

Oweninny Wind Farm Phase 3

Environmental Impact Assessment Report

**Appendix 18.3 Legislation Protecting the Archaeological
Resource**

APPENDIX 18.3 LEGISLATION PROTECTING THE ARCHAEOLOGICAL RESOURCE

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, 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.

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.

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.

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.

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.

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 Department of Housing, Local Government and Heritage) 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. All recorded monuments on the proposed development site are represented on the accompanying maps.

Section 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 case of urgent necessity and with the consent of the Minister, commence the work until two months after 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 6 months. On summary conviction and on conviction of indictment, a fine not exceeding €10,000 or imprisonment for up to 5 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 Statements (EIS) are required for various classes and sizes of development project to assess the impact the proposed 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 proposed development must proceed, and thus offer an additional layer of protection for monuments which have not been listed on the RMP.

THE PLANNING AND DEVELOPMENT ACT 2000

Under planning legislation, each local authority is obliged to draw up a Development Plan setting out their aims and policies with regard to the growth of the area over a five-year period. They cover a range of issues including archaeology and built heritage, setting out their policies and objectives with regard to the protection and enhancement of both. These policies can vary from county to county. The Planning and Development Act 2000 recognises that proper planning and sustainable development includes the protection of the archaeological heritage. Conditions relating to archaeology may be attached to individual planning permissions.

Mayo County Development Plan (2014-2020)

Archaeological Heritage

AoH-01 It is an objective of the Council to:

- a) Protect the archaeological heritage and especially sites identified in the Record of Monuments and Places, National Monuments in the ownership or guardianship of the State, and National Monuments that are the subject of Preservation Orders, and to safeguard the integrity of the archaeological sites in their setting
- b) Require that planning applications within the zones of archaeological potential as outlined in the Record of Monuments and Places include an archaeological assessment as set out in the Development Guidance document¹⁵ accompanying this Plan.
- c) Require that all large scale planning applications (i.e. development of lands on 0.5 ha or more in area or 1km or more in length) include an archaeological assessment as set out in the Development Guidance document¹⁶ accompanying this Plan.
- d) Facilitate appropriate guidance in relation to the protection of the archaeological heritage in the County.
- e) Promote public awareness and appreciation of the archaeological heritage of the County.
- f) 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.
- g) Facilitate public access to National Monuments in State care or in the ownership of the State where it can be demonstrated that the development will not have significant adverse effects on the environment, the integrity of the Natura 2000 network, residential amenity or visual amenity.
- h) Ensure the preservation of National Monuments that are the subject of Preservation Orders and features of archaeological interest in areas that are identified as Zones of Archaeological Potential in the Record of Monuments and Places.
- i) Protect, enhance and promote awareness of the industrial heritage of the County.
- j) Protect historic burial grounds within the County and encourage their maintenance in accordance with best conservation principles

Draft Mayo County Development Plan (2021-2027)

Archaeological Heritage Policies

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.

Archaeological Heritage Objectives

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.