

# Delgany

RZLT Submission on Behalf of

20 December 2022

Wicklow County Council  
22 DEC 2022  
PLANNING DEPARTMENT

Wicklow County Council  
 22 DEC 2022  
 PLANNING DEPT.

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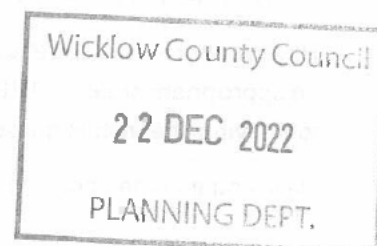


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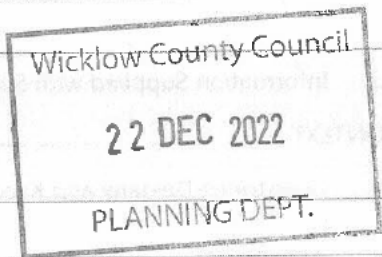
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## 1. SUBMISSION DETAILS

### 1.1 Details of person/ agent making submission

<b>Name</b>	Jerry Barnes, MacCabe Durney Barnes	
<b>Address</b>	20 Fitzwilliam Place Dublin 2 D02 YV58	
<b>Phone No.</b>	01 6762594	
<b>Email Address</b>	jbarnes@mdb.ie	

### 1.2 Landowner and Landholding Details

<b>Town</b>	Delgany	
<b>Landowner name</b>	[REDACTED]	
<b>Landowner address</b>	[REDACTED]	[REDACTED]
<b>Landowner phone</b>	[REDACTED]	
<b>Landowner email</b>	[REDACTED]	
<b>Address of site</b>	Former Carmelite monastery, Delgany, Co. Wicklow	
<b>Site description</b>	Lands extending from Convent Road to Bellevue Hill, Delgany, Co. Wicklow	
<b>Site Area</b>	6.2 ha	

### 1.3 Information Supplied with Submission

<b>Maps / information to accompany submission</b>	<b>Check</b>
Have you included the required Ordnance Survey map showing the lands at an appropriate scale i.e. 1:1000 in urban areas or 1:500 in rural area, clearly identifying the map in question?	Yes
Have you included proof of ownership?	Yes

## 2. CONTEXT

### 2.1 Greystones-Delgany and Kilcoole Local Area Plan (GDK LAP) 2013-2019

This Plan sets out the statutory zoning and land use provisions for the area. The figure below illustrates the zoning and objectives. The lands are zoned residential R22; “To provide for the development of sustainable residential communities up to a maximum density of 22 units per hectare and to preserve and protect residential amenity”.

