

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

1 April 2025

**Re: Dublin City Council's Determination to include Parcel ID DCC000064150 on the RZLT Annual Draft Map for 2026.**

A Chara,

We, McCutcheon Halley of Kreston House, Arran Court, Arran Quay, Dublin 7, act on behalf of our client, [REDACTED]

This submission relates to Parcel ID No. DCC000064150 (the "Parcel") and is made pursuant to Section 653D of the Taxes Consolidation Act 1997 (TCA), as amended. The Parcel (outlined black) is owned by our client and is included by Dublin City Council (DCC) on the Residential Zoned Land Tax (RZLT) Annual Draft Map for 2026, see Figure 1.

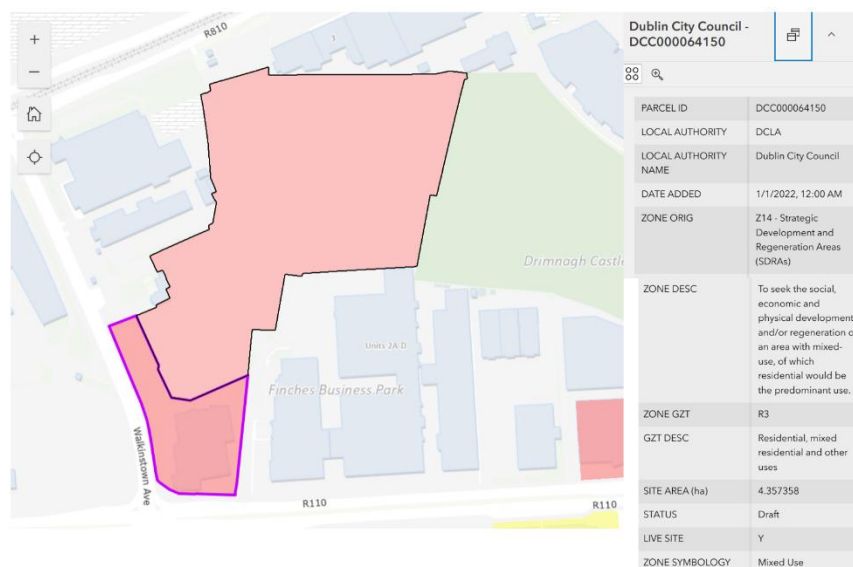


Figure 1 Parcel ID No. DCC000064150 Residential Zoned Land Tax - Annual Draft Map for 2026 (Source: Department of Housing, Local Government and Heritage)

Please see **Attachment 1** for the required Site Location Plan to a scale of 1:1,000. Proof of Ownership is included in **Attachment 2**.

The criteria for including land in the draft RZLT maps are set out in legislation. Guidance has been issued by the Department of Housing, Local Government and Heritage for the assistance of local authorities. The relevant legislation and Guidance documents are as follows;

- Part 22A of the TCA
- Guidelines on the Operation of Residential Zoned Land Tax (RZLT) RZLT Registration
- the RZLT Guidelines (Revenue, March 2025)
- Residential Zoned Land Tax - Guidelines for Planning Authorities (Department of Housing, Local Government and Heritage, June 2022)

It is noted that the referenced Guidelines are for assistance only, they cannot extend the scope of the legislation. In so far as there is any conflict between the wording of the legislation and that of Guidelines, the legislation takes precedence. Without prejudice to this, our submission also outlines why, having regard to the RZLT Guidelines, the lands should be excluded.

## 1.1 Context

1. Parcel ID DCC000064150 ("the Parcel") is part of the 'Former Nissan Site', Naas Road, Dublin 12, and it covers an area of approximately 4.4 hectares. The Parcel is zoned *Z14 – Strategic Development and Regeneration Areas* in the Dublin City Development Plan 2022-2028. This envisages a mixture of uses, including residential use.
2. Planning permission for a large-scale, mixed-use development of the Parcel has been granted under Planning Register Reference Nos. 3228/20 granted on 6 April 2021 and 3792/23 granted on 30 August 2023.
3. The Parcel was included in the 2023/24 Map and in the 2025 Map. The determination of An Board Pleanála (the Board) in respect of the 2023/24 Map was the subject of an application for Judicial Review under Record No. 2023/1139JR. That application was not pursued when our client served a Commencement Notice and began developing the Parcel as our client was in a position to claim a deferral and took the view that the costs of a Judicial Review application were not merited in the circumstances. Our client did not, however, agree that the Parcel was properly included in the RZLT map. Further our client strenuously disputed that the Parcel satisfied the "relevant criteria" in Section 653B of the Taxes Consolidation Act 1997 (as amended) ("the TCA") on 1 January 2022.
4. Our client has commenced development of the Parcel and, will be obliged to incur a significant cost of approx. [REDACTED] to upgrade public infrastructure so that the development can proceed. For the reasons set out in this Submission, the fact that this work is required takes the Parcel outside of the scope of Section 653B TCA. For other reasons set out in this Submission, the Parcel or significant portions of the Parcel are incorrectly and inappropriately included in the map.

5. Notwithstanding that our client has commenced developing the Parcel, arising from the complexity of the legislation relating to RZLT, the circumstances as to when a deferral can be lost are not altogether clear and therefore our client's preference is that the map is corrected and that the Parcel is omitted on the basis of the Grounds set out below.

## 1.2 Grounds for Exclusion

**GROUND 1: DCC in including the Parcel on the 2026 draft map and in previous RZLT maps has erred in law by misinterpreting and/or misapplying the provisions of section 653B(b) of the TCA 1997, in determining that the Parcel met the criterion on 1 January 2022 and that it may have access, or be connected, to public infrastructure and facilities, including in particular foul sewer drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, and in relation to these matters DCC has failed to take into account relevant considerations and/or took into account irrelevant considerations.**

### *The TCA 1997*

6. Section 653B(b) of the TCA 1997 provides that land shall meet the relevant criteria for inclusion in the Draft Map where, *inter alia*, it is land that:

*"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".*

### *The UE Correspondence*

7. As part of the planning process for the Parcel, our client made a pre-connection enquiry to Uisce Éireann ("**UE**") regarding the connection of the Parcel to the Irish Water network. By letter dated 11 February 2020 (**Attachment 3**) (the "**UE 2020 Letter**"), UE informed our client's agents that a new water connection could only be facilitated if upgrade works were undertaken to approximately 10 metres of UE pipe, which are located beneath a roadway on lands not under our client's control at a location approximately 850 metres east of the Parcel. The letter stated as follows:

*"In order to accommodate the proposed connection to Irish Water Network at the premises, upgrade works are required to upsize approx. 10m of existing 250mm PVC pipe with 350mm ID pipe as shown on the attached figure (red line). Irish Water currently does not have any plans to extend its network in this area. Should you wish to progress with the connection you will be required to fund this network extension."*

