

Your Ref.: HLGH-i-311

Steven Matthews TD

Chair to the Joint Committee on Housing, Local Government and Heritage

Leinster House

Dublin 2

D02 XR20

Email: jchlgh@oireachtas.ie

28 January 2022

Issued by email

Dear Deputy Matthews

Discussion of the Pre-legislative Scrutiny of the Revised General Scheme of the Monuments and Archaeological Heritage Bill

Your letter of 26 January 2022 refers, and subsequent correspondence with your committee office. While I understand that due to unforeseen circumstances I am no longer invited to attend the meeting scheduled for Thursday 3 February in respect of the above discussion, I trust that the following cover letter and attached written submission will be of use to you and your colleagues in consideration of the Revised General Scheme of the Monuments and Archaeological Heritage Bill.

The Discovery Programme – who we are:

The Discovery Programme: Centre for Archaeology and Innovation Ireland was established, on a non-statutory basis, under the auspices of the Department of the Taoiseach in 1991. In 1996 it became a company limited by guarantee and known as *The Discovery Programme Limited*, funded principally by the Heritage Council. In the intervening years the organisation has been registered as a charity, with a revised Memorandum of Association (its Constitution) adopted in September 2015.

Directorate

Mr Tom Dowling (Chair), Prof Gabriel Cooney, Dr Stephen Mandal, Dr Shirley Markley,
Dr Nessa O'Connor, Mr Steven Roberts, Ms Rhonda Robinson, Mr Rónán Swan, Mr Paul Walsh

The expressed purpose of the Discovery Programme, as set out in Article 3 of its Constitution, is:

...the charitable purpose of benefitting the community by the advancement of culture, heritage and sciences and in particular by:

- *Enhancing the understanding of Ireland's past through archaeological and related research in humanities and sciences;*
- *Establishing and directing research programmes;*
- *Promoting such research; and*
- *Promoting the appreciation of Ireland's archaeological heritage through education and outreach programmes*

The nominating bodies to the Discovery Programme include all of the higher-level education institutions that are involved in archaeological research, as well as the regulatory, advisory and professional bodies concerned with archaeology across the island of Ireland. Further information about current and previous research activities can be seen on the following websites:

<http://www.discoveryprogramme.ie/>

<http://cherishproject.eu/en/>

<http://www.3dicons.ie/>

The current Chair of the Discovery Programme is Tom Dowling (a Chartered Director and former County Manager/Chief Executive of Meath County Council and Carlow County Council), nominated by the Heritage Council. The Discovery Programme receives its principal funding through the Heritage Council.

By way of introduction to my own background, I was appointed Chief Executive Officer for the Discovery Programme in November 2020. Prior to this I worked in commercial archaeology, adult education and public administration. From 2007-2020 I was a Principal Inspector of Historic Monuments and an Assistant Director with the Historic Environment Division of the Department of the Environment and Department for Communities in Northern Ireland.

In those public sector posts I had a lead role in all aspects of statutory functions with regards to archaeology and the historic environment including strategic and operational spatial planning, conduct of archaeological research projects, and the conduction of regulatory activities relating to archaeological sites and monuments. This included provision of advice and briefing for elected public representatives, government ministers and senior civil servants, and as an expert contributor to working groups and committees on matters of policy, practice, academic development and public participation in archaeology and the historic environment, including active contribution to the work of the European Archaeology Council. I have a keen interest in conservation standards, professional practice and public engagement, and have lectured widely, especially in adult education, about archaeology and

local history.

I am a graduate of Queen's University Belfast (BA (Hons) Archaeology 1995) and the University of Ulster (PhD Archaeology 2008). I am also a Chartered Construction Manager (with the Chartered Institute of Building), a member of the Institute of Archaeologists of Ireland, and a Member of the Chartered Institute for Archaeologists.

I have attached to this cover letter a short submission for the Committee in respect of the pre-legislative scrutiny of this Bill. While circumstances have intervened as they have, I and the Discovery Programme would be very happy to assist the Committee in due course, should the opportunity arise, and I hope that the Committee will take the attached comments into its consideration at this time.

Yours Sincerely,

A handwritten signature in blue ink that reads "J.S.J. O'Keeffe". The signature is written in a cursive style with a horizontal line underneath the name.

Dr John O'Keeffe

Chief Executive Officer

cc (by e-mail): Colum Crowley, Policy Advisor, Joint Committee on Housing, Local Government and Heritage (colum.crowley@oireachtas.ie)

Tom Malone, Clerk to the Committee, Joint Committee on Housing, Local Government and Heritage (Tom.Malone@oireachtas.ie)

Bernadette Constantine, Houses of the Oireachtas Service (Bernadette.Constantine@oireachtas.ie)

**WRITTEN SUBMISSION TO THE JOINT COMMITTEE ON HOUSING, LOCAL
GOVERNMENT AND HERITAGE, IN RESPECT OF PRE-LEGISLATIVE
SCRUTINY OF THE REVISED GENERAL SCHEME OF THE MONUMENTS AND
ARCHAEOLOGICAL HERITAGE BILL**

At the outset, I welcome the publication of the Revised General Scheme of the Monuments and Archaeological Heritage Bill (the Bill). This is a significant document in the context State-led management of Ireland's archaeological artefacts, sites, monuments and landscapes. I wish the Bill every success as it progresses through the Houses of the Oireachtas.

The progression of this Bill into law is of considerable interest to the Discovery Programme. The public interest served by both the discussion of the Bill and, in due course, any final version of the Bill that passes into law, should not be underestimated: it considers those places and objects from our collective past which contribute consciously and sub-consciously to our collective identity today, the features of our landscape that make this place 'home', the places that provide inspiration, reflection and connection to our past and future and to each other, and so many places that are the foundations of social and economic development especially in tourism and recreation. It also deals with the protection of those places and objects so that current and future generations will also be able to explore, understand and enjoy our rich archaeological heritage.