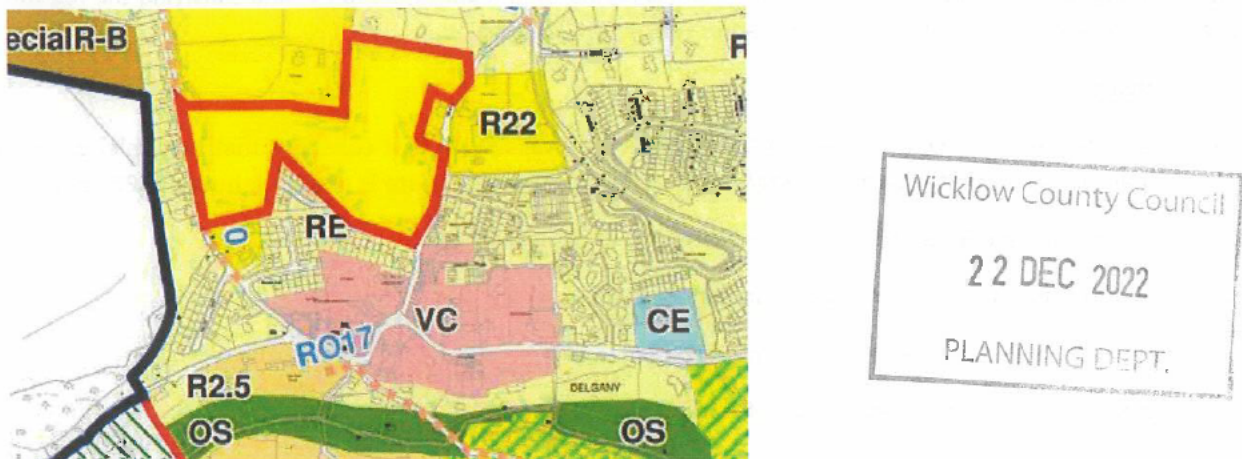


Figure 1: GDK LAP Objectives Map with approximate site outlined in red

### 2.2 Residential Zoned Land Tax

A Residential Zoned Land Tax (RZLT) has been introduced by the Finance Act 2021. Details of the RZLT are inserted as Part 22A of the Taxes Consolidation Act 1997 as amended. In summary, an owner of land which is zoned as suitable for residential development and serviced on 1<sup>st</sup> January 2022, and on which development has not commenced before 1<sup>st</sup> February 2024, will be liable to file a return and pay the tax.

A draft Map was issued for public consultation on the 1<sup>st</sup> November 2022. Submissions in writing can be received by the Council no later than Sunday 1<sup>st</sup> January 2023 on the following:

- (a) the inclusion in, or exclusion from, the final map of a site, or
- (b) the date on which a site first satisfied the relevant criteria.

The local authority will consider the submission and make a written determination on whether the land should stay on the map or be removed from it. If the landowner disagrees with the determination, they can appeal to An Bord Pleanála.

### 2.3 Legislation and Criteria for Inclusion on Map

Section 653B was inserted into the Tax Consolidation Act 1997 (TCA). The relevant criteria, in summary, relates to land which:

- (a) is included in a development plan or local area plan (LAP), zoned solely or primarily for residential use or 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, necessary for dwellings to be developed and with sufficient service capacity available for such development, and

(c) it is reasonable to consider it is not affected in terms of its physical condition, including contamination or the presence of known archaeological or historic remains.

Section 653C TCA refers to the draft map preparation. In summary, (1) A local authority shall prepare, in respect of its functional area, a map in draft form referred to as a **'draft map'** -

(a) indicating land that, based on the information available to it, it considers to be land satisfying the relevant criteria one month prior to the date specified in subsection (2), **and**

(b) specifying -

(i) **the date** on which, based on the information available to it, it considers that land referred to in paragraph (a) **first satisfied the relevant criteria, where that date is after 1 January 2022**, and

(ii) **total area, in hectares**, of land referred to in paragraph (a).

(2) A local authority shall, not later than 1 November 2022 -

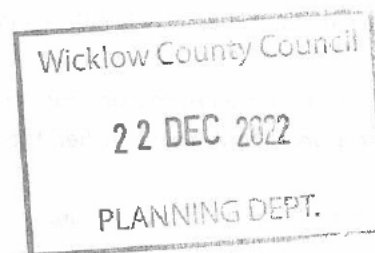
(a) publish a draft map on the website maintained by it, and