8. Subsequently, UE submitted a letter to the local authority on 25 April 2024 (**Attachment 4**) (the "**UE 2024 Letter**") in respect of the inclusion of the Parcel on the Draft Map. That report confirmed that the same upgrade works are required in order to service the Parcel as were identified in UE's letter of 11 February 2020 in respect of the proposed development of the Parcel. The report stated, *inter alia*, as follows:

*"UE can confirm that the subject site is serviceable. As per the connection enquiry (appended to the appeal) in order to accommodate the proposed connection to Irish Water Network at the premises, upgrade works are required to upsize approx. 10m of existing 250mm PVC pipe with 350mm ID pipe. 10m of pipeline is not deemed substantial".*

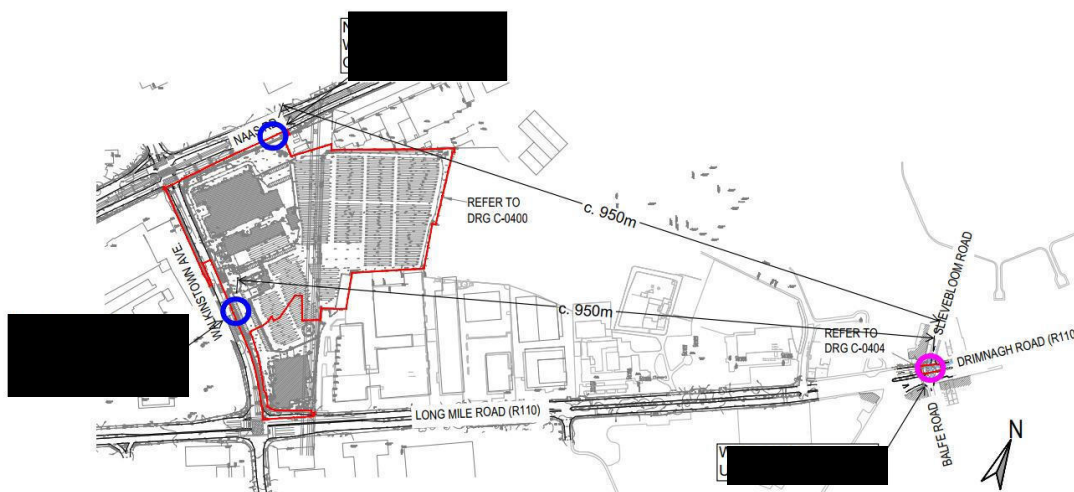


Figure 2-

### *The Council's Previous Decisions*

9. The reasons provided in the Council Decisions for including the Parcel in the Draft Map included that the lands *"have access, or can be connected, to public infrastructure and facilities, with sufficient service capacity, as confirmed by Uisce Éireann in its report dated 25 April 2024, and having regard to the brownfield nature of the lands and their location within the built-up footprint of the city"*.

### *The Board's Determination*

10. It is submitted that, in its previous determination, the Board erred in concluding that the Parcel met the requirement in section 653B(b) that lands *"have access, or be connected, to public infrastructure and facilities, including... water supply... necessary for dwellings to be developed and with sufficient service capacity available for such development"* (emphasis added). The position of UE, per the UE 2020 and 2024 Letters, is that a water connection for the Parcel could not be permitted unless an upgrade were undertaken to the UE public network (which network upgrade UE stated that it had no plans to undertake). Therefore, there was not *"sufficient service capacity available"* in the public water network for a residential development on the Parcel.
11. The phrase *"with sufficient service capacity available"* in section 653B(b) is in the present tense. This is logical, as the RZLT criteria are designed to assess whether a residential development could be constructed on a particular site at a particular point in time (and affixes the date of accrual of RZLT liability by reference to the date on which the land first satisfied the

relevant criteria). Despite this, the UE 2024 Letter opines that the Parcel is “serviceable”, provided however that upgrades to the public pipe network are undertaken, at our client’s cost. The term “serviceable” does not appear in the legislation and is not an appropriate criterion by which to assess whether lands are subject to RZLT.

12. The Board and Dublin City Council appear to place reliance on the RZLT Guidelines, which provide that *“a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist”*. This broad claim is not explained or justified in any way in the Guidelines, other than to state, *“Further details are provided in section 4 Implementation”*. Section 4 of the Guidelines in fact makes no further reference to upgrades.
13. The view that a need for network upgrades does not exclude lands flies in the face of the present-tense description of public infrastructure in section 653B(b) as that *“with sufficient service capacity available”*. Nor do the Guidelines attempt to constrain the remit of the general claim to particular upgrades, or to upgrades of a limited scale. The Guidelines instead appear to conclude that the words *“with sufficient service capacity available”* in section 653B(b) of the TCA 1997 in truth mean ‘where sufficient service capacity can be made available, regardless of the scale of the network upgrades required to achieve this, or who is required to undertake same’. This is a radical constriction of the scope of section 653B(b), which has no basis in the wording of the legislation.
14. It would appear that Dublin City Council and the Board have each previously evaluated the Parcel on the basis that the only relevant considerations in assessing whether lands meet the requirements of section 653B(b) are whether:
  - (i) the lands are situated in an urban area, and
  - (ii) there is sufficient capacity for a residential development on the lands in the UE Water Supply and Wastewater Capacity Registers.
15. However, UE water supply and wastewater capacity registers merely state whether there is sufficient water supply and wastewater treatment capacity at Uisce Éireann treatment plants to support future development in the area. The registers do not identify whether there is sufficient *carrying infrastructure* in any particular area to convey water and wastewater from a future development to those treatment plants. This carrying infrastructure is an essential part of the *“public infrastructure”* described in section 653B(b) of the TCA 1997, in which sufficient capacity must be available. The Board thus misinterpreted the legislation and failed to take account of the capacity of such carrying infrastructure as a relevant consideration.
16. It appears that the following extract from the RZLT Guidelines may be causing confusion:

*“All brownfield lands within existing built up town centre, district centre or local centre type mixed use zonings, should generally be considered to be in-scope, unless lack of capacity in water treatment plants servicing the settlement is confirmed by Irish Water.”*

(Emphasis added)



17. Insofar as the aforesaid extract from the Guidelines only refers to the capacity of water treatment plants, this is an error in the interpretation of the legislation, for the reasons set out above. Nonetheless, even taking the above extract from the Guidelines on its merits, the principles it sets out are general ones (as underlined by the phrase "*should generally be considered*") rather than complete and sufficient criteria for the inclusion of lands in the Draft Map. Where, despite its location within an urban area, it is proven that it is not in fact possible to connect a particular landholding to public services (or it is only possible to do so following upgrade works on public or third-party lands) the landholding cannot be considered in scope under the wording of section 653B(b) as "sufficient service capacity" is not "available for such development"

18. The following extract from the RZLT Guidelines (at p.24) is also relevant:

*"If the works required to connect the land to services are materially significant, for example require access to 3<sup>rd</sup> party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered out of scope. Notwithstanding other development or works which may be considered, **examples where land would be considered out of scope would include** where the works required to connect the land to services involve the crossing of European Sites, rivers, streams or rail infrastructure where statutory consents are required."*

(Emphasis added)

19. It should be noted that the said categories used in the RZLT Guidelines as **examples only**. The construction of a residential development on the Parcel would require the opening of a busy public road, which would require a road-opening licence pursuant to section 13 of the Roads Act, and there is no reasonable or reasoned basis for distinguishing same from the works required to traverse a "stream" (which the Guidelines state would generally take lands out of scope).

