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APPENDIX 14-3

LEGISLATION (ARCHAEOLOGY)

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 Acts 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 in the Republic of Ireland. 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. The Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 was enacted in October 2023. Most of the Act has not yet entered force, pending ministerial Commencement Orders that will repeal the National Monuments Acts and institute new provisions equipped to cater for the protection of historic heritage in a modern era.

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.

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 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,

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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 Project 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 Project 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, AS AMENDED

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, as amended, 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.

GALWAY COUNTY DEVELOPMENT PLAN 2022-2028

The Galway County Development Plan 2022-2028 (GCDP) outlines policies relating to archaeological heritage:

ARC 1 Legislative Context

Support and promote the preservation, conservation and appropriate management and enhancement of the County’s archaeological sites and monuments, together with the settings of these monuments, having regard to the legislative, statutory and policy provisions relevant to the conservation of the archaeological heritage.

ARC 2 Archaeological Sites

Seek to encourage and promote awareness of and access to archaeological heritage of the County for all, through the provision of information to landowners and the community generally, in cooperation with statutory and other partners.

ARC 3 Archaeological Landscapes

To facilitate where possible the identification of important archaeological landscapes in the County.

ARC 4 Protection of Archaeological Sites

Protect archaeological sites and monuments their settings and visual amenity and archaeological objects and underwater archaeological sites that are listed in the Record of Monuments and Places, in the ownership/guardianship of the State, or that are subject of Preservation Orders or have been registered in the Register of Historic Monuments, or that are newly discovered and seek to protect important archaeological landscapes.

ARC 5 Development Management

All planning applications for new development, redevelopment, any ground works, refurbishment, and restoration, etc. within areas of archaeological potential or within close proximity to Recorded Monuments or within the historic towns of County Galway will take account of the archaeological heritage of the area and the need for archaeological mitigation.

ARC 6 Burial Grounds

Protect the burial grounds, identified in the Record of Monuments and Places, in co-operation with the National Monuments Service of the Department of Housing, Local Government and Heritage. Encourage the local community to manage burial grounds in accordance with best conservation and heritage principles.

ARC 7 Battlefield Sites

Protect the Battle of Aughrim site and other battlefield sites and their settings.

ARC 8 Underwater Archaeological Sites

To protect and preserve the archaeological value of underwater archaeological sites and associated features. In assessing proposals for development, the Council will take account of the potential underwater archaeology of rivers, lakes, intertidal and subtidal locations.

ARC 9 Recorded Monuments

Ensure that any development in the immediate vicinity of a Recorded Monument is sensitively designed and sited and does not detract from the monument or its visual amenity.

ARC 10 Zones of Archaeological Potential

To protect the Zones of Archaeological Potential located within both urban and rural areas and around archaeological monuments generally as identified in the Record of Monuments and Places. Any development within the ZAPs will need to take cognisance of the potential for subsurface archaeology and if archaeology is demonstrated to be present appropriate mitigation (such as preservation in situ/buffer zones) will be required.

ARC 11 Industrial and Post Medieval Archaeology

Protect and preserve the archaeological value of industrial and post medieval archaeology such as mills, limekilns, bridges, piers, harbours, penal chapels and dwellings. Proposals for refurbishment, works to or redevelopment/conversion of these sites should be subject to careful assessment.

ARC 12 Archaeology and Infrastructure Schemes

Have regard to archaeological concerns when considering proposed service schemes (including electricity, sewerage, telecommunications, water supply) and proposed roadwork's (both realignments and new roads) located in close proximity to Recorded Monuments and Places and their known archaeological monuments.

Additionally, relevant policies relating to cultural heritage include:

CUH 1 Cultural heritage

Protect and promote the cultural heritage assets and the intangible cultural heritage assets of County Galway as important social and economic assets.

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CUH 2 Special Places of Historic Interest

To protect and promote where possible special places of historical interest.

CUH 3 Placenames/Naming of New Developments

Promote and preserve local place names, local heritage and the Irish language by ensuring the use of local place names or geographical or cultural names which reflect the history and landscape of their settings in the naming of new residential and other developments. All names will be in the Irish language only. The naming and numbering schemes including associated signage must be submitted to the Planning Authority prior to the commencement of a new development.

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