

Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Residential Zoned Land Tax Submission Form - Annual Draft Map for 2026

Overview

Before completing this submission form please read 'Introduction to Residential Zoned Land Tax (RZLT)' available to view in hardcopy version at the Dublin City Council Civic Offices, Wood Quay and Area Offices or online here www.dublincity.ie/RZLTMap.

Submissions on the annual draft map may be made in writing to Dublin City Council **from 1st February 2025 to 1st April 2025**, regarding:

- (I) either the inclusion in or exclusion from the final map of specific sites, or
- (II) the date on which a site first satisfied the relevant criteria.

Submissions should:

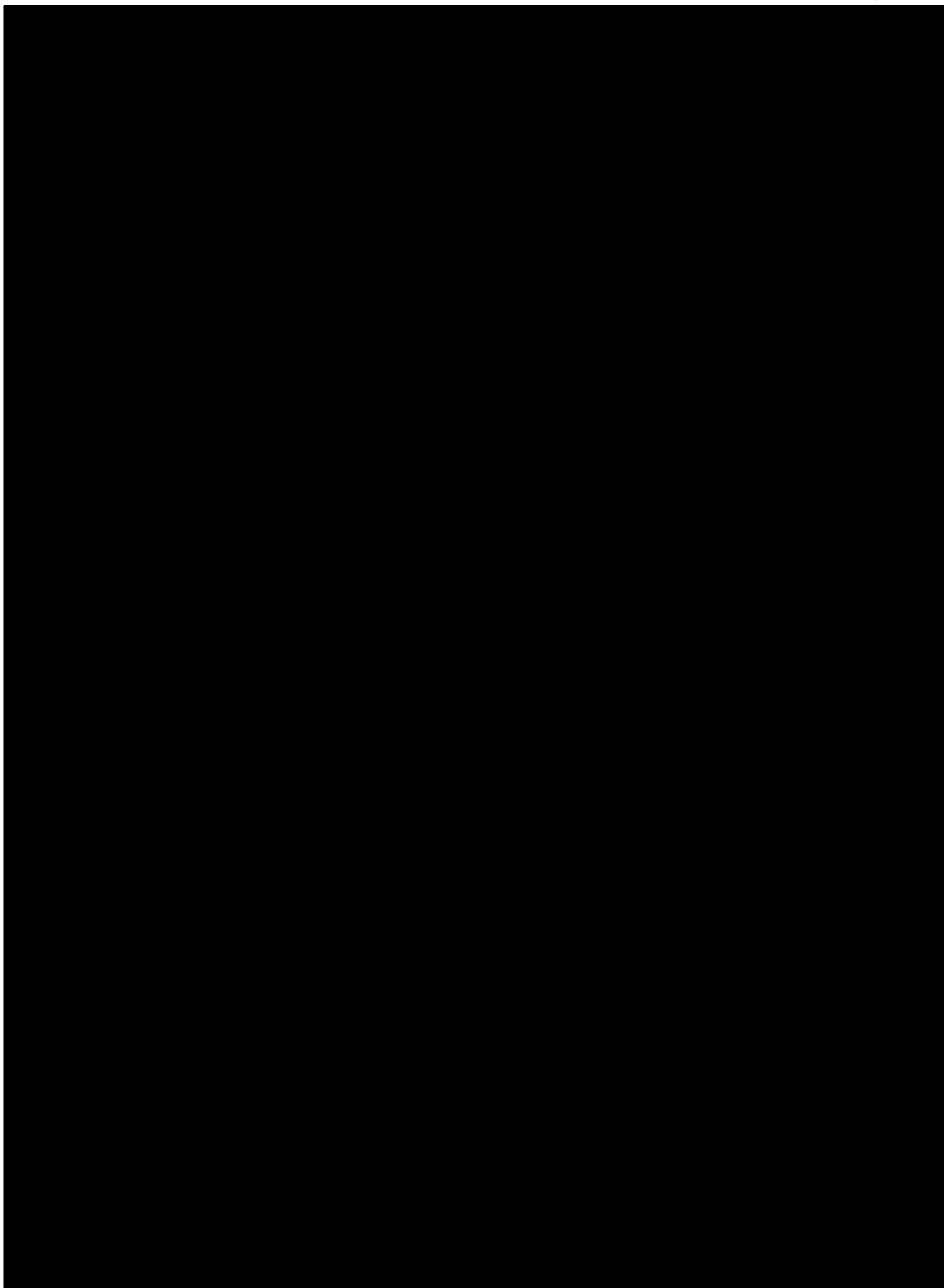
- Clearly identify the land you are making the submission on,
- Outline what change to the map you are seeking and,
- Provide a justification for the change sought, stating the criteria set out in Section 653B of the Taxes Consolidation Act 1997 (see below) on which you rely in your submission for the exclusion of lands etc.

Please note that a separate submission is required for each site.

You should ensure that no vexatious, defamatory or confidential information, including confidential information relating to a third party (in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure) is included in your submission. Dublin City Council reserves the right to redact any submission or part thereof that does not comply with this requirement.

Please note that although residential properties are included on the map, they are not subject to the Residential Land Zone Tax (RZLT) if they are subject to Local Property Tax.

It is not necessary to make a submission to remove this type of residential property from the map.



Submission Details

6 What is the Postal address of the land to which this submission relates? If none, give a description sufficient to identify it. (Required)

Lands at 17-20 Marlborough Street and 19-23
Marlborough Place, extending onto Potters Alley,
Dublin 1

(Eircode if available)

7 Parcel ID reference number as shown on the Map.

This can be found on

<https://experience.arcgis.com/experience/768b153501b44c1cbdbd03678253e986>

DCC 000064109

8 Are you making the submission as:
(Required)

Please tick only one item.



A Landowner



A Third Party (you do not own the lands you are making the submission on)

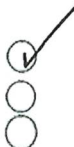
9 Are you seeking the exclusion of land from the map on the basis that the land does not meet the criteria set out within the relevant legislation?

Or

Are you challenging the date on which the land (the subject of the submission) first met the relevant criteria?

Please tick only one item.

(Required)



Yes, seeking the exclusion of land from the map



Yes, challenging the date



Not applicable

(By ticking 'Not Applicable' you are indicating that you are not seeking the exclusion of land from the map and you are not challenging the date on which the land first met the relevant criteria)

- 10 Are you identifying additional land which should be added to the map which appears to meet the criteria and which would then fall into scope for the tax (to be placed on the map)?
(Required)

Please tick only one item

☐ Yes
☒ No

Landowner – Your Submission

12 Submission

You must:

- Provide a map to a scale of 1:1,000 clearly identifying the relevant plot of land, including the boundary of the land. ✓
- Outline what change to the RZLT Map you are seeking and, ✓
- Provide a justification / evidence for the change sought. The submission must state the criteria set out in Section 653B of the Taxes Consolidation Act 1997 (see below) on which you rely in your submission for the exclusion of lands etc. ✓

Any request for a rezoning of land (lands identified as being in scope for the tax) must be made on the Final Map for 2025 and the separate submission form available here:
www.dublincity.ie/FinalMap.

Please note Dublin City Council may request additional information after the receipt of your submission.

Please make your submission in this Text Box

This submission seeks the removal of the site from the Draft Map on the basis that the site is not a Vacant/Idle site within the meaning of the relevant legislation. Please see attached cover letter for particulars/justification/evidence for why the site is not a Vacant/Idle site.

Please attach a copy of any documents you wish to include to this printout. (Required)

Third Party - Your Submission

13 Submission

For a Third Party you must:

- Outline what change to the RZLT Map you are seeking and,
- Provide a justification / evidence for the change sought. The submission must state the criteria set out in Section 653B of the Taxes Consolidation Act 1997 (see below) on which you rely in your submission for the exclusion of lands etc.

Third parties are not required to submit an OS map with a submission.

However, where Dublin City Council cannot identify land it will not be possible to take the submission into account. You are therefore requested to provide sufficient detail to enable the identification of the lands. This could include a written description, eircode, photos, and a map with the lands clearly outlined.

Please note Dublin City Council may request additional information after the receipt of your submission.

Please make your submission in the text box below (Required)

Not a Third Party.

Please attach a copy of any documents you wish to include to this printout (Required)

Declaration (Required)

14 I declare that the information provided in this form is correct and accurate and that I have read and understood the Privacy Statement

[Redacted Signature]

Signature of Person Making this Submission (not agent).