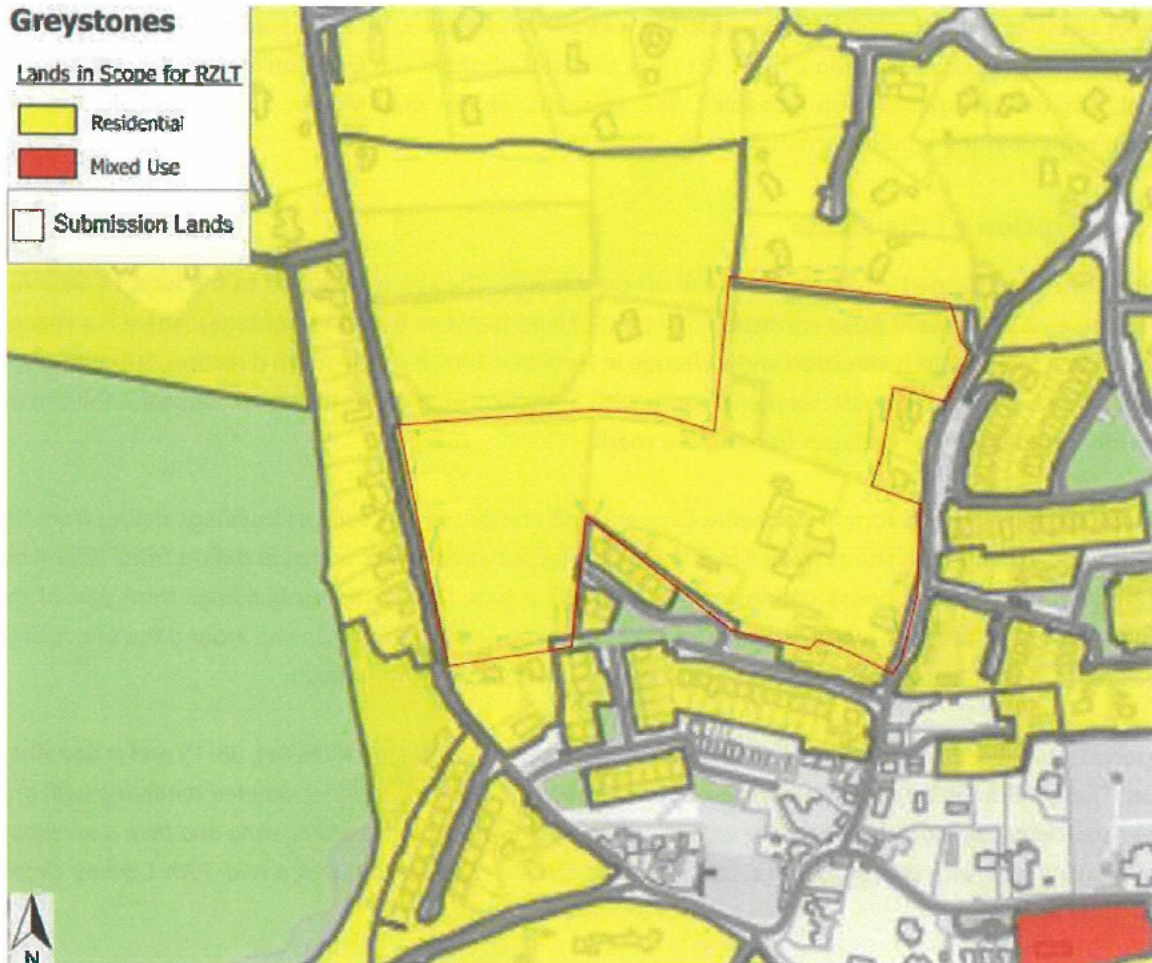
(b) make a copy of the draft map available for inspection at its offices.

## 2.4 Draft RZLT Map prepared by Wicklow Co.Council

Wicklow County Council has prepared a draft map of the land considered to be in scope for the RZLT as of October 1<sup>st</sup> 2022. The website states that total area of land identified on these maps is 2,146.3ha. The map was published on the 1<sup>st</sup> November 2022.

The extract that is of relevance to this submission is detailed in the figure below which is an extract of the Greystones published map (published at two scales). The pdf maps have been published online and the maps are available in the Council office.



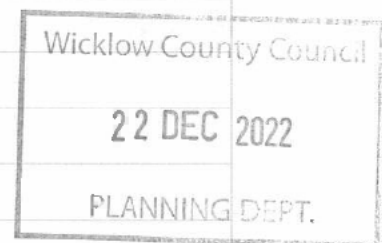


**Figure 2: RZLT Map Extract with submission lands outlined (approximate)**

In addition to the published pdf maps, access to a RZLT map viewer operated by the Department of Housing, Local Government and Heritage (the Department). The map viewer and data are owned by the Department and the disclaimer states that the original data should be sourced by the relevant Local Authority.

**Table 1: Contents of Map viewer**

Wicklow Co. Council	WW1221
Parcel ID	WW1221
Local Authority	WWLA
Local Authority Name	Wicklow County Council
Date Added	
Land Use Zoning	RN
Land Use Zoning Description	New Residential
GZT Zoning	R1.6
GZT Zoning Description	New/proposed residential, No density specification possible
Site area	12.09
Status of map	Draft



The subject lands of this submission are included in a larger land bank with a site area of 12.09 ha and have been assigned a parcel identification of WW121. It is also stated under the GTZ Zoning that "New/proposed residential. No density specification possible". The contents of the map viewer do not contain the LAP information regarding the applicable density to the site.

