Comhairle Contae Chorcaí Cork County Council

Eli Lilly Kinsale Ltd., c/o Michelle Bennett, RPS, Inishmore, Ballincollig, Co. Cork.

18th April, 2023

REF: D/221/23

LOCATION: Eli Lilly, Dunderrow, Kinsale, Co. Cork.

Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC.

Fón: (021) 4276891 • Faics: (021) 4276321 R-phost: planninginfo@corkcoco.ie Suíomh Gréasáin: www.corkcoco.ie Planning & Development,

County Hall, Carrigrohane Road, Cork T12 R2NC. Tel (021) 4276891 • Fax (021) 4276321

> Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000

Dear Madam,

On the basis of the information and plans submitted by you on the 10th March 2023 the Planning Authority having considered whether the proposed development of a replacement regenerative thermal oxidiser, ducting and other ancillary development, and associated temporary works at **Eli Lilly, Dunderrow, Kinsale, Co. Cork** is or is not development and is or is not exempted development has declared that it is **exempted development.**

Reason for Decision

The Planning Authority in considering this referral had particular regard to:

- Article 9(1)(a-d) of the Planning and Development Regulations 2001 (as amended)
- Article 6, Schedule 2, Part 1, Class 21(decommissioning, demolition and re-installation) and Class 16 (temporary works) of the Planning and Development Regulations 2001 (as amended)
- The plans and particulars submitted on 10th March 2023

And Whereas Cork County Council has concluded that -

The proposed development of a replacement regenerative thermal oxidiser, ducting and other ancillary development, and associated temporary works at Eli Lilly, Dunderrow, Kinsale, Co. Cork comes within the scope of Class 6, 16, and 21 including conditions and limitations specified in Schedule 2, Article 6, in Planning Regulations 2001 (as amended) – and complies with Article 9(1)(a) to (d) of the Planning Regulations 2001 (as amended).

This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within weeks of the date of the issuing of the declaration.

Yours faithfully,

KEVIN O' REGAN

SENIOR EXECUTIVE OFFICER PLANNING DEPARTMENT

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view https://www.corkcoco.ie/privacy-statement-cork-county-council

(3)

D/221/23

DECLARATION OF EXEMPTION APPLICATION FOR ELI-LILLY, DUNDERROW, KINSALE.

To Whom It May Concern

I refer to a declaration received from RPS Consulting on behalf of a project proposed by Eli Lilly for replacement of regenerative thermal oxidiser, ducting and other ancillary development and associated temporary works.

The legislative context has similarities with recent declarations on the same complex declared as being 'exempted development'. The Case References are D/203/20 and D/261/22.

My assessment is based on a desk study and analysis of submitted plans and particulars.

ASSESSMENT

To start with the proposal is 'development' as defined by S.3 of the Planning Act.

It should be noted this complex comes within the scope of Major Accidents Directive.

Article 6

I agree the proposed development comes within the scope of Article 6, Schedule 2, Part 1, Class 21 (decommissioning, demolition and re-installation) and Class 16 (temporary works).

- Decomissioning, Demolition and Installation complies with Class 21(a)(iii)
- Ducting complies with Class 21(a)(i) and (ii)
- Ancillary development complies with Class 21(c)
- Temporary works comply with Class 16.

Article 9

Article 9 of the Planning Regulations places restrictions on Article 6 exemptions. I have checked off the criteria or limitations set out in Article 9(1)(a) to (d) taking into consider Table 6.1 provided by RPS Consulting.

As the proposal involves modifications to a SEVESO establishment, and does involve changes to emissions I consider the information describing the project in Table 6.1 by itself is insufficient to enable the Planning Authority to undertake an assessment of Article 9(1)(d).

However, information supplied earlier in Para. 2.3.1. (Major Accident etc) states:

'Eli-Lily internal specialist have confirmed that there is no material change to the process being carried out such as would require consultation with the Health and

Safety Authority or any assessment with respect to the sites status as an establishment under the after-mentioned Directive.'

On the basis of the El-Lily specialist statement the Planning Authority can accept the proposed development complies with Article 9(1)(d).

Other

The agents have supplied some information about environmental sensitivities and natura 2000 sites.

For avoidance of doubt the proposed development does not come within scope of a mandatory EIA. And the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required (Appendix 1).

The closest Natura 2000 sites to the subject site are the Courtmacsherry Estuary SAC (c.9.5km), the Courtmacsherry Bay SPA (c. 9.5km), the Sovereign Islands SPA (c. 10.2km) and the Old Head of Kinsale SPA (c. 12km).

Having regard to this separation distance from the site, coupled with the small scale and replacement nature of development it can be concluded there is no potential for the proposed development to give rise, or contribute to negative impacts on any Natura 2000 site which could be significant.