20. In any event, the above extract from the RZLT Guidelines refers to works that are required "to connect" the subject lands to public services. (This is in line with the words "have access, or be connected, to" in section 653B(b)). However, the works in the present case are not works "to connect" the Parcel to public infrastructure, but are works to that public infrastructure itself. This is a crucial distinction. There is no statutory basis (on the wording of section 653B or otherwise) for requiring our client to carry out works to public infrastructure – as opposed to works to connect the Parcel to that public infrastructure – in order to avoid liability for RZLT. The required upgrade to the public infrastructure was not undertaken by 1 January 2022 (the date when DCC suggests the lands were fully serviced) and is still not undertaken. The fact that our client has determined to undertake that upgrade now [REDACTED] so that it can proceed with its development does not alter the fact that responsibility for upgrades to public infrastructure rests with public authorities. Where a public authority refuses consent for a connection until its own infrastructure is upgraded, it is not reasonable to assume that a connection can take place until that public authority itself undertakes the necessary upgrades. This is entirely different to connection works which are not required otherwise than to connect the relevant lands to the relevant infrastructure. Land can be

considered “in scope” where the required works are works to connect the lands. It cannot be consider “in scope” where the required works are works to upgrade public infrastructure located at a remove from the land.

21. Finally, our client [REDACTED] that an interpretation of section 653B which would subject a citizen to a penal tax should they decline to bear the cost of upgrading public infrastructure is not consistent with the State’s guarantee of the protection of constitutional property rights. Our client’s legal advice is that, for the legislation to require landowners to carry out upgrades to public infrastructure in order to avoid a penal tax liability would constitute an unjust attack on the property rights of those landowners under Articles 40.3 and 43 of the Constitution. Furthermore, in circumstances where the infrastructural upgrade benefits the wider community, as in the present case, the imposition of such a cost burden on a particular (and where that landowner will have no means of recovering the costs thereof from other landowners), such an interpretation would, addition to being a breach of property rights, would also amount to a breach of the constitutional guarantee of equality under Article 40.1 of the Constitution.
22. It is our client’s case that no reasonable interpretation of the wording of section 653B renders lands in scope where upgrades to the capacity of public infrastructure (including the capacity of public carrying infrastructure) are required to be undertaken. However, even if such an interpretation were reasonably available, that interpretation is, for the reasons set out above, inconsistent with the protection afforded to property rights under the Constitution. Where two possible interpretations of a legislative provision are available, one of which would render the legislation unconstitutional and one of which would render it Constitutional, the Constitutional interpretation must prevail. The interpretation contended for by our client (under which a lack of capacity in public carrying infrastructure will render lands out of scope) would avoid inequality, and an unjust attack on property rights under the Constitution and must, therefore, prevail.
23. As for the connection of the Parcel to wastewater services, it is a condition of the planning permission (Planning Registry Reference No. 3228/20) that a spur be constructed to facilitate the future connection of the Parcel to the wastewater drainage system. This will direct wastewater through the Parcel to the existing combined 9B trunk sewer situate to the north of the Parcel on the Naas Road. Such a condition was included as it was noted that the Parcel could not otherwise be serviced with foul sewer drainage, there being insufficient capacity in the sewer on the Longmile Road.
24. In the absence of the envisaged spur, access to the public wastewater network will not be possible for the Parcel. It cannot, therefore, be concluded for the purposes of section 653B(b) that “sufficient service capacity” is “available for such development”. The use of the word “available” without any conditionality or qualification can only be interpreted as meaning *current* availability at the relevant date to be considered rather than availability at some unspecified future date, which is also contingent on works being carried out elsewhere. The Board thus erred in concluding that the Parcel complied with the criteria under section 653B(b).

**GROUND 2 : Dublin City Council in including the Parcel on the draft 2026 Map erred in law by misinterpreting and/or misapplying the provisions of section 653B(c)(iii)(III) and (V) of the 2007 Act in determining that the Parcel was not required for, or integral to, occupation by (1) energy infrastructure and facilities and/or (2) water and wastewater infrastructure and facilities, and in relation to these matters the Board acted irrationally, failed to take into account relevant considerations and/or took into account irrelevant considerations.**

25. Section 653B(c)(iii)(III) and (V) of the 2007 Act provides that land does not meet the relevant criteria where it is land:

*"that it is reasonable to consider is required for, or is integral to, occupation by–*

*...(III) energy infrastructure and facilities,*

*...(V) water and wastewater infrastructure and facilities."*

26. DCC appears to interpret the provisions of section 653B(c)(iii)(III) and (V), and in particular the requirement that the lands be *"required for"* or *"integral to"* occupation by the aforesaid infrastructure, as involving a consideration whether the Development Plan identifies the lands for the provision of such infrastructure and facilities. Indeed, DCC appears to treat the designation of the lands in the Development Plan as the sole criterion in assessing whether the lands are required for or integral to occupation by such infrastructure and facilities.

27. It is noted that Guidelines include the following statement:

*"Where a zoning facilitates residential development, but also makes provision for other uses including the uses identified in (I) – (VII) above by way of a statement or written objective, but does not specifically identify land within a statutory plan for those uses, the whole of the land area should be considered to be in scope unless the location and scale of the excluded uses is clearly set out."*

28. Despite section 653B(c)(iii) of the TCA 1997 making no mention whatsoever of a local authority's development plan, the Guidelines have thus concluded that the determining and/or relevant factor in assessing whether lands are *"required for"* or *"integral to"* occupation by energy, water or wastewater infrastructure is whether the lands have been designated for such uses in the Development Plan *unless the location and scale of the excluded uses is clearly set out*. Had the draughtsman of the relevant provisions of the TCA 1997 intended that the designation of lands in the Development Plan be the yardstick by which a decision-maker is to determine whether the lands are required for or integral to occupation by public infrastructure, it would have been a straightforward matter to expressly so provide. However, he did not do so. The words *"required for or integral to"* must, therefore, be given their ordinary meaning. In transposing into the statutory wording an alternative meaning necessitating regard to be had to the Development Plan, which is not provided for in the legislation, the Board took account of irrelevant considerations.



