

APPENDIX 16.1 RELEVANT LEGISLATION

National Monuments Legislation (1930 – 2004)

The National Monument Act, 1930 (as amended) provides the formal legal mechanism to protect monuments in Ireland. Protection of a monument is provided via: -

- Record of Monuments and Places (RMP);
- National Monument in the ownership or guardianship of the Minister for Arts, Heritage, Regional, Rural & Gaeltacht Affairs or a Local Authority;
- National Monument subject to a Preservation Order (or temporary Preservation Order);
- Register of Historic Monuments (RHM).

The definition of a monument is specified as: -

“any artificial or partly artificial building, structure or erection or group of such buildings, structures or erections;

any artificial cave, stone or natural product, whether forming part of the ground, that has been artificially carved, sculptured or worked upon or which (where it does not form part of the place where it is) appears to have been purposely put or arranged in position;

any, or any part of any, prehistoric or ancient tomb, grave or burial deposit, or (ii) ritual, industrial or habitation site; and

any place comprising the remains or traces of any such building, structure or erection, any cave, stone or natural product or any such tomb, grave, burial deposit or ritual, industrial or habitation site.”

Under Section 14 of the Principal Act (1930): -

“It shall be unlawful...

to demolish or remove wholly or in part or to disfigure, deface, alter, or in any manner injure or interfere with any such national monument without or otherwise than in accordance with the consent hereinafter mentioned (a licence issued by the Office of Public Works National Monuments Branch),

or

to excavate, dig, plough or otherwise disturb the ground within, around, or in the proximity to any such national monument without or otherwise than in accordance...

Under Amendment to Section 23 of the Principal Act (1930): -

“A person who finds an archaeological object shall, within four days after the finding, make a report of it to a member of the Garda Síochána...or the Director of the National Museum...”

The latter is of relevance to any finds made during a watching brief.

In the 1994 Amendment of Section 12 of the Principal Act (1930), all the sites and ‘places’ recorded by the Sites and Monuments Record of the Office of Public Works are provided with a new status in law. This new status provides a level of protection to the listed sites that is equivalent to that accorded to ‘registered’ sites [Section 8(1), National Monuments Amendment Act 1954] as follows: -

“The Commissioners shall establish and maintain a record of monuments and places where they believe there are monuments and the record shall be comprised of a list of monuments and such places and a map or maps showing each monument and such place in respect of each county in the State.

The Commissioners shall cause to be exhibited in a prescribed manner in each county the list and map or maps of the county drawn up and publish in a prescribed manner information about when and where the lists and maps may be consulted.

In addition, when the owner or occupier (not being the Commissioners) of a monument or place which has been recorded, 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."

The National Monuments Amendment Act enacted in 2004 provides clarification in relation to the division of responsibilities between the Minister of Environment, Heritage and Local Government, Finance and Arts, Sports and Tourism together with the Commissioners of Public Works. The Minister of Environment, Heritage and Local Government will issue directions relating to archaeological works and will be advised by the National Monuments Section and the National Museum of Ireland. The Act gives discretion to the Minister of Environment, Heritage and Local Government to grant consent or issue directions in relation to road developments (Section 49 and 51) approved by An Bord Pleanála and / or in relation to the discovery of National Monuments.

14A. (1) The consent of the Minister under section 14 of this Act and any further consent or licence under any other provision of the National Monuments Acts 1930 to 2004 shall not be required where the works involved are connected with an approved road development.

14A. (2) Any works of an archaeological nature that are carried out in respect of an approved road development shall be carried out in accordance with the directions of the Minister, which directions shall be issued following consultation by the minister with the Director of the National Museum of Ireland.

Subsection 14A (4) Where a national monument has been discovered to which subsection (3) of this section relates, then the road authority carrying out the road development shall report the discovery to the Minister subject to subsection (7) of this section, and pending any directions by the Minister under paragraph (d) of this subsection, no works which would interfere with the monument shall be carried out, except works urgently required to secure its preservation carried out in accordance with such measures as may be specified by the Minister.