Please send completed form and attachments to the following address:

RZLT Annual Draft Map

Active Land Management Unit,

Planning and Property Development Department,

Block 4, Floor 2,

Civic Offices,

Wood Quay,

Dublin 8,

D08 RF 3F.

Criteria for inclusion in map:

Section 653B of the Taxes Consolidation Act 1997 states:-

In this Part, a reference to land which satisfies the relevant criteria is a reference to land that—

(a) is included in a development plan, in accordance with section 10(2) (a) of the Act of 2000, or local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned—

- (i) solely or primarily for residential use, or
- (ii) for a mixture of uses, including residential use,

(b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, and

(c) it is reasonable to consider is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains, but which is not land—

(i) that is referred to in paragraph (a)(i) and, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is in use as premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provide services to residents of adjacent residential areas,

(ii) that is referred to in paragraph (a)(ii), unless it is reasonable to consider that the land is vacant or idle,

(iia) the development of which would not conform with—

(I) in a case in which the land is zoned in a development plan, the phased basis in accordance with which development of land is to take place under the plan, as detailed in the core strategy included in that plan in accordance with section 10(2A)(d) of the Act of 2000, or

(II) in a case in which the land is zoned in a local area plan, the objective, consistent with the objectives and core strategy of the development plan for the area in respect of which the local area plan is prepared, of development of land on a phased basis, included in the local area plan in accordance with section 19(2) of the Act of 2000,

on the date on which satisfaction of the criteria in this section is being assessed,

(iii) That it is reasonable to consider is required for, or is integral to, occupation by—

(I) social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare,

(II) Transport facilities and infrastructure,

(III) Energy infrastructure and facilities,

(IV) Telecommunications infrastructure and facilities,

(V) Water and wastewater infrastructure and facilities,

- (VI) Waste management and disposal infrastructure, or
- (VII) Recreational infrastructure, including sports facilities and playgrounds,
- (iv) that is subject to a statutory designation that may preclude development, or
- (v) On which the derelict sites levy is payable in accordance with the Derelict Sites Act 1990.

Privacy Statement

Publication of submissions online:

Persons should be advised that the Council is required to publish, no later than 11th April 2025, on its website, the submissions received (other than such elements of a submission which may constitute personal data).

These publication dates are subject to the Council not being of the opinion that the submission is vexatious, libelous, containing confidential information relating to a third party, or if the Council sought legal advice on the above matters.

Who we are and why do we require your information?

Dublin City Council seeks to promote the economic, social and cultural development of Dublin city and in doing so contribute significantly to improving the quality of life of the people of the city of Dublin.

The delivery of high quality services, tailored to meet the needs of all our customers, remains one of Dublin City Council's core objectives and is included in our Corporate Plan. This quality service includes not only the level and quality of service given to our customers, but also the quality of our decision-making processes, the efficiency and effectiveness of our corporate operations, standard of our facilities and our ability to adapt in an ever-changing environment.

In order to provide the most effective and targeted range of services to meet the needs of the citizens, communities and businesses of Dublin city we are required to collect, process and use certain types of information about people and organisations. Depending on the service being sought or provided the information sought may include 'personal data' as defined by the Data Protection Acts and by the EU General Data Protection Regulation 2016 (GDPR). The personal data may relate to past and future service users; past, current and prospective employees; suppliers and members of the public who may engage in communications with Dublin City Council. In addition, Dublin City Council may need from time to time, to collect, process and use certain types of personal data to comply with regulatory or legislative requirements or as otherwise reasonably required for the performance of our functions.

Why do we have a privacy statement?

Dublin City Council has created this privacy statement in order to demonstrate our firm commitment to privacy and to assure you that in all your dealings with Dublin City Council we will endeavour to ensure the security of the data you provide to us.

Dublin City Council creates, collects and processes a significant amount of personal data in various multiple formats on a daily basis. This data may be submitted by you through application forms or our website or through correspondence with you. We may also obtain information about you from other sources such as government departments or other statutory bodies and also from other third parties (including members of the public) and from public sources where required.

Dublin City Council commits to using personal data which is: -

- Obtained lawfully, fairly and in a transparent manner
- Obtained for only specified, explicit and legitimate purposes
- Adequate, relevant and limited to what is necessary for purpose for which it was obtained
- Recorded, stored accurately and securely and where necessary kept up to date
- Kept only for as long as is necessary for the purposes for which it was obtained.

- Processed only in a manner that ensures the appropriate security of the personal data including protection against unauthorised or unlawful processing.

Occasionally we may be required to contact you. When you provide personal data to one department within Dublin City Council, it may be shared with other departments within the Council as long as such internal sharing is relevant, proportionate and reasonably necessary for the performance of our statutory functions. Examples of when departments within Dublin City Council may share information with each other include:

- To facilitate the investigation and prosecution of regulatory breaches and offences e.g. the environment department may have information that would assist the planning department in prosecutions and applications for injunctive relief; and
- To enable the set-off of moneys due to the Council, against sums owed by the Council to that person, pursuant to section 7 of the Local Government (Financial Provisions) (No.2) Act 1983.

Dublin City Council may also share your information with other organisations where necessary and permitted or required by applicable law, including other public authorities and bodies. Personal data may also be shared with third party data processors responsible for supporting the Council's operations.

The main legal basis for processing your personal data is that such processing is (i) necessary for us to comply with our legal obligations and/or (ii) necessary for us to carry out our tasks in the public interest and/or in the exercise of official authority vested in us.

We will retain your personal data only for as long as we require it for the performance of our functions, after which time it will be deleted by appropriate and secure methods. In the unlikely event that we are required to transfer your data outside of the European Economic Area ("EEA") we will only do so where we can secure the transfer with appropriate safeguards and where we have a legal right to do so.

What personal data do we need?

The types of personal data you may be asked to supply can be categorised as follows,

- Contact details to allow for efficient communication
- Details of your personal circumstances which you are required by law to supply as part of your application for a service offered by Dublin City Council
- Your own financial details which you are required by law to supply as part of your application for a service offered by Dublin City Council

Contact Details

In order to communicate with you will be asked for contact details. You do not have to provide all contact details but providing more, such as email, phone, address, makes it easier to communicate.

Details of Personal Circumstances

If you wish to apply for a particular service from the local authority you will be asked for a varying amount of personal details specific to you and your family, in order to support your application. Dublin City Council have set out the information we require in a series of separate and distinct application forms relevant to each service.

Specific details of processing for each service will be set out in the respective application forms.

- The personal data which is required to be provided as part of your application and whether it includes any "special categories of data" such as data relating to your health;
- The purposes for which your personal data will be processed;
- The legal basis which enables Dublin City Council to process your personal data;
- Details of other organisations with whom we may need to share your data;
- Details of how your personal data will be kept safe from unauthorised or unlawful processing; and
- Details of the period for which your personal data will be retained by Dublin City Council (or the criteria which we use to determine how long personal data needs to be retained).

Financial Details

If you wish to apply for a particular service from the local authority you may be asked for a varying amount of personal financial details specific to you and your family, in order to support your application. Dublin City Council will set out the information we require in a series of separate and distinct application forms relevant to each service.

Records Retention

Dublin City Council retains personal information for as long as is necessary. The department holding your personal data will provide more detail to you about how long your personal data is held.

Your Rights

You have the following rights, in certain circumstances and subject to applicable exemptions, in relation to your personal data:

- the right to access the personal data that we hold about you, together with other information about our processing of that personal data;
- the right to require us to rectify any inaccuracies in your personal data;
- the right to require us to erase your personal data;
- the right to request that we no longer process your personal data for particular purposes;
- the right to object to our use of your personal data or the way in which we process it; and
- the right to receive your personal data, which you provided to us, in a structured, commonly used and machine-readable format or to require us to transmit that data to another controller.

Please note that to help protect your privacy, we take steps to verify your identity before granting access to personal data.

If you would like to exercise any of these rights, please submit a request to our Data Protection Officer outlining the specific details of the request:

Email: dataprotection@dublincity.ie Tel: 01 2223775

All valid requests will be processed without undue delay and in any event within one month of receipt of the request. This period may be extended by up to two further months where necessary.