29. Further and in any event, the *location and scale of the excluded uses* in the context of this Parcel as a matter of fact, is *clearly set out*.
30. It would seem that DCC has failed take into account or attach any or any adequate weight to the following relevant considerations:
- (i) the physical presence of such public infrastructure on those lands;
  - (ii) any legal obligation on the landowner not to interfere with and to retain that infrastructure; and
  - (iii) the stated position of the statutory utility companies (in this case UE and the ESB) that the infrastructure is required to remain in place.
31. Where essential public infrastructure traverses' lands, and where the landowner is legally prohibited from removing that infrastructure or from building on, over or within a certain number of metres thereof, it is perverse to conclude that the lands are not "*required for*" occupation by such infrastructure. The position adopted by DCC appears to be that, despite the lands *in fact* being required for or integral to occupation by such infrastructure, they are to be *deemed* not to be so required in the absence of any designation in the Development Plan confirming this to be the position. The consideration given by DCC to this criterion is unreasonable and its interpretation of section 653B(c)(iii)(III) and (V) is mistaken in law. The Parcel does not meet the criteria for inclusion in the Draft map having regard to the said provisions.
32. The interpretation of section 653B(c)(iii) adopted by DCC would constitute an unjustified attack on the constitutional property rights of a landowner. In the present case, a significant part of the Parcel, is sterilised by the relevant UE and ESB infrastructure, yet remains subject to a penal tax. While the compulsory acquisition of wayleaves, and consequent sterilisation of land parcels, by statutory bodies has been held to be a permissible restriction of constitutional rights, the imposition of a further penal tax liability on landowners, in respect of lands that were compulsorily sterilised and on which no works can be carried out, would be a disproportionate and invalid interference with property rights in the present case. This, in effect, would involve the State prohibiting a landowner from building on parts of his land and then imposing a penal tax liability on him for his failure to do so.
33. That the tax liability could ultimately arise by virtue of the failure of the local authority in properly designating the lands as being required for such infrastructure in the Development Plan only serves to render the interference with the landowner's property rights more arbitrary and unjust.
34. It is our client's case that the meaning of the words "*required for or integral to*" in section 653B(c)(iii) is clear and unambiguous. It involves a consideration of whether the lands are, in fact, necessary for the various infrastructural uses set out in that section. However, if there is any ambiguity as to the meaning of the section, the interpretation that is constitutionally sound must prevail. The interpretation contended for by our client would avoid the constitutional inconsistency triggered by the approach taken by the Board and so must be preferred.

**GROUND 3: The part of the Parcel occupied by [REDACTED] is not “land which satisfies the relevant criteria” as defined in Section 653B of the Act because the Parcel is zoned for mixed use and that part of the Parcel is not vacant or idle and is not unauthorised.**

35. Without prejudice to the fact that the entire Parcel is out of scope under Grounds 1 and 2 above, part of the Parcel was, until 16 February 2025, occupied by a business which comprises an authorised development and, as such that part of the Parcel must be excluded from the 2026 map under the terms of Section 653B (ii). The relevant date for consideration of the application of the “relevant criteria” for the purpose of the draft 2026 map is 1 January 2025. On that date part of the Parcel was occupied [REDACTED] It was also occupied by [REDACTED] 1 January 2022. The part of the Parcel occupied by [REDACTED] is identified and hatched red in Figure 3.



Figure 3 Area of Parcel occupied by [REDACTED] (outlined black)

#### *Relevant provisions of the TCA 1997*

36. Section 653B of the TCA 1997 sets out the criteria having regard to which land is to be included in the draft residential zoned land tax map (the “**Draft Map**”) to be prepared by a local authority pursuant to section 653C of the TCA 1997 and the final residential zoned land tax map (the “**Final Map**”) to be prepared pursuant to section 653K of the TCA 1997 (together, the “**RZLT Maps**”).
37. Section 653B of the Taxes Consolidation Act 1997, provides that land which is zoned for a mixture of uses, including residential use, does not satisfy the relevant criteria for inclusion in the RZLT map “*unless it is reasonable to consider that the land is vacant or idle*”.

38. Section 653A defines “vacant or idle” land as:

*“land that, having regard only to authorised development under the Planning and Development Act 2000, is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land”.*

39. In effect, the assessment of whether lands are “vacant or idle” for the purposes of section 653B(c)(ii) involves consideration of the following two questions:

- (i) whether the use of the lands is required for, or integral to, the operation of a trade or profession being carried out on or adjacent to, the land; and
- (ii) whether that use is an authorised use.

40. In its Evaluation in the context of a submission made in 2023, DCC stated;

*“A car preparation and distribution centre to the trade only operated from these lands (the wider former Nissan site). From a review of the planning history of the wider Parcel it is concluded that this use falls under light industrial use.*

*....The majority of the relevant land is vacant / idle in that there is no use / activity on the land.*

*According to the submission, the northern section of the land is being used by a car sales business. This use on the northern section of the lands is therefore a use in connection with a business involved in ‘the sale or leasing, or display for sale or leasing of motor vehicles’.*

*According to the 2001 P&D Regulations a use for the ‘sale or leasing, or display for sale or leasing, of motor vehicles’ (car sales) specifically falls outside of the use classes in the 2001 Planning and Development Regulations 2001, as amended, i.e. it is not a light industrial use.*

*Therefore, there has been a material change of use on the lands and this change of use is not exempted development. The use of the lands for the storage / parking / sale of cars in connection with a car sales business is therefore unauthorized. All the relevant lands are therefore considered vacant and idle.”*

41. Arising from this evaluation, DCC then concluded that

*“The lands are vacant/idle as there is no active authorised use on the lands which is required for, or integral to, the operation of a trade or profession, being carried out on, or adjacent to, the land.”*

### *Response to DCCs Assessment*

42. Schedule 2, Part 4 of the Planning and Development Regulations (PDRs) 2001, as amended, identifies Exempted Development – Classes of Use.

43. DCC’s decision in 2023 and its continued failure to exclude this part of the Parcel appears to rest on its interpretation of the entire former Nissan site as falling exclusively within Class 4 (Light Industrial), and this is premised on DCC’s assumption that the Parcel acted solely as a car preparation and distribution centre. In its aforesaid Evaluation Report, DCC set out that the current use (related to the sale of motor vehicles and so is classless under the PDRs) is, therefore, an unauthorised change of use.

