

## Appendix 15 – 2 – Legislative Context



## Legislative Context

The European Convention on the Protection of the Archaeological Heritage (Valletta Convention), 1997

In 1997 Ireland ratified the Council of Europe, European Convention on the Protection of the Archaeological Heritage (the 'Valletta Convention'). Obligations under the Convention include provision for statutory protection measures, including the maintenance of an inventory of the archaeological heritage and the designation of protected monuments and areas.

The European Convention on the Protection of the Architectural Heritage (Granada Convention), 1997

Under this convention Ireland is obliged to maintain inventories of architectural heritage, to protect the architectural heritage and adopt conservation policies as integrated planning objectives.

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) World Heritage Convention, 1972

This Convention provides for the identification, conservation, and preservation of cultural and natural sites of outstanding universal value for inclusion in a world heritage list. The World Heritage status is a non-statutory designation, and no additional statutory controls result from this designation. However, the impact of proposed development upon a World Heritage Site will be a key material consideration in determining planning applications.

ICOMOS Xi'an Declaration on the Conservation of the Setting of Heritage Structures, Sites and Areas, 2005

Ireland is a signatory to an international declaration sponsored by International Council on Monuments and Sites (ICOMOS) that endeavours to ensure the safeguard and conservation of the World's cultural heritage as part of its sustainable and human development.

The European Landscape Convention 2000

In 2002 Ireland ratified the European Landscape Convention - also known as the Florence Convention, which promotes the protection, management and planning of European landscapes and organises European co-operation on landscape issues. It is the first international treaty to be exclusively concerned with all dimensions of European landscape.

The National Monuments Act 1930, as amended

Irish legislation for the protection of archaeological heritage is based on the National Monuments Acts 1930 and amendments of 1954, 1987, 1994 and 2004. These acts are the principal statutes governing the care of monuments in Ireland and also provide for the protection of archaeological monuments through the use of preservation orders. The overall state archaeological service is provided by the National Monuments Service of the Department of Housing, Local Government and Arts, Heritage (DHLGH) and the Gaeltacht (DAHG) and the National Museum of Ireland (Irish Antiquities Division) on behalf of the Minister.

Monuments are protected under the National Monuments Acts in several a number of ways:

- National Monuments in the ownership or guardianship of the Minister or a local authority.;
- National Monuments, which are subject to a preservation order.;
- Historic monuments or archaeological areas recorded in the Register of Historic Monuments (RHM);
- Monuments and Zones of Notification recorded in the Record of Monuments and Places (RMP); and
- Monuments and Zones of Notification recorded in the Archaeological Survey Database (ASD).

The Planning and Development Act 2000, as amended

Under arrangements which came into operation on 1 January 2000 (The Planning and Development Act 2000), the system of listing buildings was replaced with strengthened procedures for the preservation of Protected Structures and structures in Architectural Conservation Areas (ACA).

The Architectural Heritage and Historic Properties Act, 1999

This Act provides for the establishment of a National Inventory of Architectural Heritage which forms the basis of recommendations from the Minister to local authorities of structures for inclusion in their Record of Protected Structures. The Act does not afford protection to structures included in the inventory, however if a structure is incorporated into the RPS then legal protection is afforded under the Planning and Development Act 2000.

### **Other Policy Contexts and Guidelines**

The Framework and Principles for the Protection of the Archaeological Heritage guidelines, 1999

This document sets out the basic principles of national policy on the protection of the archaeological heritage. A key principle set out in these guidelines is that there should always be a presumption in favour of avoidance of developmental impacts on the archaeological heritage and preservation in-situ of archaeological sites and monuments must be presumed to be the preferred option.

County Development Plans

The legal basis for the process of making and adopting development and local area plans is set out in the Planning and Development Act 2000. Development plans work within the framework of both the National Spatial Strategy and Regional Planning Guidelines. Development plans play a central role in the identification and protection of the natural and built environment and provide general policies on the same. For the purposes of this chapter the Donegal County Development Plan 2018 - 2024 was reviewed and assessed in relation to their cultural heritage policies and objectives.

A more recent instrument used by local authorities to indicate heritage areas of particular sensitivity is the adoption of Landscape Conservation Areas (LCAs). This designation is provided for in Section 204 of the Planning and Development Acts 2000- 2022