The Minister will consult with the Director of the National Museum of Ireland for a period not longer than 14 days before issuing further directions in relation to the national monument.

The Minister will not be restricted to archaeological considerations alone, but will also consider the wider public interest.

Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act, 1999

This Act provides for the establishment of a national inventory of architectural heritage and historic monuments.

Section 1 of the act defines "architectural heritage" as: -

*"(a) all 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."

Section 2 of the Act states that the Minister (for Arts, Heritage, Gaeltacht and the Islands) shall establish the NIAH, determining its form and content, defining the categories of architectural heritage, and specifying to which category each entry belongs. The information contained within the inventory will be made available to planning authorities, having regard to the security and privacy of both property and persons involved.

Section 3 of the Act states that the Minister may appoint officers, who may in turn request access to premises listed in the inventory from the occupiers of these buildings. The officer is required to inform the occupier of the building why entry is necessary, and in the event of a refusal, can apply for a warrant to enter the premises.

Section 4 of the Act states that obstruction of an officer or a refusal to comply with requirements of entry will result in the owner or occupier being guilty of an offence.

Section 5 of the Act states that sanitary authorities who carry out works on a monument covered by this Act will as far as possible preserve the monument with the proviso that its condition is not a danger to any person or property, and that the sanitation authority will inform the Minister that the works have been carried out.

The provisions in the Act are in addition to and not a substitution for provisions of the National Monument Act (1930 – 94), and the protection of monuments in the National Monuments Act is extended to the monuments covered by the Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act (1999).

APPENDIX 16.2 GLOSSARY OF IMPACT ASSESSMENT AND ASSESSMENT METHODOLOGY

GLOSSARY OF IMPACTS

1.1 Types of Impacts

Potential impacts on the receiving archaeological and cultural heritage environment can be described as direct physical impacts, indirect physical impacts, and impacts on setting.

Direct physical impacts are those development activities that directly cause damage to the fabric of a heritage asset. Typically, these activities are related to construction works; e.g. they could include excavation of foundations, earthmoving / site preparation creation of access roads, cycle paths, and the excavation of service trenches.

Indirect physical impacts are those processes, triggered by development activity, that lead to the degradation of heritage assets.

Impacts on the setting of heritage assets describe how the presence of a development changes the surroundings of a heritage asset (archaeological, or cultural heritage sites) in such a way that it affects (positively or negatively) the heritage significance of that asset. Visual impacts are most commonly encountered but other environmental factors such as noise, light or air quality can be relevant in some cases. Such impacts may be encountered at all stages in the life cycle of a development from construction to decommissioning but they are only likely to be considered significant during the prolonged operational life of the development.

Types of impact, as defined by the Draft EPA Guidelines on Information to be Contained in Environmental Impact Assessment Reports (hereafter referred to as the EPA Guidelines) (EPA 2017):

- *Cumulative Impact* – The addition of many small impacts to create one larger, more significant, impact.
- *Do Nothing Impact* – The environment as it would be in the future should no development of any kind be carried out.
- *Indeterminable Impact* – When the full consequences of a change in the environment cannot be described.
- *Irreversible Impact* – When the character, distinctiveness, diversity or reproductive capacity of an environment is permanently lost.
- *Residual Impact* – The degree of environmental change that will occur after the proposed mitigation measures have taken effect.
- *'Worst case' Impact* – The impacts arising from a development in the case where mitigation measures substantially fail.
- *Indirect or Secondary Impacts* – Effects that arise off-site or are caused by other parties that are not under the control of the developer. Effects which are caused by the interaction of effects, or by associated or off-site projects.

1.2 Quality of Impact

Impacts on the archaeological environment are assessed in terms of their quality, i.e. positive, negative, neutral: -

- **Negative Impact:** A change that will detract from or permanently remove an archaeological monument from the landscape;
- **Neutral Impact:** A change that does not affect the archaeological heritage; and
- **Positive Impact:** A change that improves or enhances the setting of an archaeological monument.