## 2.5 Description of the Lands

The subject lands are located c.1.2km east of exit 10 on the N11. The site is bounded to the west by Bellevue Hill and to the east by Convent Road consisting of a tract of land between two road frontages. There is a change in level of c.20 m in an easterly direction and a change in level of c.10m in north-south direction. Suburban type housing bounds the site to the east, west and south with approved housing to the north. Opposite the site on Bellevue Hill are single storey cottages fronting the road.

The site was the location of a former Carmelite Convent and comprises of a suite of buildings dating from the 1850s. The nuns who vacated the premises in 2019. A protected structure of a chapel dating from 1853 (now deconsecrated), a two-storey house dating from 1835-1850, a gate lodge, and outbuildings form part of the overall convent lands. There are mature trees of varying condition and hedgerows in and around the site. A large modern extension attached to the Chapel for residential monastery accommodation.

The Delgany Carmelite Monastery is recorded on the Record of Protected structures Ref. 08-15 and is described as follows, *"Early-19th Century, top-entry house of three bays with a high basement, painted rendering with drip labels over sash windows, parapet hiding the roof. On the left-hand side is a two-storey wing and then a sevenbay, three-storey wing wall with drip-labels over sash windows. On the right-hand side is a mid-19th Century chapel built of granite ashlar."*

The site also includes a bungalow, lands that are planted with trees, an ornamental garden area, parking and open lands used for cattle. Prior to 1<sup>st</sup> October 2022 the lands were subject to a pre-planning archaeological assessment and an ecological assessment.

The site contains bat roosts in the protected structure. The site contains Japanese Knotweed that is subject to ongoing treatment.

Local Property tax is paid on two residential properties on the site.

An ordinance survey map is attached to this submission in accordance with the requirements of the Council.

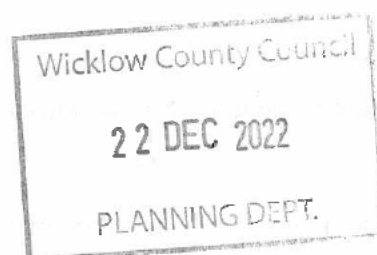






Figure 3: Outline of Site

Wicklow County Council  
22 DEC 2022  
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## 2.6 Relevant Planning History

The following planning history is of relevance to this submission.

**Planning Reg. Ref. 038224:** Permission granted for new monastery including hermitages, demolition of existing cell block, new entrance gates and driveway, provision of 55 carparking spaces, a meeting room and ancillary accommodation subject to 14 conditions and is not available on the Council's website owing to the timeframe (25/4/03). Planning Reg. Ref. 20215 Permission granted to remove three stained glass windows from protected structure and replace with three leaded windows (23/06/2020).

**ABP Ref. TA27.308467** Permission was granted on by An Bord Pleanála for a SHD development on the entire site (15/02/2021). That grant of permission is subject to an ongoing Judicial Review process.

Of note condition 11(d) stated:

*"No dwelling shall be made available for occupation within the site until the proposed road or pedestrian works to the Bellevue Hill Road and the junction upgrade of Bellevue Hill Road and the R762 Road **are completed**".*

Two section 34 planning applications were made for permission on the overall site at the same time and both were granted and both are under appeal for nearly a year. The details are as follows.

**ABP Ref. 312451-22, Planning Reg. Ref. 21/959** Permission granted for a mixed-use development on the Convent Road side of the site is the subject of a planning appeal lodged 12/01/2022.

**"18. (a) Prior to commencement of development,** the written agreement of Irish Water shall be obtained for the provision of water services necessary to serve the proposed development,  
b) The granting of permission by Wicklow County Council is in its role as a Planning Authority. It does not commit Wicklow County Council to the provision of any water services to serve the proposed development. Details of connections and the specification of materials to be used for the water services are a matter for Irish Water."

ABP Ref. 312442-22, Planning Reg. Ref. 21/960 Permission granted for a housing development on the Bellevue Hill side of the site is the subject of a planning appeal lodged 12/01/2022.