44. To inform this Submission, we have undertaken an online search of the planning history for the Former Nissan Site, and the results set out in a Table at the end of this section confirm that the uses permitted on the former Nissan site fall under the following classes:
- a. Class 3 Office - Nissan headquarters,
  - b. Class 4, Light Industrial<sup>1</sup> - The import of motor and light industrial vehicles for distribution.
  - c. Class 4, Light Industrial - Modifying said motor and light industrial vehicles.
  - d. Class 5, Wholesale Warehouse or Repository<sup>2</sup> - The importation and storage of motor vehicle parts and accessories for distribution.
45. The sale or leasing of motor vehicles or display for sale or leasing, which is specifically stated to not fall under any classes of use set out in Schedule 2 Part 4 of the Planning Regulations, was also a permitted use on the former Nissan site.
46. The established, permitted use of the Parcel for the display of motor vehicles is identified/confirmed in the Dublin City Council Planner's Report for Reg. Ref. No. 3677/05:
- "The site is currently occupied by a motor showroom, warehouse, offices and parts/accessories workshop, and forms the headquarters of Nissan Ireland."*
47. The Planning History section of the Planners Report prepared for Reg. Ref. No. 3228/20; the extant mixed-use development, also identifies the presence of a motor trade display showroom within the former Nissan site. Given the above, the use of the northern section of the lands in connection with a business involved in *'the sale or leasing, or display for sale or leasing of motor vehicles'* does not constitute a change of use, as this was a previously established use.
48. The office and sales premises of the occupier of the land [REDACTED] is located adjacent to the Parcel at a distance of c.150 metres. The storage and display of cars has at all time been essential to its business. As such, at the relevant dates, there was an active authorised use on the lands required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land.
49. Therefore, it is not reasonable to consider that the land was "vacant or idle" on 1 January 2025 or on 1 January 2022. On each relevant date, it was occupied by a car sales business that provided employment in the area and a valuable service in the supply and sale of cars. Significantly, the use of the relevant part of the Parcel for the storage and display of cars is an established, permitted use and is not "unauthorised development".

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<sup>1</sup> In accordance with the PDRs "light industrial building" means: "an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;"

<sup>2</sup> We draw DCC's attention to relevant precedent with respect to our conclusion that the site supports a Class 5 use. In referral case PL06S.RL2525, the Board determined that the use of a portion of a building for wine importation, storage and distribution was a Class 5 (wholesale warehouse or as a repository) use. Applying the same principle, the importation and storage of motor vehicle parts and accessories for distribution is therefore a Class 5 use.

50. As such, on the relevant dates, the land did not meet the relevant criteria under Section 653(B) of the Taxes Consolidation Act 1997, as amended to exclude a land parcel from scope– specifically, Section 653B(ii) and should, therefore, be excluded on the Final RZLT Map.
51. When establishing RZLT, policy makers and legislators did not intend to penalise and potentially close down businesses which are providing employment and contributing to the economy. A specific and deliberate distinction was drawn between lands which are zoned solely for residential development and lands which are zoned for mixed use development including residential development. In the case of the former, exclusionary criterion (i) requires that the business must be rate paying and servicing the local community. In the case of the latter, exclusionary criterion (ii) requires only that the land is not vacant or idle.
52. The portion of the lands occupied by [REDACTED] on the relevant dates was *“required for and integral to the operation of the trade being carried out on the lands”*. The lands, being part of the former Nissan site is authorised for use for car storage. As such, it is not *“reasonable to consider”* the portion of the land, which is used by [REDACTED], a rate-paying authorised business operated from the said portion of the lands is *“vacant or idle”*.
53. Without prejudice to all other submissions made relating to the exclusion of the entire of the lands, on this basis, S653B (c)(ii) the lands identified in Figure 3 comprising 0.719 hectares must be removed from the RZLT map.

This submission requests that DCC conclude in its forthcoming Notification of Determination that Parcel ID No. DCC000064150 does not meet the relevant criteria and so should not be included in the final RZLT map to be published on the 31st of January 2026 and that Parcel ID DCC000064150 be removed from the Draft RZLT maps.

Should DCC invite Uisce Éireann or any third party to comment on this submission, then in accordance with the rules of natural justice, our client must be invited to comment on any submission or response before DCC makes a final determination.

Please do not hesitate to contact the undersigned should further information be required.

Le gach dea ghuí,

[REDACTED]

McCutcheon Halley Chartered Planning Consultant



# ATTACHMENT 1

## Site Location Plan



SURVEY NOTES

- TOPOGRAPHICAL SURVEY & GPR SURVEY CARRIED OUT BY 3RD PARTY SPECIALIST CONTRACTORS. DOB & ASSOCIATES TAKES NO RESPONSIBILITY FOR ACCURACY OF SURVEY INFORMATION.
- MAIN CONTRACTOR TO ESTABLISH INDEPENDENTLY ORDNANCE DATUM ON SITE FOR LEVELS TO MAIN HEAD DATUM AND CO-ORDINATES FOR SETTING OUT TO NATIONAL GRID.
- MAIN CONTRACTOR TO VERIFY ALL UNDERGROUND SERVICES ON THE SITE INCLUDING ALL ANOMALIES NOTED ON THE GPR SURVEY AND TO TAKE ALL NECESSARY PRECAUTIONS PRIOR TO ANY EXCAVATIONS ON THE SITE.
- REFER TO M&E ENGINEERS DRAWINGS FOR DIVERSION / DEMOLITION OF ALL UNDERGROUND ELECTRICAL CABLES / DUCTS, TELECOM DUCTS, LIGHTING DUCTS, OIL LINES ETC.

LEGEND

- BLUE LINE - LANDS UNDER APPLICANT'S OWNERSHIP

RED LINE - PERMITTED DEVELOPMENT 20/3228

PROPOSED RESIDENTIAL ZONED LAND TAX AREA

WAYLEAVES OVER EXISTING UTILITIES (110kV OVERHEAD POWERLINES, 38kV OVERHEAD POWERLINES, 762mm DIA. WATERMAINS)
- 

MARKETING SUITE FOR NEW DEVELOPMENT

WAYLEAVE OVER EXISTING OVER-HEAD 38kV HIGH VOLTAGE POWERLINES (15m EACH SIDE OF THE CENTRE LINE)

16.75m WIDE WAYLEAVE OVER EXISTING 762mm DIA. WATERMAIN

PARCEL ID DCC000064150

30m WIDE WAYLEAVE OVER EXISTING OVER-HEAD 38kV HIGH VOLTAGE POWERLINES (15m EACH SIDE OF THE CENTRE LINE)

40m WIDE WAYLEAVE OVER EXISTING OVER-HEAD 110kV HIGH VOLTAGE POWERLINES (20m EACH SIDE OF THE CENTRE LINE)