1.3 Duration of Impact

The duration of an impact can be as follows:

- Temporary Impact: Impact lasting for one year or less;
- Short-term Impacts: Impact lasting one to seven years;
- Medium-term Impact: Impact lasting seven to fifteen years;
- Long-term Impact: Impact lasting fifteen to sixty years; and
- Permanent Impact: Impact lasting over sixty years.

2 ASSESSMENT METHODOLOGY

2.1 Introduction

This assessment methodology has regard to the EPA assessment criteria (EPA 2017) and to the National Roads Authority (NRA) Guidelines for the Assessment of Archaeological Heritage Impact of National Road Schemes (hereafter referred to as the NRA Guidelines) (NRA 2005).

Archaeological architectural heritage and cultural heritage sites are a non-renewable resource and such assets are generally considered to be location sensitive. In this context, any change to their environment, such as construction activity and ground disturbance works, could adversely affect these sites.

2.2 Significance / Sensitivity Criteria

In accordance with EPA Guidelines (EPA 2017), the context, character, significance and sensitivity of each archaeological, architectural heritage / cultural heritage asset requires evaluation, and the significance of the impact is then determined by considering the significance / sensitivity of the asset and the predicted magnitude of the impact.

In accordance with the NRA Guidelines (NRA 2005), the significance criteria used to evaluate an archaeological site, monument or complex take into account the character and integrity of the asset and any available data regarding it. This can be ascertained by looking at the following criteria cited in the NRA Guidelines (NRA 2005): the existing status (level of protection), condition or preservation, documentation or historical significance, group value, rarity, visibility in the landscape, fragility or vulnerability, and amenity value (Table 1). While these criteria contribute to the significance of a feature they should not be treated as definitive. These criteria are indicators which contribute to a wider judgement based on the individual circumstances of these archaeological/cultural heritage assets.

An evaluation of the significance / sensitivity of heritage assets is based on its designation and the extent to which these assets contribute to the archaeological or built heritage environment, though their individual or group qualities, either directly or potentially. Table 1 presents the scale of significance / sensitivity together with criteria.

Sensitivity Value	Criteria
High	Sites of international significance: World Heritage Sites National Monuments Protected Structures (assessed by the NIAH to be of international and national importance) Designed landscapes and gardens of national importance Architectural Conservation Areas Undesignated archaeological, architectural and/ or cultural heritage sites.

Sensitivity Value	Criteria
Medium	<p>Recorded Monuments (RMP sites & SMR sites scheduled for inclusion in the next revision of the RMP)</p> <p>Protected Structures (assessed by the NIAH to be of regional importance)</p> <p>NIAH – Building and Garden Survey</p> <p>Newly identified archaeological sites, confirmed through archaeological investigation or research, to be added to the SMR.</p> <p>Undesignated archaeological, architectural and/or cultural heritage sites.</p>
Low	<p>Sites listed National Inventory of Architectural Heritage (NIAH) Building for which there are no upstanding remains.</p> <p>Undesignated archaeological, architectural and/or cultural heritage sites.</p> <p>Undisturbed greenfield areas and riverine environs, which have an inherent archaeological potential.</p>
Negligible	<p>Assets with very little or no surviving archaeological, architectural and cultural heritage interest.</p>

Table 1: Sensitivity Criteria.

3. Magnitude of Impact

- When considering the impact magnitude (Table 2), the following criteria need to be considered: -
- Extent – size, scale and spatial distributions of the impact.
- Duration – period of time over which the impact will occur.
- Frequency – how often the impact will occur.
- Context – how will the extent, duration and frequency contrast with the accepted baseline conditions.