Conditions of note include:

**"9 (a) No dwelling shall be constructed within the site until the proposed road/pedestrian works to the Bellevue Hill Road are completed.**

**(b) No dwelling shall be occupied until the upgrade of the Bellevue Hill/R762 has been completed. Such completion shall be confirmed by the Planning Authority."**

**"20 (a) Prior to commencement of development,** the written agreement of Irish Water shall be obtained for the provision of water services necessary to serve the proposed development,  
b) The granting of permission by Wicklow County Council is in its role as a Planning Authority. It does not commit Wicklow County Council to the provision of any water services to serve the proposed development. Details of connections and the specification of materials to be used for the water services are a matter for Irish Water."

(Emphasis that of planning authority).

## 2.7 Relevant local infrastructure works and relevant times

On 11<sup>th</sup> November 2022, the Council published online a "Notice of Upcoming Works: R-762 and Bellevue Hill" [Notice of Upcoming Works: R-762 and Bellevue Hill. \(wicklow.ie\)](http://www.wicklow.ie) where it stated that Wicklow County Council is scheduled to commence work on the National Transport Authority project in Delgany Village upgrading the junction of R-762 and Bellevue Hill (in the week after 11<sup>th</sup> November 2022). The project is indicated to take approximately 14 weeks to complete.



### 3. GROUNDS FOR SUBMISSION

#### 3.1 Introduction

This submission is made having regard to 653D of the TCA 1997. A person may make a submission in writing, on a draft map published in accordance with section 653C(2), regarding—

**(a) the inclusion in, or exclusion from, the final map of a site,**

In the first instance, due consideration has to be given to whether the land is zoned for residential use. In this case it can be determined that it is zoned R22 in the LAP. The inclusion on the map must then consider:

- whether it is serviced and has access to public infrastructure including roads, foul sewerage and surface water drainage,
- if the lands are affected by some physical condition (e.g. contamination or archaeological remains) which precludes residential development

**(b) the date on which a site first satisfied the relevant criteria,**

A further consideration is whether the site satisfied the relevant criteria on the 1<sup>st</sup> October 2022 so as to be included in the draft map.

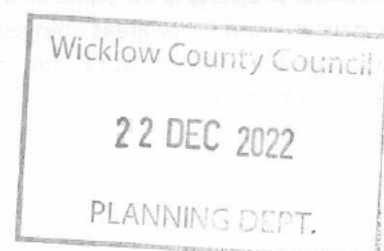
#### 3.2 Preparation and publication of map

It is submitted that the draft map is void ab initio on the grounds that the correct process has not been applied to the preparation and publication of the maps in that they do not specify the total area in hectares that have been zoned. This is a mandatory requirement in the legislation.

Section 653C of the Act, states that the local authority **shall** prepare, 'draft map' specified the date on which, it considers that land referred to first satisfied the relevant criteria, where that date is after 1<sup>st</sup> January 2022, and the "**total area, in hectares, of land**". The maps provided by the Council have not included this mandatory element of the draft map. While the total amount is stated on the website, it is not on the pdf maps online or the published maps in the Wicklow County Council office. A RZLT map made by Kildare Co. Council is referred to in figure 4 which illustrates the correct mapping process in accordance with the legislation.



Figure 4: Extract from Kildare RZLT map



Section 4.1.1 (viii) of the Guidelines for Planning Authorities states information to be contained on map:

*"The map **must** also include the area in hectares of all land included in the draft map for the local authority area. Providing a breakdown of the overall figure into residential zoned land area and a mix of housing and other uses area should be considered".*

Section 4.4.3 of the Guidelines for Planning Authorities also states:

*"The final map shall identify the lands satisfying the relevant criteria and shall specify the dates on which the land, either in individual plots or as part of a landbank, satisfied the relevant criteria. **The map shall also specify the total area in hectares of land on the map.**"*

### 3.3 Access to Public Infrastructure

#### 3.3.1 Road Infrastructure

It is submitted that the relevant required infrastructure in relation to the upgrading the junction of R-762 and Bellevue Hill was not carried out and will not be completed until sometime in 2023 and therefore the site should not have been included in the published draft map. This is evidenced by the planning conditions that have been applied to the section 34 planning application currently under appeal and the SHD permission issued by An Bord Pleanála currently subject to judicial review.

#### 3.3.2 If the lands are affected by some physical condition

The site is being treated for Japanese knotweed which is ongoing.