Right of Complaint to the Office of the Data Protection Commission

If you are not satisfied with the outcome of the response you received from Dublin City Council in relation to your request, then you are entitled to make a complaint to the Data Protection Commission who may investigate the matter for you.

The Data Protection Commission's website is www.dataprotection.ie [<http://www.dataprotection.ie/>](http://www.dataprotection.ie/) or you can contact their Office at: Lo Call Number: 1890 252 231

E-mail: info@dataprotection.ie

Postal Address: Data Protection Commission, Canal House, Station Road, Portarlington, Co. Laois. R32 AP23.

Other websites

Our website contains links to other websites. This privacy statement only applies to this website and the services operated by the Council. When you link to other websites you should read their own privacy policies.

Changes to our privacy statement

We keep our privacy statement under regular review and we will place any updates on this web page. This privacy policy was last updated on 25 May 2018.

Governing Law and Jurisdiction

This privacy statement and all issues regarding this website are governed exclusively by Irish law and are subject to the exclusive jurisdiction of the Irish courts.

How to contact us

For any queries relating to the Dublin City Council Privacy Statement or Data Protection policies, please contact our designated Data Protection Officer. Dublin City Council's Data Protection Officer can be contacted by email dataprotection@dublincity.ie or by telephone 01 222 3775.

Our use of cookies

This website uses Google Analytics to help analyse how users use the site. This analytical tool uses 'cookies', which are text files placed on your computer, to collect standard internet log information and visitor behaviour information in an anonymous form. The information generated by the cookie about your use of the website (including your IP address) is transmitted to Google. This information is then used to evaluate visitors use of the website and to compile statistical reports on website activity for the Information Commissioner (<http://www.oic.gov.ie/en/> [<http://www.oic.gov.ie/en/>](http://www.oic.gov.ie/en/))

The Information Commissioner will not (and will not allow any third party) to use the statistical analytics tool to track or to collect any personally identifiable information of visitors to our site. We will not associate any data gathered from this site with any personally identifying information from any source as part of our use of the Google statistical analytics tool.

Google will not associate your IP address with any other data held by Google.

Neither the Information Commissioner nor Google will link, or seek to link, an IP address with the identity of a computer user.

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Further information about cookies

The Interactive Advertising Bureau (IAB) is an industry body that develops standard and guidelines to support online business processes. It has produced a series of web pages which explain how cookies work and how they can be managed. <http://www.iab.net/>
<<http://www.iab.net/>>

Disabling/Enabling Cookies

You have the ability to accept or decline cookies by modifying the settings on your browser. The IAB site tells you how to remove cookies from your browser. This advice currently comprises the following steps (however please check the IAB site for the latest guidance <http://www.iab.net/> <<http://www.iab.net/>>):

If you are using Microsoft Windows Explorer:

Open 'Windows Explorer'

Click on the 'Search' button on the tool bar

Type 'cookie' into the search box for 'Folders and Files' Select 'My computer' in the 'Look In' box Click 'Search Now'

Double click on the folders that are found

'Select' any cookie file use the 'Delete' button on your keyboard

If you are not using Microsoft Windows Explorer, then you should select 'cookies' in the 'Help' function for information on where to find your cookie folder.

[REDACTED]

[REDACTED]

RZLT Map
Active Land Management Unit
Planning and Property Development Department
Block 4, Floor 2, Civic Offices
Wood Quay
Dublin 8
D08 RF3F

28th March, 2025

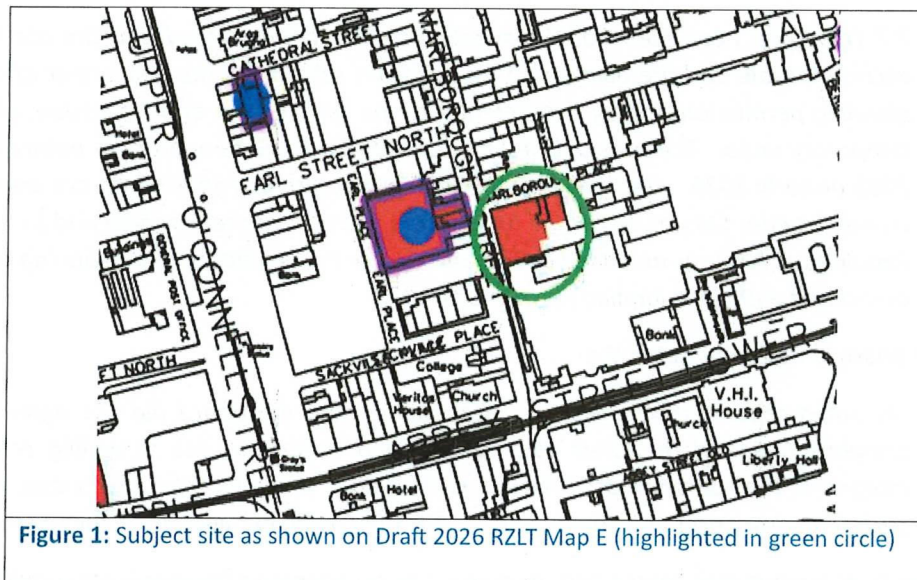
Dear Sir/Madam,

RZLT SUBMISSION IN RESPECT OF INCLUSION OF LANDS AT 17-20 MARLBOROUGH STREET AND 19-23 MARLBOROUGH PLACE, EXTENDING ONTO POTTERS ALLEY, DUBLIN 1 ON DUBLIN CITY COUNCIL'S DRAFT RZLT MAP.

DCC Parcel ID Number: DCC000064109.
DCC draft RZLT Map: Map E.
Landowner: [REDACTED]
Planning Authority: Dublin City Council.

1.0 INTRODUCTION

This Submission has been prepared by Sheehan Planning¹ on behalf of [REDACTED] owner of the above site (see Figure 1).



Any correspondence relating to this matter should be sent to the agent's address ([REDACTED] address).

[REDACTED]

1.1 Preliminary Remarks

The site has previously been listed on RZLT maps prepared by DCC as being subject to the RZLT tax. It is listed on the Draft 2026 Map as being liable for the RZLT levy with any submissions on its inclusion on the 2026 Map due by 1st April 2025.

The previous listing/designations on RZLT maps were flawed in that:

- The first designation (2023) was judicially reviewed Ms Justice Hyland having granted leave for judicial review holding that there were substantial grounds for judicial review on the basis that the Board's decision (316965) was flawed. (The proceedings were ultimately struck out where the Oireachtas changed the terms of the TCA Act subsequent to the institution of the proceedings.)
- The second designation (2024) was also flawed where the Board's disagreed with its Inspector (ref. 320372) that the site was not a vacant site. The Inspector, in recommending overturning DCC's decision, recognised that the site was not a vacant site, stating at Section 7.6 – 7.7 of their report:

"7.6 On balance, the appellants have set out compelling reasoning behind why they think the lands should be deemed out of scope and removed from the RZLT map. The lands are not vacant or idle. The uses being conducted, specifically as a construction compound relate to extant planning permissions which are presently being enacted within the adjacent [REDACTED]. These uses are exempt under the provisions of Classes 16 and 17 of the Planning and Development Regulations, 2001 as amended. The use of the lands as a construction compound was agreed with DCC as part of planning compliance, in relation to submitting a construction and demolition plan for the works. Other uses stated to occur within the subject lands include: The shredding of sensitive correspondence, deliveries to the overall [REDACTED] and for [REDACTED], all of which are stated to relate to a use on the lands that are integral to the operation of a profession being carried out adjacent to the lands."

7.7 Therefore, I consider that the appellants have demonstrated that the site is neither vacant nor idle and are being used for purposes relating to the enactment of an extant planning permission and for uses integral to the carrying out of a profession, albeit on a temporary basis. The uses on the lands are stated to be temporary in nature until late 2025 or early 2026. The deliveries/shredding area are activities which are exempt from planning under Classes 16 and 17 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended as they also relate to compliance with planning conditions associated with live planning permissions."

The Board in its Order stated that:

"In not accepting the Inspector's recommendation, the Board did not agree that the temporary uses of the lands as a construction compound and shredding centre were integral to the operation of a trade or profession in the adjacent complex and, therefore, such temporary uses should not result in the land being excluded from the tax measure."