Criteria	Impact Magnitude
<p>These impacts arise where an archaeological, architectural and cultural heritage asset is completely and irreversibly destroyed by a proposed development. A change such that the value of the asset is totally altered or destroyed, leading to a complete loss of character, integrity and data about the site.</p>	High
<p>An impact which, by its magnitude, duration or intensity alters an important / significant aspect of the environment. An impact like this would be where an archaeological, architectural and cultural heritage asset would be impacted upon leading to a significant loss of character, integrity and data about the site.</p> <p>Or an impact which by its magnitude results in the partial loss of a historic structure (including fabric loss or alteration) or grounds including the part removal of buildings or features or part removal of demesne land (e.g. severance, visual intrusion or degradation of setting and amenity).</p> <p>A permanent positive impact that enhances or restores the character and / or setting of a cultural heritage site or upstanding archaeological and architectural heritage site in a clearly noticeable manner.</p>	Medium
<p>A low impact arises where a change to the site is proposed which though noticeable is not such that the archaeological, architectural and cultural heritage character /</p>	Low

Criteria	Impact Magnitude
integrity of the site is significantly compromised, and where there is no significant loss of data about the site. A positive impact that results in partial enhancement of the character and / or setting of a cultural heritage site, upstanding archaeological, architectural heritage site in the medium to long-term.	
An impact which causes very minor changes in the character of the environment and does not directly impact an archaeological, architectural and cultural heritage asset, or affect the appreciation or significance of the asset. There would be very minor changes to the character and integrity of the asset and no loss of data about the site.	Negligible

Table 2: Magnitude of Impact Criteria.

4. Significance of Impact

The significance of the impact is determined by considering the significance of the asset and the predicted magnitude of the impact (Image 1).

The likely significance of impacts is determined in consideration of the magnitude of the impact and the baseline rating upon which the impact has an effect. The impact significance is defined as imperceptible, slight, moderate, significant, very significant and or profound (Table 3).

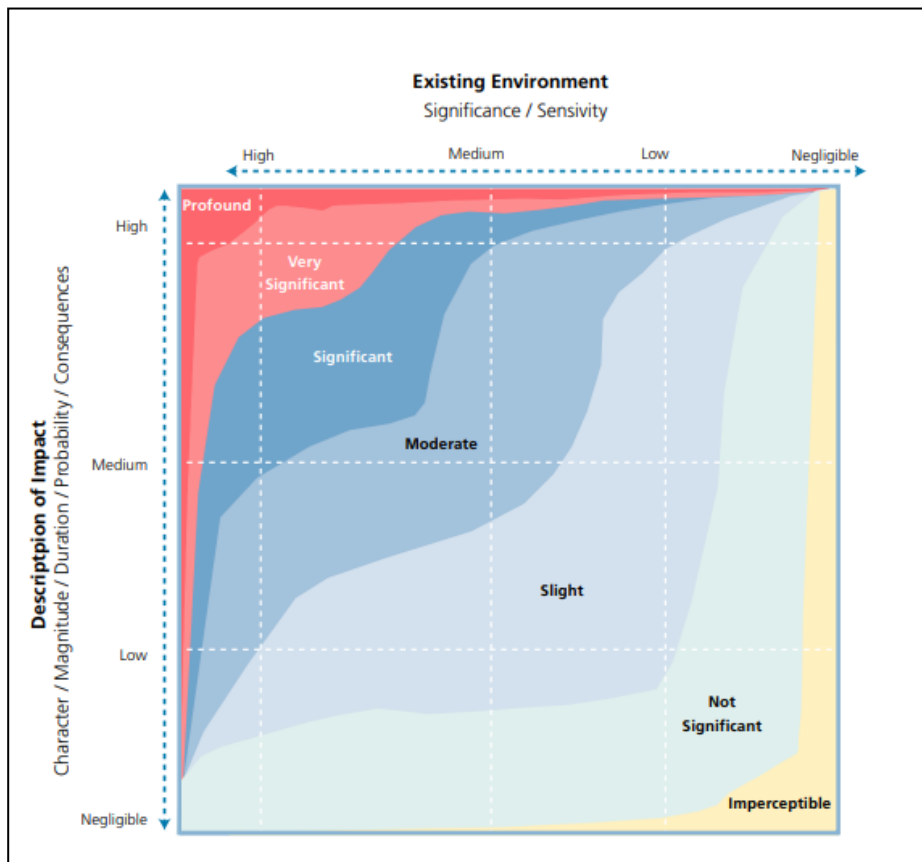


Image 1: Taken from Description of Impacts from the Draft EPA Revised Guidelines on Information to be Contained in EIS (EPA 2017, Figure 3.5)