OFFICE & DISTRIBUTION CENTRE FOR FITNESS COMPANY

ISSUED FOR INFORMATION

S2.P05	ISSUED FOR INFORMATION	01.04.2025	PD	PD
S2.P04	ISSUED FOR INFORMATION	04.04.2024	PD	PD
S2.P01	ISSUED FOR INFORMATION	21.12.2022	PD	PD
Rev.	Note	Date	Drawn	Check

UNIT 5C  
ELM HOUSE  
MILLENNIUM PARK  
NAAS  
CO. KILDARE

PHONE  
+353 45 984 042  
INFO@DOBRIEN-ENGINEERS.IE  
WWW.DOBRIEN-ENGINEERS.IE

DOBNACHADH O'BRIEN

& ASSOCIATES CONSULTING ENGINEERS

Client:				
Project:	RZLT DRAFT MAPPING			
Drawing Title:	SITE LOCATION - PARCEL ID DCC000064150			
Drawn By:	Checked By:	Approved By:	Date:	Scale:
MF	PD	DOB	DEC '22	1:1000
Project Number:	Drawing Number:		Status Code:	Rev Number:
DOBA1930	RZLT DRAFT MAPPING - MAP 1		S2	P05



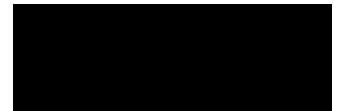


# ATTACHMENT 2

## Proof of Ownership

# Land Registry

County Dublin



## Register of Ownership of Freehold Land

### Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent.

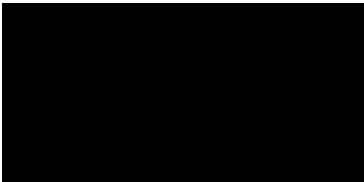
For parts transferred see Part 1(B)

No.	Description	Official Notes
1	<p>The property shown coloured Red as plan(s) 14 on the Registry Map, situate in the Parish of DRIMNAGH, in the Electoral Division of WALKINSTOWN A.</p> <p>The Registration does not extend to the mines and minerals</p>	
2	<p>The property shown coloured Red as plan(s) 21, 22 on the Registry Map, situate in the Parish of DRIMNAGH, in the Electoral Division of WALKINSTOWN A.</p> <p>The Registration does not extend to the mines and minerals</p>	
3	<p>The property shown coloured Red as plan(s) 1, 2, 32, 3 on the Registry Map, situate in the Parish of DRIMNAGH, in the Electoral Division of WALKINSTOWN A.</p> <p>The Registration does not extend to the mines and minerals</p>	
4	<p>The property shown coloured Red as plan(s) 20, 16, BM7UD, BM7UT, BM7U4 on the Registry Map, situate in the Parish of DRIMNAGH, in the Electoral Division of WALKINSTOWN A.</p> <p>The Registration does not extend to the mines and minerals</p>	



# Land Registry

County Dublin



Part 1(B) - Property  
Parts Transferred

No.	Prop No.	Instrument	Date	Area(Hectares)	Plan	Folio No.