The Board's reasoning was sparse and no reasons or no adequate reasons were provided for its conclusions. The Board did not, for example, state, despite the Inspector's assessment, why the construction compound/shredding was not integral to the operation of a trade or profession where the appeal to the Board stated it was. The Inspector was persuaded by the case made in the appeal that the conditions for exclusion were present including being integral to the operation of a trade or profession insofar as he concluded there was a "compelling reason" for this which

then outlined. However, there was no engagement at all by the Board with the case made in the appeal which convinced the inspector. The decision of the Board was therefore flawed.

For these reasons the Board's previous decisions were flawed and should not influence DCC's decision in the current assessment in any way.

1.2 The Key Questions to be Answered

The remainder of this submission addresses the key questions as to whether:

1. The subject land is required for or integral to a trade or profession being carried out on the land or adjacent to the land; and
2. Whether the development is unauthorised.

This is based on the text at Page 12 of the *Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022*, where, addressing the topic of 'Vacant or Idle Definition' it states:

"..the first step is to determine if the development on the land is required for or integral to a trade or profession being carried out on the land or adjacent to the land. The second step is to determine if the development is unauthorised."

2.0 EXECUTIVE SUMMARY

2.1 Background/Site Context

This is not a vacant site. The lands form an integral part of the very large [REDACTED] (see Figure 2 below).

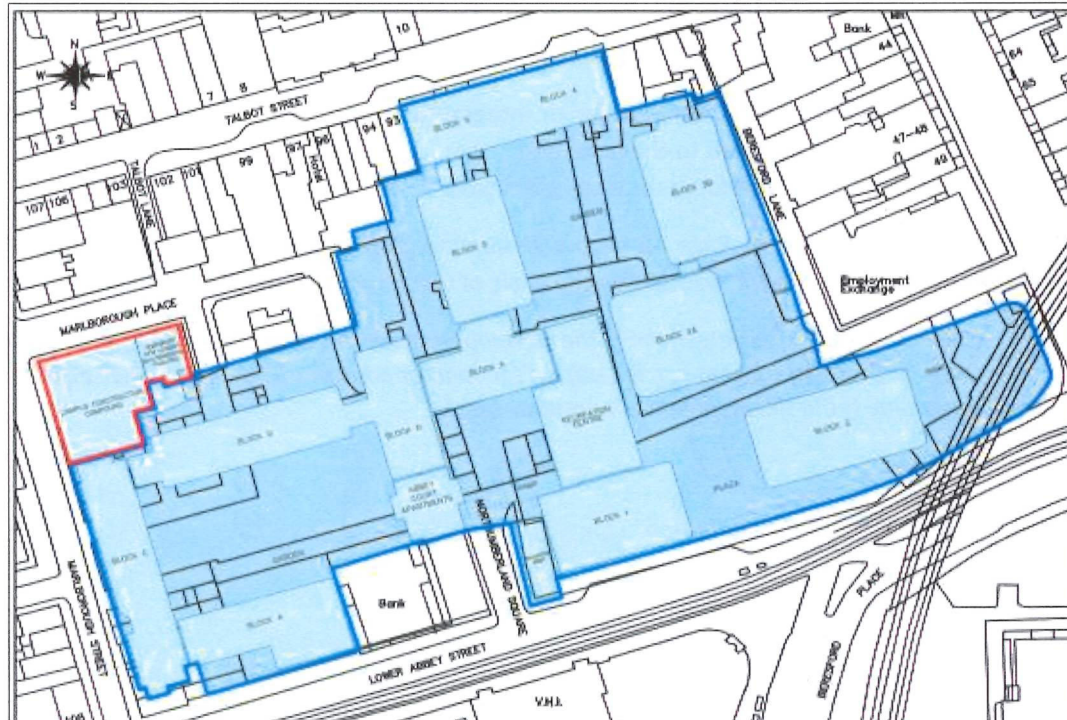


Figure 2: Subject site (outlined in red) forms part of the integrated [REDACTED] mixed-use complex (main complex outlined in blue).

[REDACTED] extending over more than 2ha, was constructed between 1977 and 1985 and needs constant upkeep, repair and modernisation. In consequence, there is a frequently occurring requirement for a deliveries/ancillary admin area and for a construction compound, to facilitate the regular developments and redevelopments within the complex (a snapshot of such developments/redevelopments in the last 10 years is at Appendix 1). At present the site is in use as offices for document shredding machinery and loading bay (during extensive permitted works to the main [REDACTED] and as a building compound, required as such from now into 2026.

We are also advised that [REDACTED] is currently reviewing the feasibility of undertaking very significant works at the [REDACTED] where several of the buildings are aged and require major intervention to bring them to an ESG credential level to be attractive on the marketplace. Those works would require the site to continue to be used as a construction compound well into the future and so the site will not be a vacant/idle site.

Current Site Uses

Please refer to Figures 3 and 3A for close up maps of the subject site uses. The uses on the site are required and integral to the carrying out of a profession ([REDACTED])

It is very important to note, in the context of the RZLT legislation, that:

1. The site is NOT currently vacant (i.e. there are active uses on the land which are *required for the operation of a trade or profession being carried out on, or adjacent to, the land*); and
2. The uses on the site are NOT unauthorised (because they constitute exempted development).

The land does not therefore satisfy the definition of 'vacant or idle land' which is defined as:

"land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land"

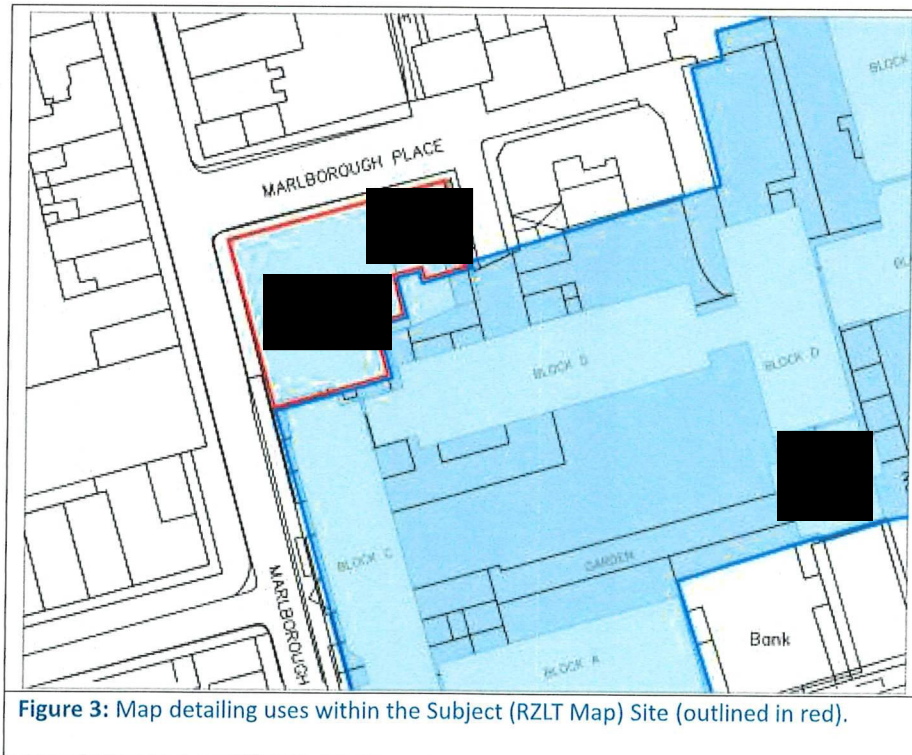


Figure 3: Map detailing uses within the Subject (RZLT Map) Site (outlined in red).