### 3.4 Date on Satisfying Relevant Criteria

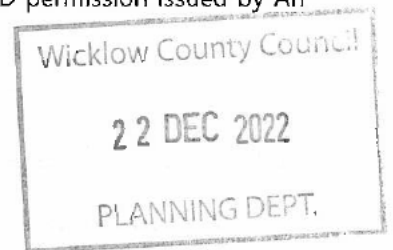
The maps should indicate the zoning of each parcel of land proposed for inclusion, along with the date that the land is considered to fall into scope where that date is after 1<sup>st</sup> January 2022, being land 'satisfying the relevant criteria' as set out at section 653B TCA 1997. The Guidelines clarify the following:

*"The cut-off date for land to be zoned **and serviced** and included on the draft map is **1 October 2022**, i.e one month before the publication date of the draft map."*

The Draft Maps have been reviewed. Section 653B (1) (b) (i) TCA, indicates that the date on which, based on the information available to it, it considers that land first satisfied the relevant criteria where that date is after 1<sup>st</sup> January 2022. The draft maps do not specify the date, so it can be taken that the Council consider that the relevant date is the 1<sup>st</sup> January 2022. It is clear from the preceding section that the lands did not have access to public infrastructure in terms of roads as of the 1<sup>st</sup> January 2022 which is also supported by previous conditions on permissions.

### 3.5 Exclusion of residential properties – section 653O TCA

Residential properties are excluded from the scope of RZLT pursuant to section 653O TCA. The meaning of residential property is the same as the Local Property Tax (LPT) definition of residential property which, includes the gardens and other areas enjoyed with the property up to 0.4047 hectares. While properties in excess of this figure are not liable for RZLT, they must be registered. In this site, two properties are liable for LPT which has been paid to date.



## 4. CONCLUSION

It is requested that the map be amended as the required infrastructure was not in place on the appropriate date, 1<sup>st</sup> October 2022.





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Ireland



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Wicklow County Council  
22 DEC 2022  
PLANNING DEPT.

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# MACCABE DURNEY BARNES

PLANNING | ENVIRONMENT | ECONOMICS

Our Ref: 2199

Administrative Officer,  
Planning Department,  
Wicklow County Council,  
County Buildings,  
Whitegates,  
Wicklow Town,  
Co. Wicklow,

19/12/2022

**Re: Residential Zoned Land Tax Submissions in relation to lands at Delgany, Co. Wicklow**

Dear Administrative Officer,

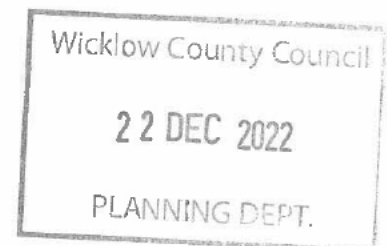
On behalf of our client [REDACTED] we, MacCabe Durney Barnes of the above address, hereby submit a submission in response to Wicklow County Council's draft Residential Land Zone Tax map. Submissions have been prepared in respect of lands at the following locations:

- 1 no. submission regarding lands at Delgany, Co. Wicklow.

We respectfully submit that the inclusion of our client's lands on the RZLT map be reconsidered in light of the enclosed submissions due to constraints of accessing public infrastructure and did not come within scope of the criteria on the 1<sup>st</sup> January 2022.


Please see enclosed the following documentation:

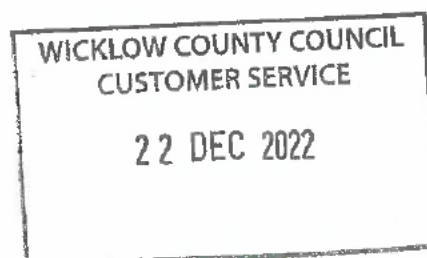
- 1 no. copy RZLT Submission for Delgany, Co. Wicklow
- 1 no. copy Site Location Map
- 1 no. copy confirming land ownership
- 1 no. copy of this letter



In accordance with the Taxes Consolidation Act 1997, the Local Authority in the course of considering submissions, can request further information from our client. We trust this is in order. Please do not hesitate to contact us if you require any further information.