Impact	Definition
Imperceptible	An impact capable of measurement but without noticeable consequences.
Not Significant	An impact which causes noticeable changes in the character of the environment but without significant consequences.
Slight	An impact which causes minor changes in the character of the environment and does not affect the cultural heritage asset in a moderate or significant manner.
Moderate	A moderate impact arises where a change to the site is proposed which though noticeable, does not lead to a significant loss of character, integrity and data about the heritage asset.
Significant	An impact which, by its magnitude, duration or intensity, alters an important aspect of the environment. An impact like this would be where part or all of a site would be permanently impacted upon, leading to a significant loss of character, integrity and data about the archaeological/ architectural or cultural heritage asset.
Very Significant	An impact which, by its character, magnitude, duration or intensity significantly alters most of or all of a very sensitive aspect of the environment.
Profound	Applies where mitigation would be unlikely to remove adverse impacts. Reserved for adverse, negative impacts only. These impacts arise where an archaeological / architectural or cultural heritage asset is completely and irreversibly destroyed by a proposed development.

Table 3: Defining Significance of Impacts.

5 Definition of Site Designations

World Heritage Sites and National Monuments

World Heritage sites, National Monuments, and assets of acknowledged international importance or that can contribute significantly to international and national research objectives, are considered to be of high importance.

The National Monuments Act (1930, Section 2) defines a ‘National Monument’ 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”.

The National Monuments legislation legally protects access to and the visual amenity associated with National Monuments and requires consent from the Minister for invasive works in their vicinity.

Recorded Monuments

The primary source of information for archaeology is the Record of Monuments and Places (RMP) maintained by the Department of Culture, Heritage and the Gaeltacht (DCHG). The RMP documents known upstanding archaeological monuments, their original location (in cases of destroyed monuments) and the position of possible sites in rural areas identified as cropmarks on vertical aerial photographs dating to before 1700 AD (with some later ones also being included). It is based on a comprehensive range of published and publicly available documentary and cartographic sources.

For the purpose of the assessment, the Sites and Monument Record (SMR) data and mapping as updated by the Archaeological Survey of Ireland (www.archaeology.ie) was examined so it could be used within an interactive identification and mapping system developed for Proposed Project.

Zones of Archaeological Potential

Zones of archaeological potential (ZAP) can be defined as areas within the urban and rural landscape that possess the potential to contain archaeological remains due to the settlement history of a place and or to the presence of topographical features such as rivers, lakes and high, defensible ground.

Non-Designated Sites

Newly identified archaeological sites that have been confirmed through archaeological investigation (monitoring, testing, excavation, geophysical survey) are considered to be of medium importance. Such sites are undesignated as they have yet to be added to the SMR.

Potential or undesignated archaeological sites identified through aerial photography, historic mapping, stray finds are considered to be of low sensitivity, as they have yet to be ground-truthed through archaeological investigation. Similarly, undisturbed greenfield areas and riverine environs, which have an inherent but as yet unproven archaeological potential are considered to be of low sensitivity.

The DCIHR provided by Dublin City Council (DCC) is based on a paper survey only and where there are no upstanding remains of the industrial heritage sites, the survival of below-ground sites cannot be confirmed; as such the sensitivity is considered to be low.

6. Relevant Guidelines and Standards

Code of Practice for Archaeology agreed between the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs and Transport Infrastructure Ireland, 2017.

Code of Practice for Archaeology agreed between the Minister for Environment, Heritage and Local Government and EirGrid, 2009.

Council of Europe (2005). Framework Convention on the Value of Cultural Heritage for Society, 'Faro Convention'.

Department of Arts, Heritage, Gaeltacht and the Islands (1999). Framework and Principles for the Protection of the Archaeological Heritage.

DAHG (2015). National Landscape Strategy for Ireland 2015 – 2025.

Department of Arts, Heritage and the Gaeltacht (2011). Architectural Heritage Protection Guidelines for Planning Authorities.

National Roads Authority (NRA) (2005). Guidelines for the Assessment of Archaeological Heritage Impact of National Road Schemes.