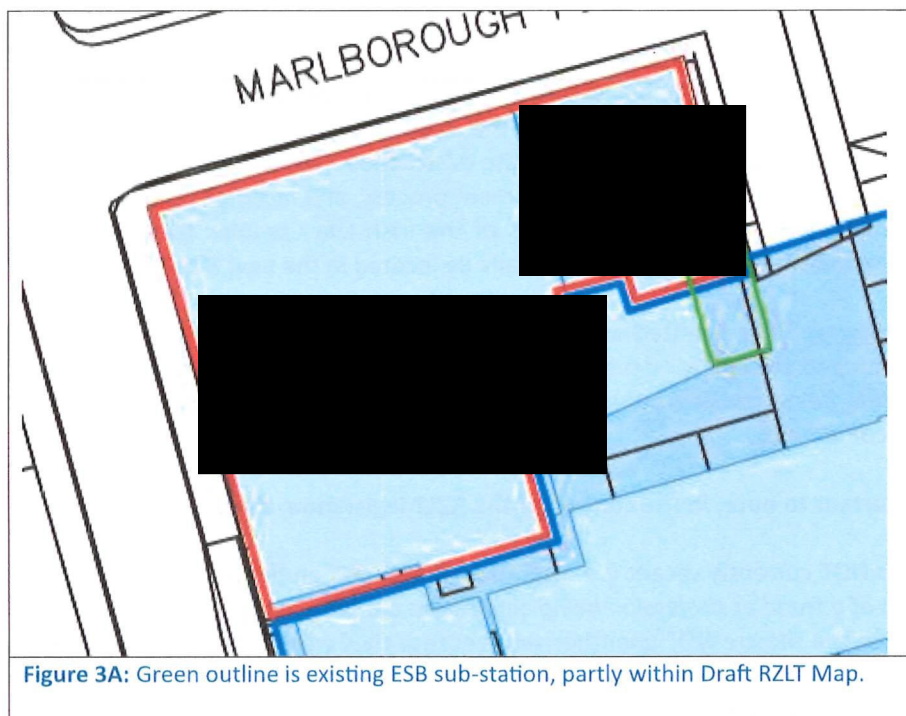


Figure 3A: Green outline is existing ESB sub-station, partly within Draft RZLT Map.

3.0 THE LEGISLATION EXCLUDES THE SUBJECT LANDS FROM THE RZLT

3.1 USE: The Land is NOT Vacant. It is in Active Use, integral to the operation of the

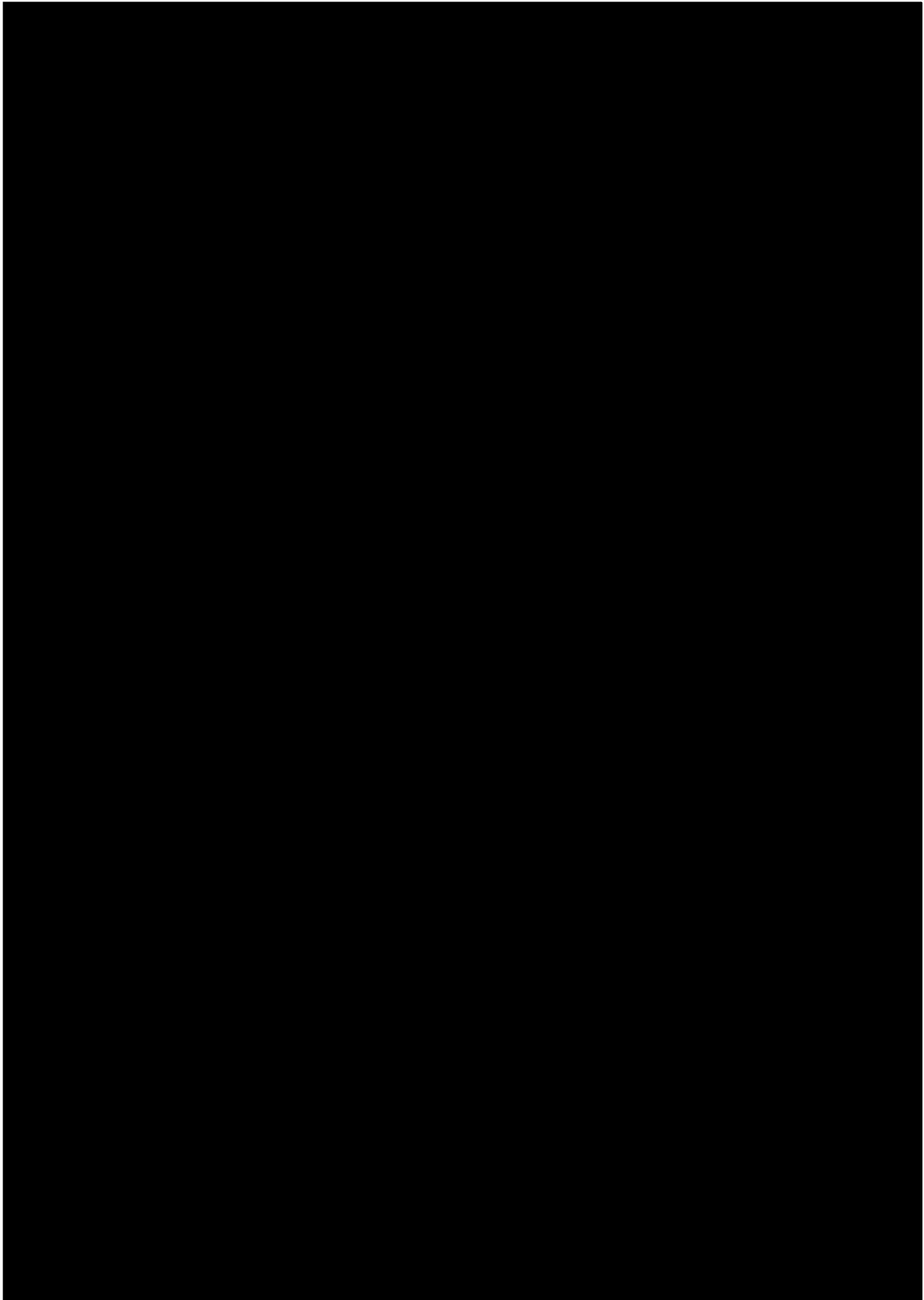
- 'Vacant or idle land' is defined (in s.653A of the Taxes Consolidation Act 1997 - as amended) as follows (emphasis added for clarity): ***"land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land."***
- The subject land forms part of the overall 'Z5' zoned (accommodating c. 3,600 employees).
- The subject land is in use at present, part for confidential shredding and deliveries and part for the placing of construction plant and materials in connection with several projects across the Irish Life Campus. The land is NOT vacant.

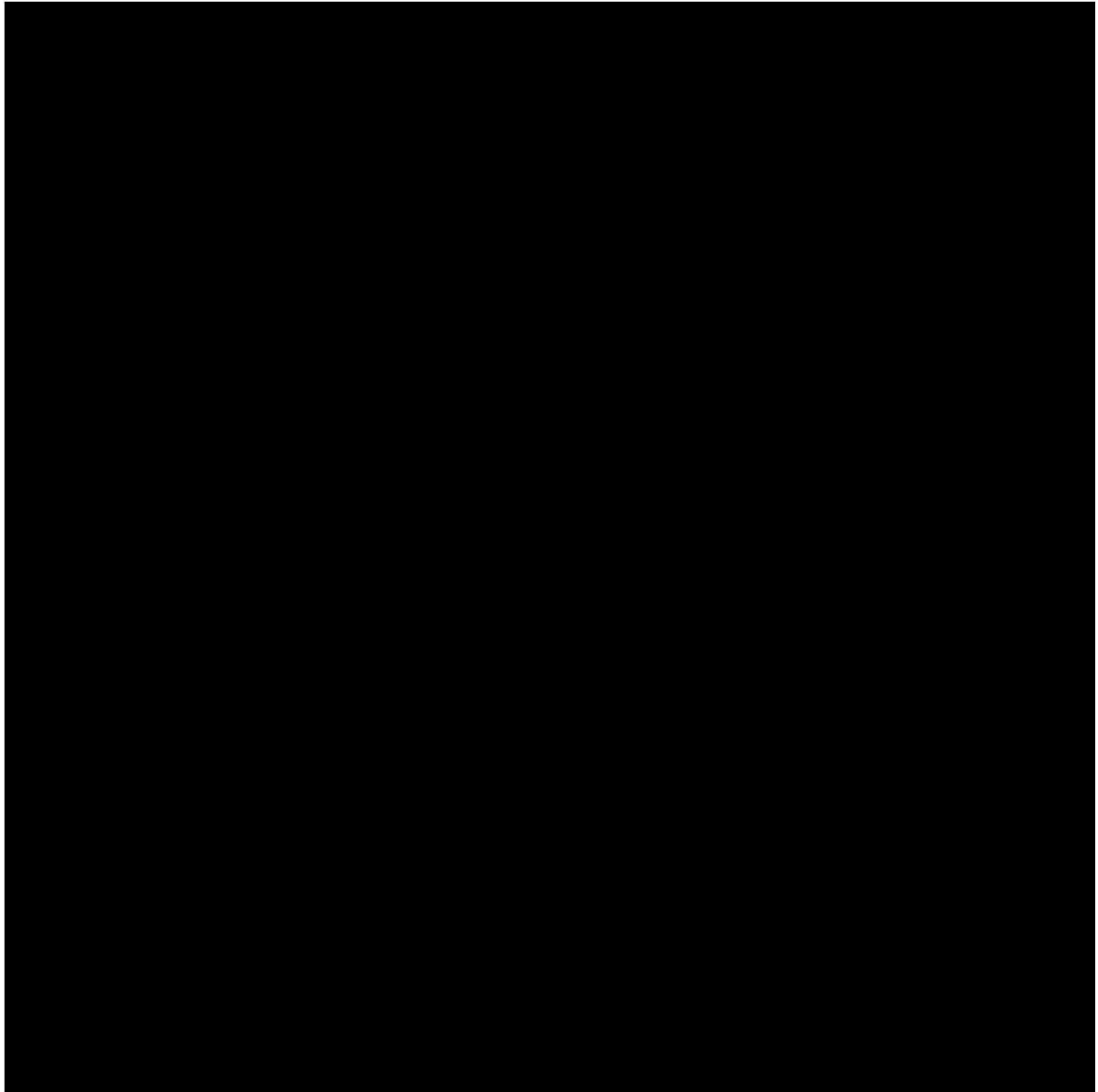
The site photographs below show current uses associated with the extensive ongoing campus redevelopment works (Figures 4-5 show construction compound use, Figures 6-7 and 7A show deliveries/reception/shredding use). These uses will intensify in the coming months and will continue for a number of years (at which point the site will likely be required in connection with the previously mentioned significant site redevelopment works).