Yours sincerely

  
Jerry Barnes  
MACCABE DURNEY BARNES





**NIAMH O'DWYER**  
SOLICITOR

13 Fitzwilliam Square, Dublin 2 • Email: [niamh@niamhodwyersolicitor.com](mailto:niamh@niamhodwyersolicitor.com)  
Tel: (01) 662 44 88 • Fax: (01) 662 98 77

16<sup>th</sup> December 2022

McCabe Durney Barnes  
Town Planners  
20 Fitzwilliam Place  
Dublin 2


**Re: Carmelite Convent and lands Delgany, Co Wicklow**

Dear Sirs

I act for [REDACTED] I confirm that [REDACTED]  
[REDACTED] are the owners of the Carmelite Convent and lands at Delgany, Co  
Wicklow with each holding a 50% interest in the property. Should you require any further  
information please feel free to contact me.

Kind regards

Yours sincerely,

  
**Niamh O'Dwyer**  
Solicitor





# Planning Pack Map

71410 727181 71410 726222 71410 710785

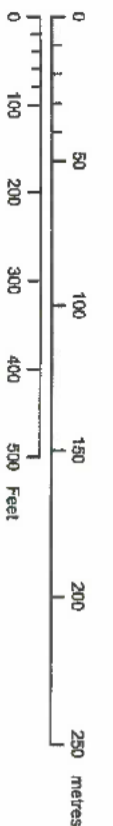
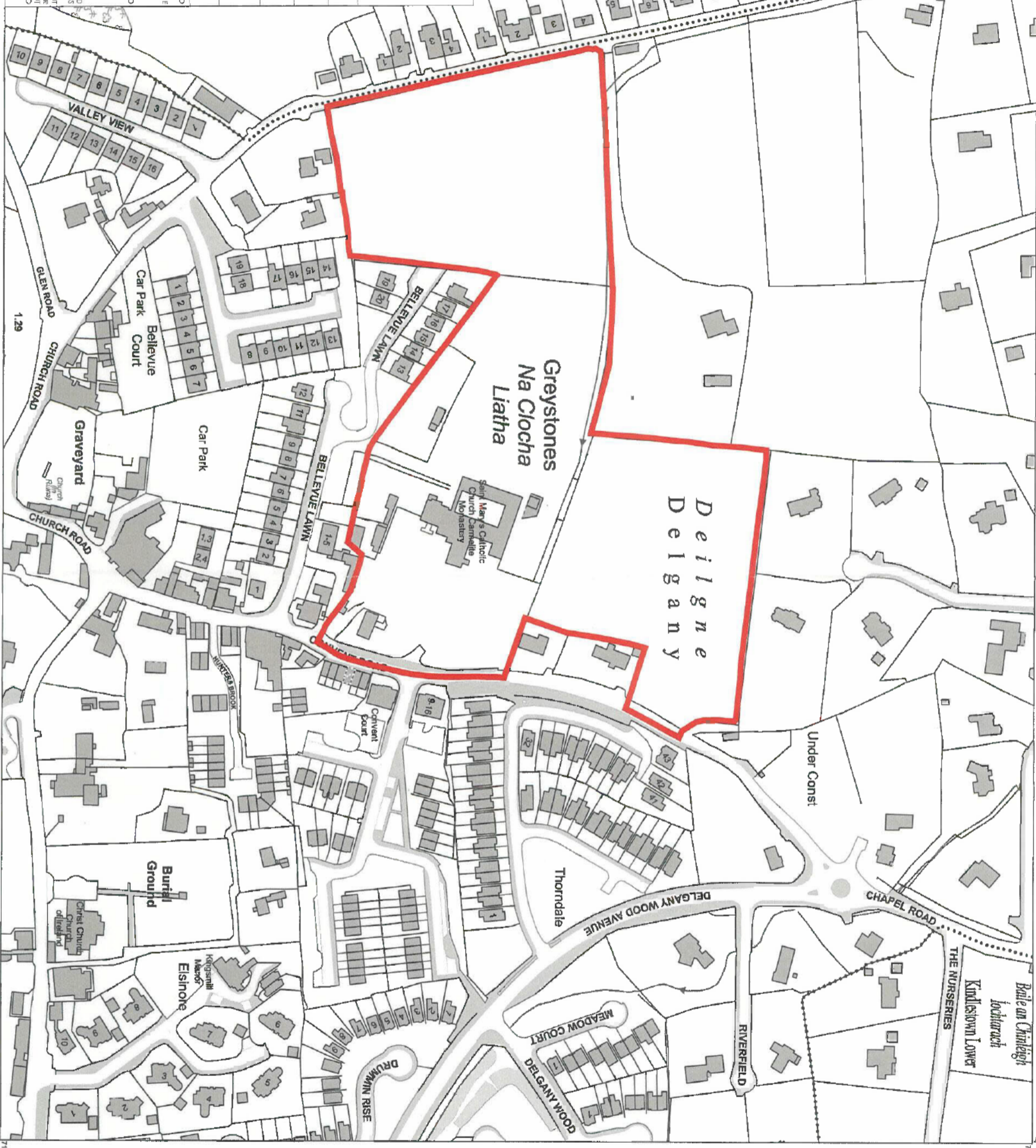
Wicklow County Council  
 22 DEC 2022  
 PLANNING DEPT.

