

# CLAREMORRIS CLOSED LANDFILL REMEDIATION PROJECT. COMPULSORY PURCHASE ORDER, 2022

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## Background and Justification for Compulsory Purchase Order under this Project

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Prepared for: Mayo County Council



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**Date:** May 2022

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### REVISION CONTROL TABLE, CLIENT, KEYWORDS AND ABSTRACT User is responsible for Checking the Revision Status of This Document

Rev. No.	Description of Changes	Prepared by:	Checked by:	Approved by:	Date:
1	For Issue	RD/AMW	BG	BG	18/05/2022

**Client:** Mayo County Council

**Keywords:** CPO, Compulsory Purchase Order, Closed Landfill

**Abstract:** Description of Background and Need for Compulsory Purchase Order under this Project.

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## 1. BACKGROUND AND JUSTIFICATION FOR CPO

### 1.1 Background

Claremorris Closed Landfill was operated as an active landfill by Mayo County Council from 1982 to March 1996. The facility is now a Closed or Historic Landfill. Closed Landfills are regulated by the EPA under the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations, 2008.

A Tier 1, Tier 2 and Tier 3 Risk Assessment have been carried out for the closed landfill in accordance with the EPA's Code of Practice: Environmental Risk Assessment for Unregulated Waste Disposal. Mayo County Council subsequently applied for a Closed Landfill Certificate of Authorisation (CoA) from the Environmental Protection Agency (EPA). A Certificate of Authorisation Ref: H0319-01 was issued for the site on 19th August 2021. Mayo County Council propose carrying out the Claremorris Closed Landfill Remediation project in compliance with this Certificate of Authorisation. The purpose of certificates of authorisation is to specify control and remediation measures required at a closed landfill to ensure that waste disposed or recovered in the closed landfill is not causing, or is not likely to cause, environmental pollution. A Certificate of Authorisation is developed by the EPA to ensure compliance with the above Regulations.

Given that the Remediation Works constitute a Development Project, Screening for Appropriate Assessment was required for the project. Screening for Appropriate Assessment by the Environmental Protection Agency (EPA) identified the potential for a likely significant effect or effects on two European sites; on the Lough Carra/Mask Complex SAC (site code: 001774) and Lough Mask SPA (site code: 004062), therefore the proposed remediation works were 'screened in'.

A Stage 2 Appropriate Assessment (Natura Impact Statement) of the potential impact on the Lough Carra/Mask Complex SAC was therefore required.

Given a Stage 2 Appropriate Assessment (Natura Impact Statement) is required for the project, planning consent for the project must be sought from An Bord Pleanála under Section 177AE of the Planning and Development Act, as amended. A Section 177AE application has therefore been prepared for the project (under a simultaneous separate cover).

The development site for the project has been defined through the delineation of a Red Line Boundary.

The majority of the Application Site, as defined by the Red Line Boundary, is under the ownership of the Applicant, Mayo County Council. A portion of land ca. 0.74 ha in size situated at the southern end of the application site is not under the ownership of the Applicant. The title to this land is Unregistered. Mayo County Council have carried out landfill operations and aftercare activities on this parcel of land historically (since 1982). Mayo County Council are technically unable to proceed with the completion of the S177AE application to the Board currently as they do not own the land, and cannot gain the consent of any landowner for the carrying out of the development, given that the landowner is unknown.

In exercise of the powers conferred upon them by section 76 of the Housing Act, 1966, and the Third Schedule thereto (as amended by the Planning and Development Act, 2000), Mayo County Council propose permanently acquiring this land through the completion of a Compulsory Purchase Order (CPO). Mayo County Council as acquiring authority therefore seek confirmation for the CPO from An Bord Pleanála. Detailed information on the lands to be acquired is shown in Table 1-1. The Deposited Map for the CPO is enclosed with this documentation.