Figure 4: On-site construction materials and machinery



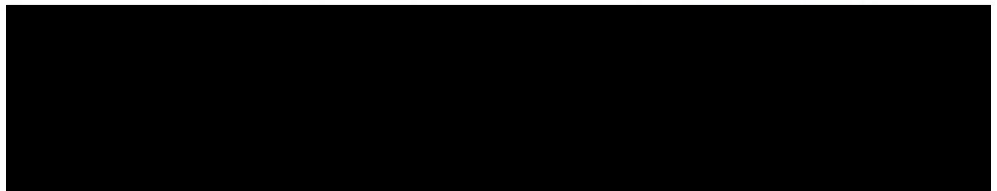




3.2 The Uses on the Land are NOT Unauthorised

- **Uses on the** [REDACTED] The construction projects on the [REDACTED] either been authorised by way of grants of planning permission (for example DCC 3622/21, 5503/22), or are exempted development, or have been deemed to be exempted development further to a section 5 Declaration made under the 2000 Act (eg. 0242/22).
- **Uses on the Subject (RZLT designated) Lands.** The uses on the subject lands are NOT unauthorised:

○



[REDACTED]

(3622/21 and 5503/22) (at Appendix 2). This use is also exempted development³ (i.e. it is NOT ‘unauthorised development’).

○ [REDACTED]

3.3 Errors in Previous DCC Planners Report on RZLT

[REDACTED]

functioning of the wider business and are not directly related to the redevelopment work are therefore not exempted and are unauthorised.

There are several issues with this:

Firstly, this submission expressly links the shredding etc. to the redevelopment works and there was no evidence contradicting this. It follows that it is exempted development (explained in more detail later in this submission) and that the Planning Authority didn’t have regard to the evidence that was before it and/or failed to give reasons or adequate reasons for arriving at a different conclusion.

Secondly, it is the function of the Court and not the planning authority to determine whether development is or is not unauthorised development. It is unclear how or on what basis there is in a jurisdiction in a RZLT determination or in an Appeal for the Planning Authority and/or the Board to make a determination that development is unauthorised development under the TCA. See by analogy case law concerning the Planning Authority and Board’s jurisdiction under section 5 of the Planning and Development Act as summarised in *Simons on Planning*:

***“Cannot determine whether development is unauthorised
2-317***

It is well recognised that, in the context of s.5 of the PDA 2000, a planning authority or the Board has no jurisdiction to determine what is or is not unauthorised development or whether any use is authorised—it may only determine whether works or use is development or not. In Ógalas (t/a Homestore and More) v An Bord Pleanála and Others, it was held by Baker J. that the Board’s function in determining a referral under s.5 is limited to a question of whether

³ The use would be exempt under Class 16 of Part 2 of Schedule 2 of the P&D Regulations (*The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out*) and/or Class 17 (*The erection, construction or placing on land on, in, over or under which or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out*). Insofar as these exemptions are triggered where works are being undertaken on adjoining land the site subject to this submission has the benefit of the above listed planning exemptions.

⁴ The use would be exempt under Class 16, 17 (Footnote 3) and also, potentially, under Class 3 of Part 4 of Schedule 2 (*Use as an office, other than a use to which class 2 of this Part of this Schedule applies*).

[REDACTED]

a particular use or the carrying out of any works constitutes development. The Board has no role in determining whether any use is authorised.

2-318

Thus, a planning authority or the Board cannot refer a question as to whether the works or proposed works or use constitutes unauthorised works or use and hence unauthorised development. Determination of what is or is not "unauthorised development" is a matter to be determined by the courts where a dispute arises. The Board's single function under s.5(4) is to determine whether in any given case there has or has not been development or, as the case may be, exempted development. Questions as to whether a particular use is unauthorised is not a function of the Board under s.5(4).

2-319

*Put simply, the statutory function of the planning authority or the Board under s.5 is not an enforcement role and its function is confined to the question of whether something is development and, if so, whether it is exempted development. Conversely, in *Devil's Glen Equestrian Centre Ltd v Wicklow County Council*, it was held that the view of what is or is not an exempted development is a matter for the planning authorities to conclude and not for the courts. With respect, this might be stating the position too simply as in many cases the court will be in a position to determine whether development is exempted, e.g. by reference to the *Classes in the Regulations*."*

The text of s.653A does not expressly empower a Planning Authority or the Board to make a determination/finding of unauthorised development and it follows that the Planning Authority acted *ultra vires*.

Without prejudice to this, in addition or alternatively, the Council acted in breach of fair procedures, where a prejudicial 'unauthorised development' finding was made without inviting any comment on this from [REDACTED]

Thirdly, it is not correct to say that the [REDACTED] are not related to implementation of permissions on the [REDACTED]. These types of facilities come within the scope of exempted development provisions under Class 16 and/or Class 17 of the Planning Regulations. [REDACTED]

[REDACTED]

[REDACTED]

The Planning Authority in the Planner's Report accepted that the [REDACTED] on the lands is exempted development (Class 16).

The Planner's Report went on to say that the RZLT Guidelines provide that temporary use should not result in land being excluded from the tax measure, and states that the temporary use of the lands demonstrates that the lands are not required for, or integral, to the actual Irish Life business/operation.

This is an inexplicable/irrational conclusion, in that it appears to suggest that because the RZLT Guidelines say that temporary uses should not result in land being excluded, the development on the lands (which is exempted development), which is clearly preventing it from being used for another purpose at present, is an irrelevant consideration.

General Comments

There were several flaws in the Planning Authority's reasoning.

Misinterpretation

Firstly, the planning authority misinterpreted the relevant section of the RZLT Guidelines. The full text of the 'Temporary Use' section of RZLT Guidelines links temporary use to temporary planning permissions:

"Temporary Uses Temporary uses of land should not result in land being excluded from the tax measure. As the aim of the taxation measure is to activate land which has been the benefit of significant investment in servicing infrastructure and to reduce vacancy and idleness in settlements, only those uses which are not unauthorised, are operational and provide for an integral part of a trade or profession carried out on the land or on adjoining land should be considered for exclusion where relevant.

Lands which are subject to a temporary planning permission which has been commenced should be considered for exclusion for the period of that permission and revisited during the annual map review process to ensure that the land is activated at a later stage" [extract from the RZLT Guidelines]

The RZLT Guidelines simply provide that sites with temporary planning permission should be revisited as part of the annual mapping process in the future. The Guidelines do not state anywhere that temporary uses (that are exempted development and are integral to business) trigger the imposition of a levy.

Secondly the Planning Authority conflated 'use' and 'works.' Class 16 provides that works including the provision of temporary on-site accommodation are exempted development. The RZLT Guidelines refer to 'temporary use'. Development comprises of both works and use.