**bbaa** architecture  
 Suite 3, Eden Gate Centre, Deegan, Co. Wicklow, A63 5Y86  
 Tel: 01 2835897 / 2835898  
 info@bbaa.ie  
 www.bbaa.ie

CLIENT: [REDACTED]  
 PROJECT: NEW HOUSING DEVELOPMENT AT CARWELLIE MONASTERY SITE  
 DEGAN  
 DRAWING TITLE: SITE LOCATION MAP

DRAWING No: PL-C-168-SL-00  
 REVISION: -

DRAWN BY: [REDACTED] CHECKER BY: [REDACTED] SCALE: 1:250 @ A3 DATE: Dec. 2022  
 LTP: M8  
 DO NOT SCALE OFF THIS DRAWING. ONLY 5 METRE DIMENSIONS ARE TO BE USED. ALL DIMENSIONS TO BE VERIFIED ON SITE BY MAIN CONTRACTOR BEFORE THE COMMENCEMENT OF WORKS.  
 REPORT ALL DISCREPANCIES TO ARCHITECT IMMEDIATELY. THE ARCHITECT WILL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE WORKS. THE ARCHITECT'S DRAWINGS AND OTHER RELEVANT INFORMATION ARE THE PROPERTY OF BBAa ARCHITECTURE AND WILL BE KEPT ON FILE FOR FUTURE REFERENCE. THE ARCHITECT'S DESIGN AND CONSTRUCTION OF THE WORKS IS SUBJECT TO THE APPROVAL OF THE LOCAL AUTHORITY.  
 CONSTRUCTION SHOULD ONLY PROCEED FROM DRAWINGS ISSUED UNDER WRITING DRAWINGS FOR CONSTRUCTION STATUS. UNLESS SHOWN OTHERWISE, ALL DIMENSIONS ARE TO FACE UNLESS STATED OTHERWISE. THE ARCHITECT'S DRAWINGS AND OTHER RELEVANT INFORMATION ARE THE PROPERTY OF BBAa ARCHITECTURE AND WILL BE KEPT ON FILE FOR FUTURE REFERENCE. THE ARCHITECT'S DESIGN AND CONSTRUCTION OF THE WORKS IS SUBJECT TO THE APPROVAL OF THE LOCAL AUTHORITY.  
 REFERENCE AND AGREEMENT WITH BBAa ARCHITECTURE, THEN THEY DO SO ENTIRELY AT THEIR OWN RISK.



OUTPUT SCALE: 1:2,500

**CAPTURE RESOLUTION:**  
 The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: <http://www.osi.ie>, search 'Capture Resolution'



**CENTRE COORDINATES:**  
 ITM 727612.711103

**PUBLISHED:** 23/03/2020  
**ORDER NO.:** 50114307\_1

**MAP SERIES:**  
 1:2,500 3673-D  
 1:1,000 3674-21  
 1:2,500 3731-B  
 1:2,500 3732-A

**TOTAL GROSS SITE AREA**  
 OUTLINED IN RED: 62.270 m<sup>2</sup>/6.2270 ha/15.3 acres

**TOTAL NET SITE AREA:**  
 60.853 m<sup>2</sup>/6.0853 ha/15 acres

**COMPILED AND PUBLISHED BY:**  
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 search 'Large Scale Legend'