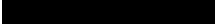

# Land Registry

County Dublin



## Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965	
1	20-APR-2021 	

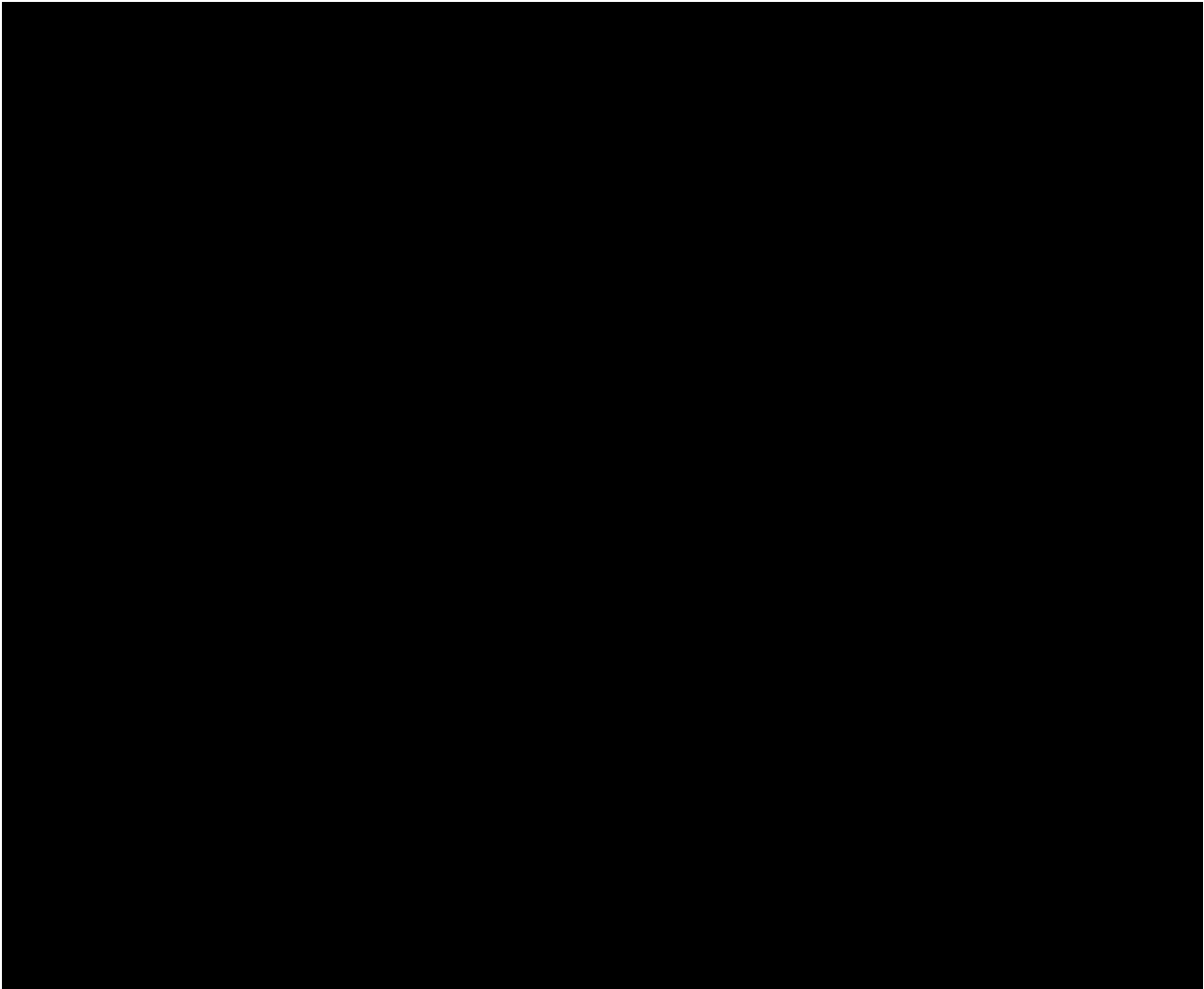
# Land Registry

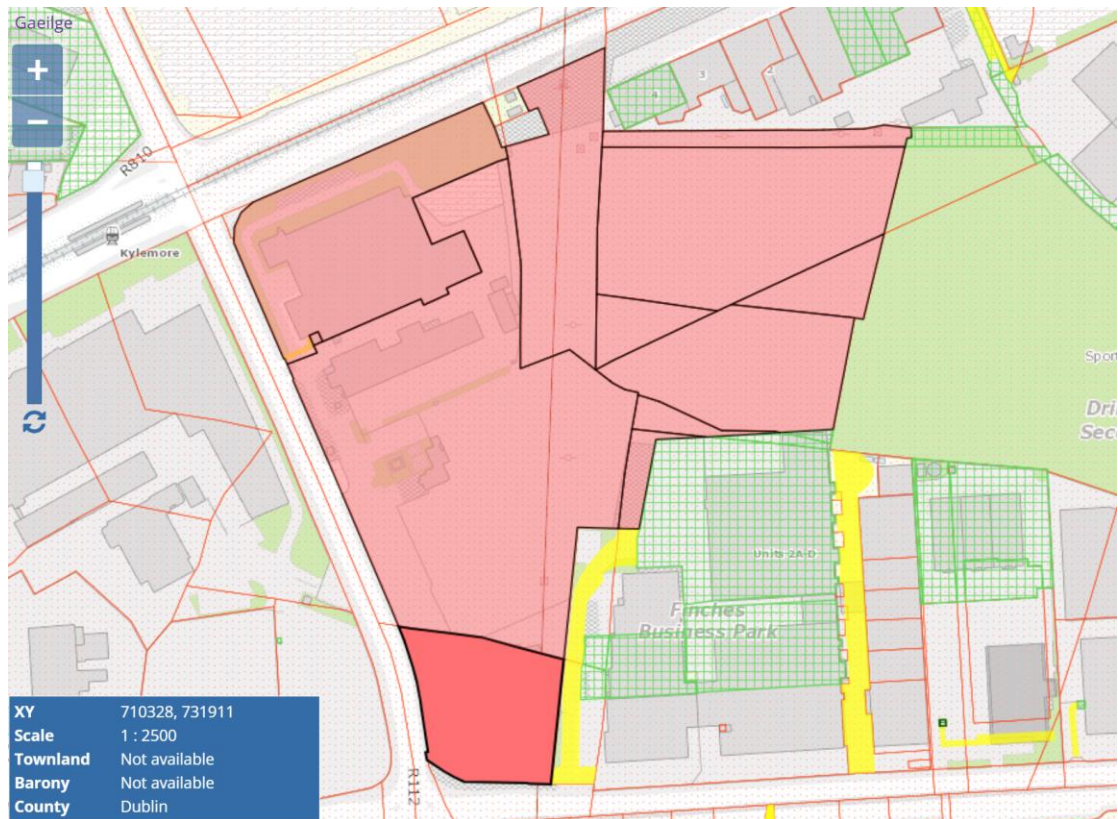
County Dublin

Folio



## Part 3 - Burdens and Notices of Burdens

No.	Particulars
1	
2	
3	
4	
5	
6	
7	
8	
9	
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11	
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24	
25	



# ATTACHMENT 3

## UE 2020 Letter




11 February 2020

Dear 

**Re: Connection Reference  pre-connection enquiry -  
Subject to contract | Contract denied**

**Connection for Multi/Mixed Use Development of 1,266 unit(s) at **

Irish Water has reviewed your pre-connection enquiry in relation to a water connection at  Co.Dublin.

Based upon the details that you have provided with your pre-connection enquiry and on the capacity currently available in the network(s), as assessed by Irish Water, we wish to advise you that, subject to a valid connection agreement being put in place, your proposed connection to the Irish Water network(s) can be facilitated.

Water:

In order to accommodate the proposed connection to Irish Water network at the Premises, upgrade works are required to upsize approx. 10m of existing 250mm PVC pipe with 350mm ID pipe as shown on the attached figure (red line). Irish Water currently does not have any plans to extend its network in this area. Should you wish to progress with the connection you will be required to fund this network extension.

The proposed development indicates that an important Irish Water asset is present on the site. A wayleave in favour of Irish Water will be required to protect the 30" steel trunk main. No structures will be allowed within 8m of main (i.e. 16.75m width centred over main),

For design submissions and queries related to diversion/buildover please contact 

Detailed proposals, including work method statements, insurance confirmation and details of work completed of a similar nature must be submitted to Irish Water for its consideration before approval will issue to undertaking work in close proximity to Irish Water assets. All such works in the vicinity of Water Mains or Sewers greater than 400mm shall be subject to written agreement with Irish Water before construction commences on site. This agreement shall also include any necessary protection for Water Mains and Sewers. The placing of concrete over or around Water Mains is expressly forbidden.

Wastewater:

New connection is feasible without upgrades for the full development directly to the 9B sewer on Naas Road. Storm water is not permitted to the Irish Water network.

## Strategic Housing Development

Irish Water notes that the scale of this development dictates that it is subject to the Strategic Housing Development planning process. In advance of submitting your full application to An Bord Pleanála for assessment, you must have reviewed this development with Irish Water and received a Statement of Design Acceptance in relation to the layout of water and wastewater services.

All infrastructure should be designed and installed in accordance with the Irish Water Codes of Practice and Standard Details. A design proposal for the water and/or wastewater infrastructure should be submitted to Irish Water for assessment. Prior to submitting your planning application, you are required to submit these detailed design proposals to Irish Water for review.

You are advised that this correspondence does not constitute an offer in whole or in part to provide a connection to any Irish Water infrastructure and is provided subject to a connection agreement being signed at a later date.

A connection agreement can be applied for by completing the connection application form available at **[www.water.ie/connections](http://www.water.ie/connections)**. Irish Water's current charges for water and wastewater connections are set out in the Water Charges Plan as approved by the Commission for Regulation of Utilities.