Thirdly, the Planning Authority is not bound by RZLT Guidelines and only needs to have regard to them under section 28 of the 2000 Act. It is entirely unclear on what basis or how it is lawful for text in s.28 of the RZLT Guidelines to alter the definition of 'vacant/idle' lands as appearing in the TCA. The subject guidelines are prepared by a Minister, without any meaningful oversight by the Oireachtas (RZLT Guidelines under s.28 of the 2000 Act are merely laid before the Oireachtas rather than being subject to a negative or positive resolution process) and are not in an SPPR. We do not consider that they can render development, which is not unauthorised (being exempted development) and is expressly linked in Irish Life's submission to the operation of a trade or business on an adjoining site, liable to taxation on the basis that it is a 'temporary use.'

Fourthly, in terms of actual statutory interpretation 'vacant or idle land' is defined (in s.653A of the Taxes Consolidation Act 1997 - as amended) as follows (emphasis added for clarity): **"land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land."** As is clear from the above, the section makes no reference whatsoever to temporary use.

The meaning of 'vacant or idle' is not ambiguous or obscure and on a literal interpretation is not absurd. Were it ambiguous, Section 5 of the Interpretation Act 2005 would appear to apply which

[REDACTED]

mandates a literal interpretation of the text. The plain purpose of the Oireachtas is to bring *bona fide* vacant sites into use. There is no evidence that the RZLT tax is intended to apply to lands which are in lawful use, thereby preventing other development on the lands, and are facilitating the ongoing business at the [REDACTED]

Fifthly, the statement in the Planner's Report that the 'temporary' use of the site shows that the use is not integral to the operation of a trade of business on the [REDACTED] site is a circular argument and is irrational where the uncontroverted evidence before the Planning Authority was that the use/works on the site was emphatically linked and integral to the carrying out of business at [REDACTED]

Irrelevant Considerations

The Planners Report referred to a permission granted in 2007 on the site. In considering the planning history it was stated in the Planner's Report that "*The lands are being used for these purposes because the lands are being left unused, in that the permitted office development pertaining to the lands has not been completed*". This is an entirely irrelevant consideration. The fact that there is a 2007 (long since expired) permission for an office development on the lands which was not fully implemented is not relevant to the current use of the lands. It does not show that the lands are vacant/idle. The lands are being used for the purposes of implementing planning permission which relate to and are integral the ongoing business/trade at the [REDACTED] that links the development on the lands to the operation of the business at the [REDACTED]

Ultra Vires

Quite apart from the purported (*ultra vires*) finding of unauthorised development, the Planning Authority grafted on a new '*temporary use*' test/criterion to determine if sites are vacant/idle sites. A temporary use text does not feature in the text of the relevant legislation. The Council used this test to say that because a use is a temporary use this 'demonstrates that it is not integral to a business' on the adjoining land.

Failure to have Regard to Relevant Considerations

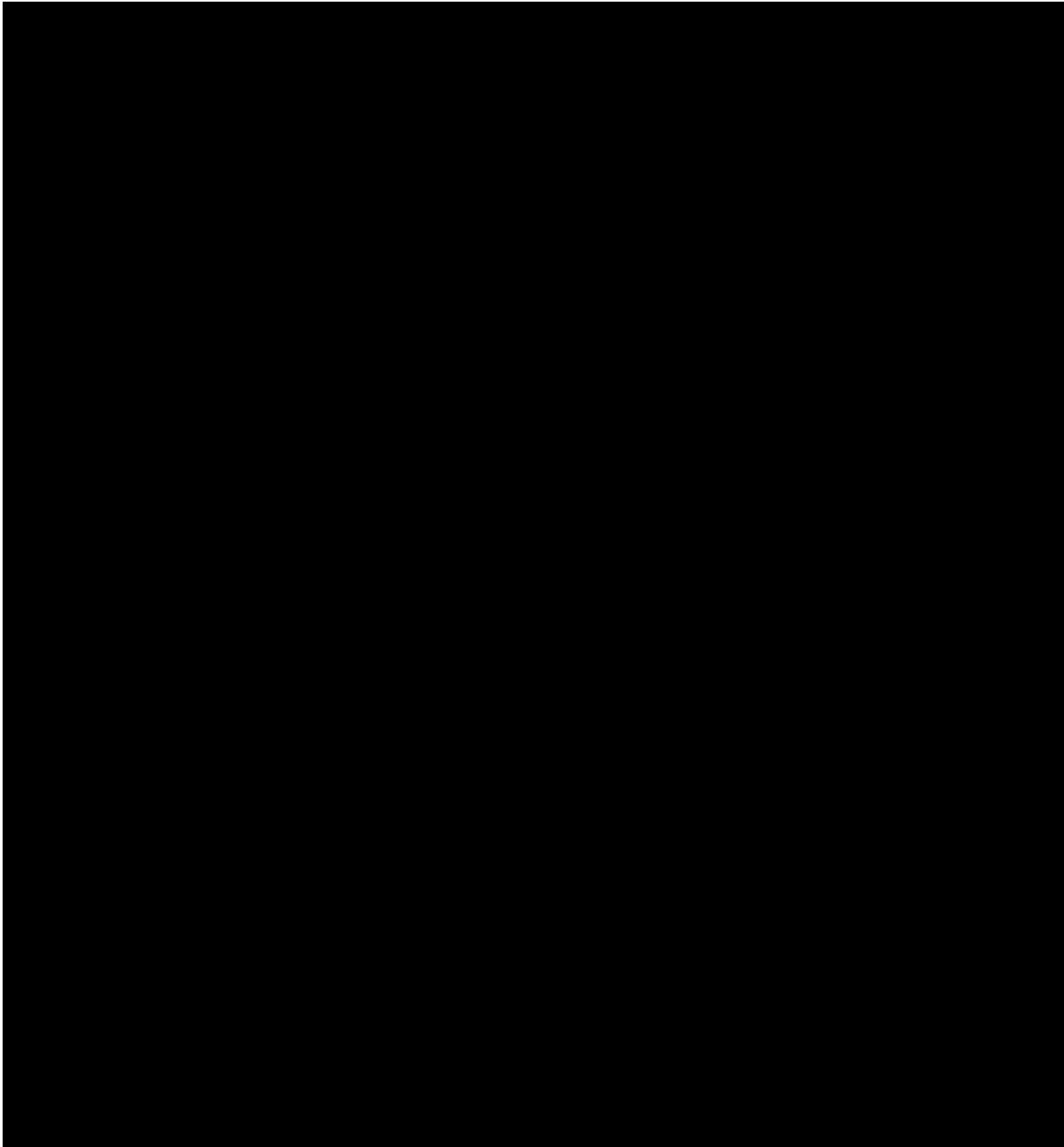
The development on the lands is clearly integral to and facilitating the ongoing viability of the business at the [REDACTED]. The submission to the Planning Authority (and this submission) expressly links the development to planning permission for development at the Irish Life Centre which is being implemented at present. The permission in question is integral to the business being carried out at [REDACTED]

3.0 CONCLUSION

Whereas the site is zoned for a mix of residential and other uses, it is not a vacant or idle site within the meaning of the TCA as amended. Dublin City Council previously misapplied the relevant criteria under the TCA in making its previous determination in 2024. The Board's previous decisions (2023 and 2024) were flawed and should therefore not influence the Council's decision in the current assessment in any way.

For the reasons outlined above the site should be removed from Dublin City Council's Draft RLZT Map which purports to identify it as a vacant site.







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SITE LOGISTICS PLAN WATTS

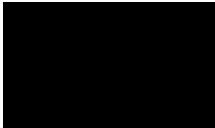


DCC confirmation that Demolition & Construction Management Plan deemed 'Compliant'

Comhlíonadh Pleanála
An Roinn Pleanála & Forbairt Maoin, Comhairle Cathrach Bhaile Átha Cliath
Bloc 4, Urlár 2, Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8, Éire

Planning Compliance
Planning & Property Development Department, Dublin City Council
Block 4, Floor 2, Civic Offices, Wood Quay, Dublin 8, Ireland

Email: compliances@dublincity.ie



22-May-2023

Application No: [REDACTED]
Application Date: 20-Mar-2023 & 24-Apr-2023 & 11-May-2023
Proposal: Condition 6(e) & (f)
Location: [REDACTED]

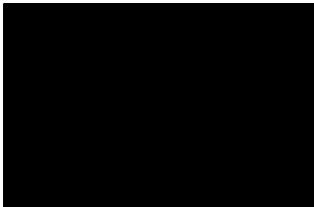
To Whom It May Concern,

The Planning Authority hereby informs you that the details submitted by you are satisfactory and in compliance with Condition 6(e) & (f) and are acceptable to the Planning Authority.