**Table 1-1: Lands to be Permanently Acquired**

Reference on map deposited at the offices of the local authority	Quantity, description and situation of land	Owner or reputed owner	Lessee or reputed lessee	Occupier
1	<b>Area:</b> 7,352.60 m <sup>2</sup> <b>Type:</b> Grassland / Scrub <b>Townland:</b> Clare <b>ED:</b> Claremorris <b>County:</b> Mayo	Unregistered Lands	Unregistered Lands	Mayo County Council

## 1.2 Site Description and Context

Claremorris closed landfill is located in the townland of Clare, Claremorris, Co. Mayo. The site is approximately 800m south-east of Claremorris town. The closed landfill capping area footprint is 3.8ha and is located within a larger application site consisting of open land which has an area of 5.6ha. The site is currently vacant and in an overgrown state. Neighbouring land uses include agricultural grassland, cutaway bogland, commercial forestry and residential properties located approximately 280m to the west of the site. An electrical substation is also located approximately 150m to the north of the site. The site is bound by the Dublin-Westport Railway line to the north, the Knock-Claremorris Bypass (N17) to the West, commercial forestry to the south and agricultural land (boggy ground) occupies the remaining land to the east of site.

The site was capped with boulder clay, but no remediation works have been completed.

Waste deposited at the site is understood to comprise of municipal and commercial wastes to depths of 6.5m below ground level (BGL). The interpreted landfill extent covers an area of 32,000 m<sup>2</sup> and initial calculations estimate an interred waste volume of approximately 168,000 – 297,623m<sup>3</sup> at the site.

The western portion of the site (raised area) is inhabited by rough grassland and scrub. The eastern half of the site forms part of an area of harvested, drained peatland.

The site generally falls from south to north towards the railway and west to east towards the harvested and drained peatland. The KILBEG-MALONE (EPA code: 30K3711), a 1st order stream crosses the eastern portion of the site travelling in a southern direction. After flowing for 44km, this stream ultimately enters Lough Mask via the LISDUFF 30 (EPA code: 30L4313) and Robe River (EPA code: 30R0115).

The site currently:

- Has a shallow soil cap with an established grass and shrub cover.
- Is drained by a watercourse along the western and northern boundary of the site which ultimately discharge to the Kilbeg-Malone River.
- Is secured by stock proof fencing along the western boundary of the site.



Invasive species identified on site include, Japanese Knotweed (*Fallopia japonica*), Winter Heliotrope (*Petasites fragrans*) and Cherry Laurel (*Prunus laurocerasus*).

The portion of land to be acquired is situated to the south / south east of the proposed development site defined by red line boundary. The portion of land consists of grassland / scrub. Mayo County Council have carried out landfill operations and aftercare activities on this parcel of land historically (since 1982). It has not been used or occupied by other persons historically up to the current time. Agricultural land is situated to the west, south and east of the land to be acquired. Other areas of the Claremorris Closed Landfill are situated to the north of the land.

### 1.3 Legislative Context for Compulsory Purchase Order

Part XIV of the Planning and Development Act, as amended (PDA) provides for compulsory acquisition.

The core legislative provisions in relation to CPO are defined in Section 213 of the PDA.

Section 214 of the PDA prescribes that An Bord Pleanála are the Competent Authority for confirming Local Authority CPO's.

CPO rules are specified across various different acts, including PDA, the Housing Act (as amended) and Water Services Act (as amended), amongst more historical statute.

Case law has significantly influenced the CPO process in Ireland. The Main Irish Case law relating to CPO includes O'Brien v Bord na Mona (1982) and Reid v the IDA (2015).

### 1.4 Justification for the CPO

In order to gain confirmation for the CPO from the Board, the Acquiring Authority must demonstrate the CPO is justified. Statutory provisions and Case Law have established the following tests for CPO to pass in order to gain confirmation by the Board.

- There must be community need for the CPO
- The site is suitable to meet that need.
- The works on-site must be in accordance with the development plan
- Alternatives to the CPO must be considered.
- The CPO must not have a disproportionate adverse effect on affected parties.

#### 1.4.1 [Need for the CPO](#)

A distinct need for the Compulsory Purchase Order exists. The carrying out of the remediation works will ensure that Mayo County Council conforms with the terms and conditions prescribed in the Certificate of Authorisation (Ref: H0319-01) for Claremorris Closed Landfill granted by the EPA, which was developed in accordance with the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations, 2008.