The intention of the Bill, to consolidate and update current legislation, is most welcome. While there is a long history of legislative provision for archaeological monuments and objects in Ireland, the current situation of a primary Act with subsequent amendments is not ideal. In many instances it is cumbersome for those who actively seek to abide by the legislation, and achieving an understanding of the provisions as amended can sometimes feel like a process of archaeological excavation in itself.

The provisions in the Bill to specifically include World Heritage Sites is welcomed. Over the years, and at present, the Discovery Programme has been involved in significant survey activities on the existing World Heritage Sites of Skellig Michael and Brú na Bóinne, as well major research activities on some of those sites which may be nominated for inclusion as World Heritage Sites in the future. This work has been conducted in collaboration with, and supported by, the Office of Public Works and the National Monuments Service.

While the provisions remain to be debated, and there may be provision for secondary legislation or regulation arising from the Bill, there are some areas which would benefit from further consideration. For example, at Head 2 of the General

Scheme a series of useful interpretive definitions are provided. In the definition of “relevant interest” I would suggest that this should also include ‘scientific interest’. This would accord more closely to the internationally-used definitions relating to cultural heritage, and specifically recognises an inherent value in a monument, and is already noted in the General Scheme with regard to “archaeological object”.

The proposal to place the work of the Archaeological Survey of Ireland a clear statutory basis is a very important, positive objective (Head 66). Not only does the Archaeological Survey specifically seek to identify sites of interest, and therefore identify those places to which the legislation would apply, the information that it generates is fundamentally important to other statutory and regulatory compliance activities. It is important, not just for archaeology on its own, but for other activities that can affect these sites. For example, the data compiled by the Archaeological Survey is critical in progression of spatial planning activities, land-use change, infrastructure development and day-to-day activities for people involved in farming, managing watercourse and wetlands and more, including regulatory compliance for other public as well as private bodies.

The information also underpins major elements of academic research, being the primary repository of information about individual sites and monuments across the jurisdiction. I hope that the opportunity will arise for enhanced access to those records for society at large, enabling further exploration of and sharing of knowledge about the historic environment at a local and national level. The resource of information is critically important to place-making, be that the regeneration of existing settlements or the formation of new development.

The proposal around identification of “prescribed monument” status is welcomed, and I will be very interested to see further definition of what these will include. There is an associated connection to the process of inclusion of sites and monuments in a Register, as the definitions of what constitutes a site of interest will be important. Development-led archaeological work in Ireland over the past 30 years or so has demonstrated that the landscape, including the seabed, holds major reserves of buried and as yet unidentified archaeological sites, as well as occasional upstanding monuments that have not yet been included in any Register. While there are processes of survey and investigation that help de-risk development activities, archaeological remains will continue to be revealed as the landscape is used and changes. I would strongly encourage the ongoing refinement of the record, to provide information to the wider public and decision-makers about the implications of change in the landscape, in countryside or in towns.

A challenging aspect of site identification is that it can, on occasion, be reduced to ‘dots on maps’, separating the monuments from their settings and frequently separating modern communities from those of the past. The spaces between those monuments are usually of interest to the wider public as well as archaeologists. This may be because those spaces potentially contain previously-unreported sites, or because they form the landscape setting that informs our understanding and

appreciation of the sites. Other statutory instruments may enable landscape-level protection; I would suggest consideration of whether these enable the adequate protection of monuments and archaeological heritage in a landscape context.

The system of licencing in Ireland, for a range of purposes in respect of monuments and archaeological heritage, is widely recognised as having some of the most effective protections in place in Europe to effectively safeguard these places and objects. This is an important strength of past legislation, and a significant element of the new Bill. An issue that has arisen principally in respect of licences to excavate remains by archaeologists is around the compliance, completion and discharge of conditions attached to such licences. There are provisions around refusal, revocation or suspension of a licence. Head 67 makes provision for protection of records where the licensee is deceased or where a company is wound up. In practice, most licenced activities involving archaeologists is conducted by an individual who is commissioned as an employee or otherwise of an organisation, or as a sole trader, to either (a) conduct field activities in the context of spatial development and land-use change, or (b) conduct research activities on behalf of or under the auspices of an institution.

Where the individual ceases to be engaged by that organisation or client, major challenges can ensue in terms of fulfilling the requirements of the licence or the project parameters of the engagement. There can be a multitude of reasons why one ceases to be engaged by that organisation or client, most of which have little or nothing to do with the manner in which the individual conducted their licenced activity. It would be helpful if consideration be given to ensuring that those who (a) commission works, (b) sponsor works and (c) conduct the works are each bound by statutory provision to honour the conditions specific to the project, with safeguards to ensure that one element does not unreasonably prevent the completion of the project as per the relevant conditions and subject to statutory consent by the issuing authority for the licence. Similarly, provision for the agreed transfer of a licence and obligations arising from the licence would be useful.

There are other elements of the Revised General Scheme that may be discussed further, and I trust that stakeholder engagement that includes both wider society and archaeological practitioners will continue. The provisions of the Bill, if passed into law, will have a direct impact upon the work of the Discovery Programme. I very much hope that this will be a positive impact overall, whereby delivering high standards of professional conduct means that it is seldom necessary for enforcement action to be taken. Our monuments and archaeological heritage is not important because there is or will be legislation; it is because our monuments and archaeological heritage is important that legislation is necessary to help safeguard it. I commend the work of officials, stakeholders and elected representatives in bringing this General Scheme forward for consideration, and look forward to the further public participation and shaping of the legislation in due course.

Dr John O'Keeffe, Chief Executive Officer

28 January 2022