Copies of the relevant report(s) are attached for your information. If you have any queries on this matter please contact us at the email address above.

Note to Applicant: For the avoidance of doubt, any modifications to the permitted development, contained on any drawings and documentation lodged as 'compliance', which are not required pursuant to conditions of a planning permission, should not be construed as being assessed and/or authorised by way of showing any such modifications, etc., on drawings and documentation lodged as 'compliance'.

Yours faithfully



COPIES OF COMMENCEMENT NOTICES FOR CURRENT DEVELOPMENTS ON IRISH LIFE CAMPUS

Refurbishment and Extension (3622/21)

Dublin City Council
Building Control Division
Dublin City Council
Wood Quay
Dublin 8
D08 RF3F

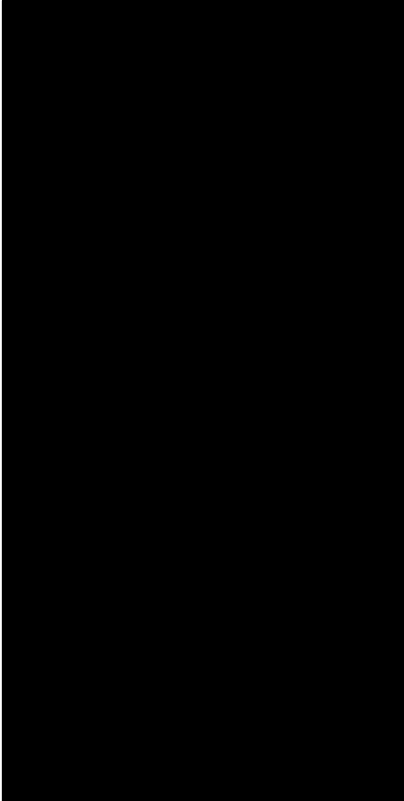
BCMS

Building Control Management System

NOTIFICATION OF ENTRY ONTO REGISTER - COMMENCEMENT NOTICE

County: Dublin City Council
To: 
Date of Receipt of Notice: 28/04/2023 02:31pm
Date Entered onto Register: 02/05/2023
Commencement Notice: CN0100586DC
Description of Commenced Building or Works:

Address:



Dear Sir / Madam

Dublin City Council as the Building Control Authority hereby notifies you, in accordance with Article 10(2) of the Building Control Regulations 1997 - 2015, that the Commencement Notice, submitted on the 28/04/2023 02:31pm, in relation to the above building / works has been deemed Valid, and particulars relating to same have been entered on the Register maintained pursuant to Part IV of the Building Control Regulations 1997 - 2015 on the 02/05/2023.

Yours Faithfully
Dublin City Council

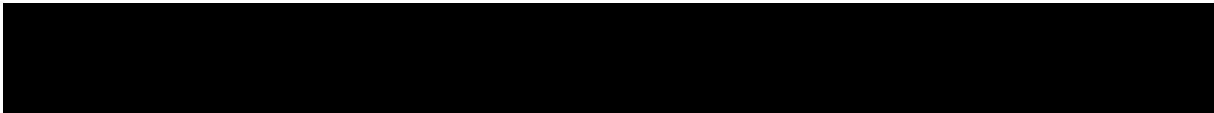
Note 1:

The Building Control Act 1990 - 2014, Section 6(4) clearly states that "Where a certificate of compliance, or a notice to which subsection (2)(k) relates, is submitted to a building control authority shall not be under a duty to -

- (a) Ensure that the building or works to which the certificate or relates will, either during the course of the work or when completed, comply with the requirements of building regulations or be free from any defects*
- (b) Ensure that the certificate complies with the requirements of the Act or of regulations or orders made under this Act, or*
- (c) Verify the facts stated in the certificate are true and accurate.*

Note 2:

Validation is solely based on the assumption that the facts stated in and the attachments forming part of the Notice/Application/Certificate are true and accurate. If, subsequent to validation, it is found that there are inaccuracies, it may cause the Notice /Application /Certificate to be subsequently invalidated and may be subject to prosecution and/or enforcement proceedings. Enforcement carries a cost.



Dublin City Council
Building Control Division
Dublin City Council
Wood Quay
Dublin 8
D08 RF3F

BCMS

Building Control Management System

NOTIFICATION OF ENTRY ONTO REGISTER - COMMENCEMENT NOTICE

County: Dublin City Council

To:

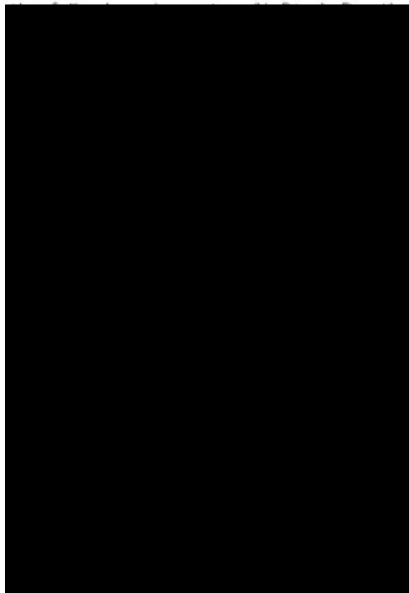


Date of Receipt of Notice: 23/06/2023 12:55pm

Date Entered onto Register: 23/06/2023

Commencement Notice: CN0102689DC

Description of Commenced Building or Works: The proposed development comprises of



Address: Abbey Street Lower Dublin Dublin D01
Y1X2

Dear Sir / Madam



Dublin City Council as the Building Control Authority hereby notifies you, in accordance

Dublin City Council
Building Control Division
Dublin City Council
Wood Quay
Dublin 8
D08 RF3F

BCMS

Building Control Management System

NOTIFICATION OF ENTRY ONTO REGISTER - COMMENCEMENT NOTICE

County: Dublin City Council
To: 
Date of Receipt of Notice: 12/02/2024 05:45pm
Date Entered onto Register: 14/02/2024
Commencement Notice: CN0110249DC
Description of Commenced Building or Works: 

Address:

Dear Sir / Madam

Dublin City Council as the Building Control Authority hereby notifies you, in accordance with Article 10(2) of the Building Control Regulations 1997 - 2015, that the Commencement Notice, submitted on the 12/02/2024 05:45pm, in relation to the above building / works has been deemed **Valid**, and particulars relating to same have been entered on the Register maintained pursuant to Part IV of the Building Control Regulations 1997 - 2015 on the 14/02/2024.

Yours Faithfully
Dublin City Council

Note 1:

The Building Control Act 1990 - 2014, Section 6(4) clearly states that "Where a certificate of compliance, or a notice to which subsection (2)(k) relates, is submitted to a building control authority shall not be under a duty to -

- (a) Ensure that the building or works to which the certificate or relates will, either during the course of the work or when completed, comply with the requirements of building regulations or be free from any defects*
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[REDACTED]

[REDACTED]

Dublin City Council
Building Control Division
Dublin City Council
Wood Quay
Dublin 8
D08 R13F

BCMS

Building Control Management System

NOTIFICATION OF ENTRY ONTO REGISTER - COMMENCEMENT NOTICE

County: Dublin City Council

To: [REDACTED]

Date of Receipt of Notice: 12/02/2024 05:45pm

Date Entered onto Register: 14/02/2024

Commencement Notice: CN0110249DC

Description of Commenced Building or Works: [REDACTED]

Address: [REDACTED]

Dear Sir / Madam

Dublin City Council as the Building Control Authority hereby notifies you, in accordance with Article 10(2) of the Building Control Regulations 1997 - 2015, that the Commencement Notice, submitted on the 12/02/2024 05:45pm, in relation to the above building / works has been deemed **Valid**, and particulars relating to same have been entered on the Register maintained pursuant to Part IV of the Building Control Regulations 1997 - 2015 on the 14/02/2024.

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Dublin City Council

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