The following development works pertaining to the Claremorris Closed Landfill Remediation Project will need be undertaken on this portion of land:

- Vegetation clearance
- Grading/profiling of land
- Installation of a capping system to include the following elements which will cover or cross the subject land to be acquired in part:
  - Vertical Wells
  - A passive below liner landfill gas venting system.
  - A LLDPE barrier to isolate the waste body from rainfall inputs and prevent uncontrolled fugitive gas emissions from the waste body.
  - Over liner gas management system.
  - A subsurface drainage system.
  - A surface drainage system.
  - A subsoil layer average thickness 850 mm.
  - A topsoil layer average thickness 150 mm barrier.
- Final landscaping using a high value native grass cover.

The subject parcel of land will also need to be used in the future to allow for the appropriate, necessary maintenance of the proposed capping system and in particular to facilitate the following:

- Ongoing environmental monitoring.
- Oxidation of methane in landfill gas
- Maintenance of engineered cap on-site.
- Maintenance of surface water drainage system on-site.

Construction of an engineered cap is required to isolate the waste body from rainfall inputs which contribute to leachate generation which has the potential to contaminate surface and groundwaters. The proposed engineered cap will also be designed to mitigate the risk of landfill gas migration.

The successful and effective remediation of the Claremorris Closed Landfill, its ongoing maintenance, and the consequent environmental benefits, can therefore only be achieved through Mayo County Council acquiring the subject parcel of land.

The Claremorris Closed Landfill Remediation Project will serve to prevent pollution of groundwater and surface water and will therefore meet a Public / Community Need, namely the prevention of environmental pollution.

#### 1.4.2 [Site Suitability](#)

It can be seen that the subject lands are suitable for the carrying out of the proposed remediation project, given that the lands are situated within the confines of the landfill footprint area and development site, and given that various infrastructural elements associated with the landfill remediation development will need to traverse the subject lands.





### 1.4.3 Compliance with the Mayo County Development Plan 2014 – 2020 and the Draft Mayo County Development Plan 2021 – 2027

#### Mayo County Development Plan 2014 – 2020

The Mayo County Development Plan 2014 – 2020 is the relevant statutory plan which guides the use and development of the subject site. Under the current Plan, it is the policy of the County Council to support the sustainable development of the countryside and rural villages in the County.

The Plan has eight main goals for the future development of the County and the policies and objectives outlined in the Plan are to assist in achieving these goals. Goal 7 of the Plan aims to ‘protect and enhance the natural environment’. The Plan also outline six integrated Strategies that have a common aim of achieving the goals of the Plan. Each Strategy includes a policy to assist in achieving the goals of the Plan, and supporting objectives to achieve that policy. The Environment, Heritage & Amenity Strategy outlines the importance of protecting and enhancing the natural and built environment, cultural heritage and amenities and how these are integral to the overall sustainable development of the County.

The following Policies/Objectives are defined in the current Mayo County Development Plan:

- WQ-01 - It is an objective of the Council to implement the Western River Basin District Management Plan “Water Matters” 2009-2015 to ensure the protection, restoration and sustainable use of all waters in the County, including rivers, lakes, ground water, coastal and transitional waters, and to restrict development likely to lead to deterioration in water quality or quantity.
- LP-01 - It is an objective of the Council, through the Landscape Appraisal of County Mayo, to recognise and facilitate appropriate development in a manner that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the existing or future character of a landscape in terms of location, design and visual prominence.
- NH-01 (g) - It is an objective of the Council to protect, enhance, conserve and, where appropriate restore; surface waters, aquatic and wetland habitats and freshwater and water- dependent species through the implementation of all appropriate and relevant Directives and transposed legislation.
- TV-02 – It is an objective of the Council to support the improvement and enhancement of the physical fabric and environment, of the smaller towns and villages through measures in co-ordination with CLÁR and Leader Programmes, Derelict Sites Legislation and the Development Management Process.
- NH-08 - It is an objective of the Council to assist in the control of native and non-native invasive or harmful species which represent a serious threat to our environment, fresh water systems and lakes.

It is considered that the proposed remediation works, including the works to be carried out on the subject lands to be acquired, will aid in achieving the above objectives through the overall enhancement of water quality and significant improvement on the visual amenity of the immediately surrounding area given the ground clearance and the more aesthetically appealing site grading/profiling and landscaping that will be carried out as part of the development.

It is noted that complete remediation of the landfill is not possible without the carrying out of development related works on the subject lands to be acquired. The CPO is therefore in compliance with the County Development Plan.