If you have any further questions, please contact [REDACTED]  
[REDACTED]

Yours sincerely,

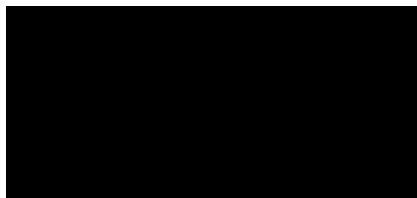
[REDACTED]

# ATTACHMENT 4

## Uisce Eireann Submission to DCC (2024)

## Uisce Éireann Response to RZLT Query

### Site Address:



**Uisce Éireann**  
Teach Colvill  
24-26 Sráid Thalbóid  
Baile Átha Cliath 1  
D01 NP86  
Éire

**Uisce Éireann**  
Colvill House  
24-26 Talbot Street  
Dublin 1  
D01 NP86  
Ireland

**T:** +353 1 89 25000  
**F:** +353 1 89 25001  
**[www.water.ie](http://www.water.ie)**

Date: 25<sup>th</sup> April 2024

Dear Sir/Madam,

We are in receipt of the above query and have completed a desktop assessment as follows, based on our available information:

We note that the claimant's submission refers to communications with UE that refer to other land parcels (owned by the application) but outside of that indicated on the map that forms part of this specific query. Those communications would refer to the development of an overall larger development area of circa.1,258 units.

### Water Supply and Wastewater Treatment Capacity

Our capacity registers are now published annually on our website. They currently show that there is capacity available.

[Capacity Registers | Connections | Uisce Éireann](#)

### Wastewater Networks

From our available GIS records, the site is serviceable and can connect to nearest sewer (9B) is 35m north along the Naas Road. Based on the applicant's submission, the applicant owns the extended land parcel to the Naas Road, so no 3<sup>rd</sup> party involved.

### Water Networks

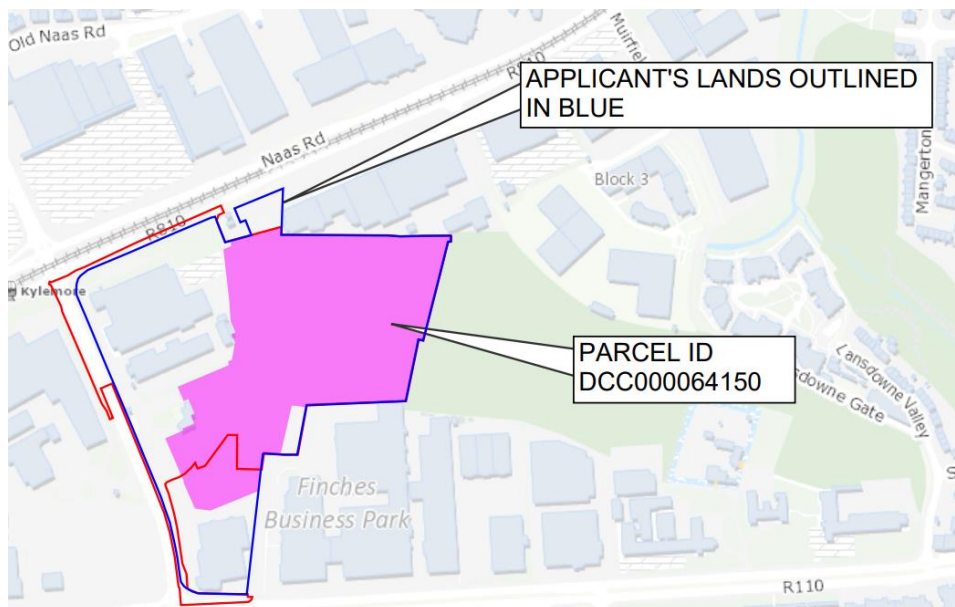
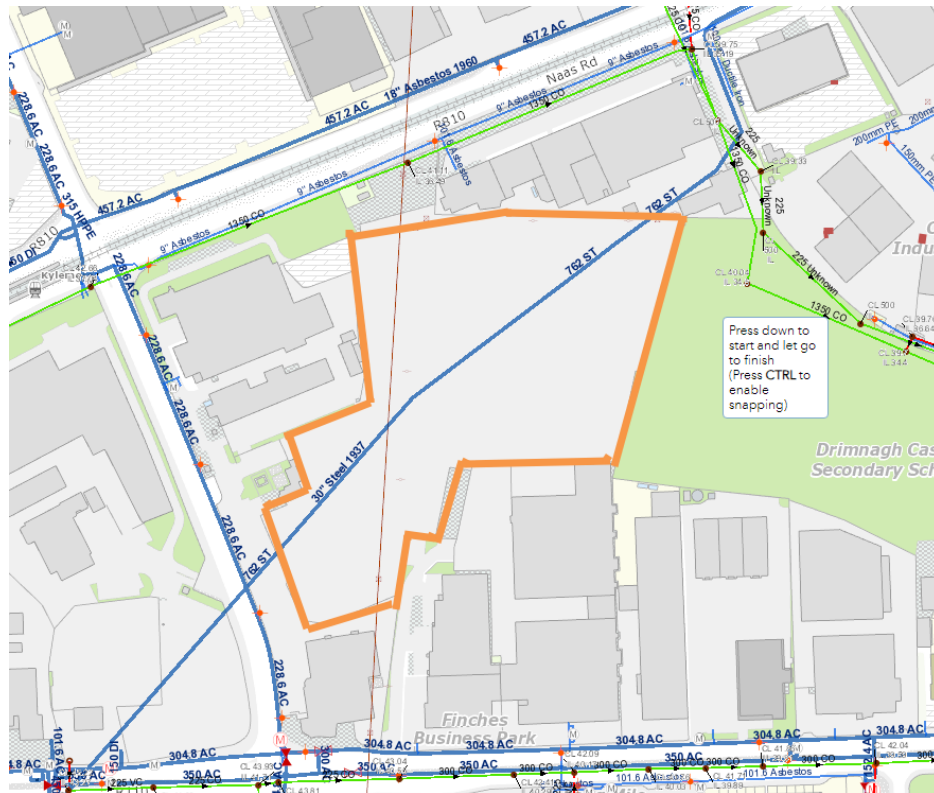
UÉ can confirm that the subject site is the site is serviceable. As per the Connection enquiry (appended to the appeal) In order to accommodate the proposed connection to Irish Water network at the Premises, upgrade works are required to upsize approx. 10m of existing 250mm PVC pipe with 350mm ID pipe. 10m of pipeline is not deemed substantial.

There is a substantial 30" strategic watermain traversing the site and a wayleave will need to be maintained if it is not diverted. The site layout would have to take account of the proximity of the water main and its associated wayleaves.

Kind Regards,

**RZLT Team**

**Asset Strategy – Forward Planning**



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2. Whilst every care has been taken in its compilation, Uisce Éireann gives this information as to the position of its underground network as a general guide only on the strict understanding that it is based on the best available information provided by each Local Authority in Ireland to Uisce Éireann. Uisce Éireann can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions.
3. This information should not be relied up on in the event of excavations or any other works being carried out in the vicinity of the Irish Water underground network. The onus is on the parties carrying out excavations or any other works to ensure the exact location of the Uisce Éireann underground network is identified prior to excavation s or any other works being carried out. Service connection pipes are not generally shown but their presence should be anticipated.

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