (Department of Arts, Heritage, Gaeltacht and the Islands 1999, p.35). This is undertaken in accordance with the provisions of the European Convention on the Protection of the Archaeological Heritage (Valletta Convention), ratified by Ireland in 1997.

1.2 THE ARCHAEOLOGICAL RESOURCE

The National Monuments Act 1930 to 2014 and relevant provisions of the National Cultural Institutions Act 1997 are the primary means of ensuring the satisfactory protection of archaeological remains, which includes all man-made structures of whatever form or date except buildings habitually used for ecclesiastical purposes. A National Monument is described as 'a monument or the remains of a monument the preservation of which is a matter of national importance by reason of the historical, architectural, traditional, artistic or archaeological interest attaching thereto' (National Monuments Act 1930 Section 2).

A number of mechanisms under the National Monuments Act are applied to secure the protection of archaeological monuments. These include the Register of Historic Monuments, the Record of Monuments and Places, and the placing of Preservation Orders and Temporary Preservation Orders on endangered sites.

1.3 OWNERSHIP AND GUARDIANSHIP OF NATIONAL MONUMENTS

The Minister may acquire national monuments by agreement or by compulsory order. The state or local authority may assume guardianship of any national monument (other than dwellings). The owners of national monuments (other than dwellings) may also appoint the Minister or the local authority as guardian of that monument if the state or local authority agrees. Once the site is in ownership or guardianship of the state, it may not be interfered with without the written consent of the Minister.

1.3.1 REGISTER OF HISTORIC MONUMENTS

Section 5 of the 1987 Act requires the Minister to establish and maintain a Register of Historic Monuments. Historic monuments and archaeological areas present on the register are afforded statutory protection under the 1987 Act. Any interference with sites recorded on the register is illegal without the permission of the Minister. Two months' notice in writing is required prior to any work being undertaken on or in the vicinity of a registered monument. The register also includes sites under Preservation Orders and Temporary Preservation Orders. All registered monuments are included in the Record of Monuments and Places.

1.3.2 PRESERVATION ORDERS AND TEMPORARY PRESERVATION ORDERS

Sites deemed to be in danger of injury or destruction can be allocated Preservation Orders under the 1930 Act. Preservation Orders make any interference with the site illegal. Temporary Preservation Orders can be attached under the 1954 Act. These perform the same function as a Preservation Order but have a time limit of six months, after which the situation must be reviewed. Work may only be undertaken on or in the vicinity of sites under Preservation Orders with the written consent, and at the discretion, of the Minister.

1.3.3 RECORD OF MONUMENTS AND PLACES

Section 12(1) of the 1994 Act requires the Minister for Arts, Heritage, Gaeltacht and the Islands (now the Minister for the Arts, Heritage, Regional, Rural and Gaeltacht Affairs) to establish and maintain a record of monuments and places where the Minister believes that such monuments exist. The record comprises a list of monuments and relevant places and a map/s showing each monument and relevant place in respect of each county in the state. All sites recorded on the Record of Monuments and Places receive statutory protection under the National Monuments Act 1994.

1Section 12(3) of the 1994 Act provides that 'where the owner or occupier (other than the Minister for Arts, Heritage, Gaeltacht and the Islands) of a monument or place included in the Record, or any other person, proposes to carry out, or to cause or permit the carrying out of, any work at or in relation to such a monument or place, he or she shall give notice in writing to the Minister of Arts, Heritage, Gaeltacht and the Islands to carry out work and shall not, except in the case of urgent necessity and with the consent of the Minister, commence the work until two months after the giving of notice'.

Under the National Monuments (Amendment) Act 2004, anyone who demolishes or in any way interferes with a recorded site is liable to a fine not exceeding €3,000 or imprisonment for up to six months. On summary conviction and on conviction of indictment, a fine not exceeding €10,000 or imprisonment for up to five years is the penalty. In addition they are liable for costs for the repair of the damage caused.

In addition to this, under the European Communities (Environmental Impact Assessment) Regulations 1989, Environmental Impact Assessment Reports (EIAR) are required for various classes and sizes of development project to assess the impact development will have on the existing environment, which includes the cultural, archaeological and built heritage resources. These document's recommendations are typically incorporated into the conditions under which the development must proceed and thus offer an additional layer of protection for monuments which have not been listed on the RMP.

1.3.4 MAYO COUNTY DEVELOPMENT PLAN (2022-2028)

The Development Plan sets out specific objectives for the management of the archaeological resource.



BEP 1 To support and promote the protection, appropriate management and sympathetic enhancement of the county's archaeological heritage within the Plan area, in particular by implementing the Planning and Development Act 2000 (as amended) and the National Monuments Act 1930 (as amended).

BEP 2 To promote awareness of and encourage the provision of access to, the archaeological resources of the county.

BEP 3 To encourage the management and maintenance of the county's archaeological heritage, including historic burial grounds, in accordance with best conservation practice that considers the impact of climate change.

BEO 1 To protect the archaeological heritage and sites identified in the Record of Monuments and Places, National Monuments in the ownership or guardianship of the State in addition to National Monuments that are the subject of Preservation Orders, and to safeguard the integrity of the archaeological sites in their setting.

BEO 2 To protect the tentative World Heritage Site in Mayo on the UNESCO Tentative List - Ireland 2010, The Céide Fields, from inappropriate development and support its nomination to World Heritage Status.

BEO 3 To implement, in partnership with the County Mayo Heritage Forum, relevant stakeholders and the community, the County Mayo Heritage Plan and any revisions thereof.

BEO 4 To ensure that development in the vicinity of a Recorded Monument or Zone of Archaeological Potential is sited and designed in a sensitive manner, avoiding adverse effects on landscape setting and context of monument.

BEO 5 To protect all sites and features of archaeological interest discovered subsequent to the publication of the Record of Monument and Places, in situ (or at a minimum preservation by record), having regard to the advice and recommendations of the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht.

BEO 6 To protect archaeological sites, monuments, underwater archaeology and archaeological objects in their setting, which are listed on the Record of Monuments and Places for Mayo.

BEO 7 To promote awareness and the appropriate adaptation of Ireland's built and archaeological heritage to deal with the effects of climate change with reference the Built and Archaeological Heritage Climate Change and Adaptation Plan.

1.3.5 GALWAY COUNTY DEVELOPMENT PLAN (2022-2028)

The Development Plan sets out specific objectives for the management of the archaeological resource.

Policy 8.4 Archaeology

1. Protect, preserve and promote the archaeological heritage of the city including underwater archaeology in rivers, lakes, canals, marine, intertidal and subtidal environments.

2. Ensure that proposed development within the designated city centre Zone of Archaeological Notification is not detrimental to the character of an archaeological site or its setting.

3. Have regard to the archaeological recommendations of the DHLGH on any planning applications.

4. Endorse the sustainable use of archaeological heritage as an educational and cultural resource and promote public awareness of the archaeological heritage of the city.

5. Require the surveying, recording or excavation of archaeological heritage to include standing historic buildings and underwater archaeological heritage during the development process, where appropriate.

6. Seek the preservation in situ or, at a minimum, preservation by record of archaeological sites/monuments included in the Record of Monuments and Places and of previously unknown sites, features or objects of archaeological interest that are revealed through development activity.

7. Ensure that any development proposal with potential to impact on archaeological heritage, including the setting and amenity of sites and monuments, includes for an archaeological assessment. This includes within terrestrial, riverine, lacustrine, marine inter-tidal and sub-tidal environments.