## Draft Mayo County Development Plan 2021 – 2027

The strategic aim of the Draft Plan is to continue to protect and enhance the county's natural heritage and biodiversity and ensure that networks of green and blue infrastructure are identified, created, protected and enhanced to provide a wide range of environmental, social and economic benefits to communities.

The following Policies/Objectives are defined in the Draft Plan:

- *NEP 1 – 'To support the protection, conservation and enhancement of the natural heritage of County Mayo, including the protection of the integrity of European sites, that form part of the Natura 2000 network, the protection of Natural Heritage Areas, proposed Natural Heritage Areas Ramsar Sites, Nature Reserves and Wild Fowl Sanctuaries (and other designated sites including any future designations)'.*
- *NEP 21 – 'To manage, protect and enhance surface water and ground water quality to meet the requirements of the Water Framework Directive'.*
- *NEO 4 – 'To protect and enhance biodiversity and ecological connectivity in County Mayo, including woodlands, trees, hedgerows, semi-natural grasslands, rivers, streams, natural springs, wetlands, stonewalls, geological and geo-morphological systems, other landscape features and associated wildlife, where these form part of the ecological network.'*

The rationale for the remediation of the site is to protect the receiving waters and downstream human and ecological receptors from any future pollution incidents, thereby supporting the policies/objectives of the Draft Plan.

- *NEO 14 – 'To ensure that where the presence of invasive species is identified at the site of any proposed development or where the proposed activity has an elevated risk of resulting in the presence of these species, details of how these species will be appropriately managed and controlled will be required'.*

The control and eradication of invasive species will be carried out in accordance with the accompanying Invasive Species Management Plan. This plan will prevent the spread of identified non-native invasive species within and without the site and reduce the potential risk for the introduction and/or spread of new invasive species within the site pre, during and post remediation.

It is considered that the proposed remediation works, including the works to be carried out on the subject lands to be acquired, will aid in achieving the above objectives. It is noted that complete remediation of the landfill is not possible without the carrying out of development related works on the subject lands to be acquired. The CPO is therefore in compliance with the Draft County Development Plan.

## Alternatives Assessment

The subject land to be acquired is needed to carry out a full and proper remediation of the closed landfill at Claremorris. The land falls within the footprint of the landfill area. Various infrastructural elements associated with the landfill will need to traverse the subject lands. Mayo County Council are technically unable to proceed with the completion of the S177AE application to the Board currently as they do not own the land, and cannot gain the consent of any landowner for the carrying out of the development, given that the landowner is unknown. There are no alternative methods of completing the remediation project fully and effectively in absence of Mayo County Council acquiring the lands via CPO.



## Proportionality

The acquirement of the subject land will facilitate the carrying out of a full and proper remediation of the closed landfill at Claremorris. The Claremorris Closed Landfill Remediation Project will serve to prevent pollution of groundwater and surface water and will result in significant to substantial environmental benefits.

The lands are currently vacant and in an overgrown state. Mayo County Council have carried out landfill operations and aftercare activities on this parcel of land historically (since 1982). It has not been used or occupied by other persons historically up to the current time. The acquirement of this land will therefore not have any significant adverse impact on any potential affected party. The CPO in this instance will not therefore have excessive or disproportionate impact on any potential affected party. Weighing up the environmental benefits associated with the carrying out of the CPO, compared with the negligible impact of the CPO on any potential affected party, it can be concluded that the CPO is entirely proportionate.

## **1.5 Conclusions**

An overview of the background to the CPO and a description and delineation of the lands to be subject to CPO is provided in Section 1.1.

A description of the lands to be subject to the CPO as well as surrounding lands has been provided in Section 1.2.

A brief description of the legal context for the CPO process in Ireland is provided in Section 1.3

A description on how the CPO meets the required tests for confirmation as defined and influenced by statutory provision and case law is provided in Section 1.4. The CPO meets all the required tests. There is a clear public need for the CPO. The subject lands are manifestly suitable for the carrying out of the proposed remediation project. The Remediation Project and the CPO will comply with and support defined policy objectives contained with both the current Mayo County Development Plan and the Draft Mayo County Development Plan currently in preparation. There are no reasonable alternatives to the carrying out of the CPO of the subject lands. The CPO has been determined to be wholly proportionate and justified.

Given the above, the Board are in a position to confirm the CPO in line with the relevant statutory provisions and case law pertaining to CPO in Ireland.



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