CONCLUSION

The proposed development comes within the scope of Class 6, 16, and 21 including conditions and limitations specified in Schedule 2, Article 6, in Planning Regulations 2001 (as amended) – and complies with Article 9(1)(a) to (d) of the Planning Regulations 2001 (as amended).

Steve Baxter

Executive Planner

BA Hons Dip Town Planning

APPENDIX 1: EIA – Preliminary Assessment

Development Summary	See above				
Examination					
		Yes / N Uncerta			
Is the size or nature of the context of the existing environment	exceptional in the	NO			
2. Will the development re result in significant emission	significant waste, or	NO			
3. Is the proposed develop potential to impact on an e	_	NO			
4. Does the proposed dev significant environmental s	elopment have the potential sensitivities in the area?	to affect other	NO		
Comment (if relevant)		<u>'</u>			
(P0009-04) and to which t location nature, scale, use	nat the site operates under a he Major Accident Regulation and size of the proposed do not effects on the environment	ns applies having regard evelopment it would not r	to the		
	al impact assessment can, t ing determination is not requ		prelimii	nary	
Conclusion					
	camination of the nature, size ignificant effects on the envi		ppment,	, is	
There is no real likelihood the environment	of significant effects on	EIAR not required	Х		
There is significant and re the likelihood of significant environment	<u> </u>	Screening Determination required			
GIIVIIOIIIIIGIIL		Sch 7A information submitted?	Yes	No	
	of significant effects on the	EIAR is required			
environment (Issue notification)					



CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

4 No. Copies of Application Form:

1 No. Copy of Contact Details:

4 No. Copies 6" O.S. Maps:

4 No. Copies 25" O.S. Maps:

4 No. Copies of Site Layout Plan:

4 No. Copies Scaled Drawings of Development:

€80 Application Fee:

(Please tick $\sqrt{\ }$)



FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/ Credit Card	UISA
Date	18/03/2023
Declaration Ref. No.	Dhules

DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3rd parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels

Hall, Carrigrohane Road, Cork, Ireland.

Details of fill material and duration of fill.

DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at http://www.corkcoco.ie/Privacy-Policy or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County

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(a) Floor area of existing/proposed structure(s):	N/A
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes No No III If yes, please provide floor areas (m²) and previous planning reference(s) where applicable
(c) If a change of use of land and/or building(s) is proposed, please state the following:	Proposed use
Existing/previous use	
VA	N/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No V
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APPLICATION DETAILS:

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In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at http://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

Signed (By Applicant Only)	for my personal information to be processed for the purpose stated above	
Date	24 Feb 23	

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, explicit consent to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

Race

- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at https://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

I give per	mission for my	sensitive personal data submitted to	the Planning Authority to be processed
for the purpose	e stated above.	A	
Signed	1	1200-0 Hally	
Date		24 Feb 27	

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie

However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of
 Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption
 decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

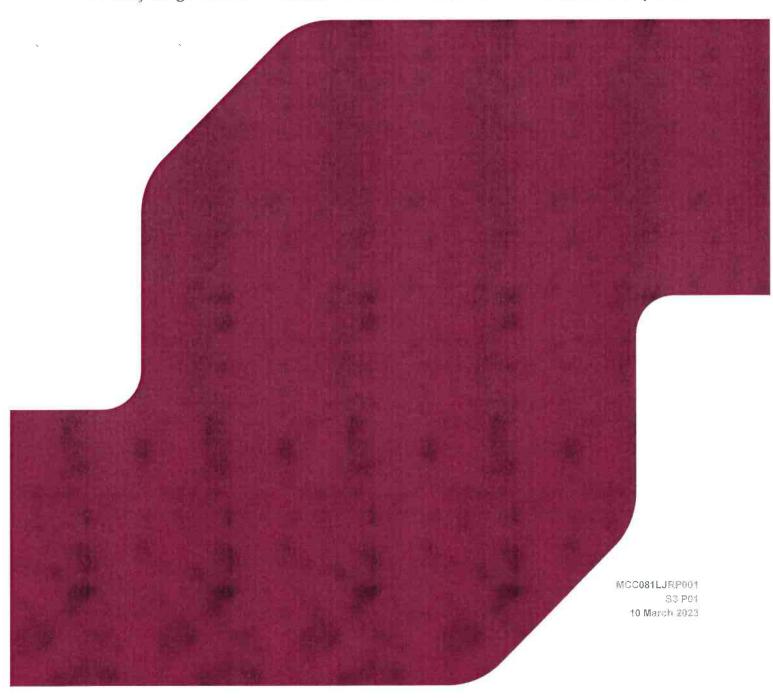
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Agent (RPS)	
Date	10.03.2023	



PLANNING REPORT

Eli Lilly Regenerative Thermal Oxidiser: Section 5 Declaration Request



Eli Lilly Regenerative Thermal Oxidiser: Section 5 Declaration Request

Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
S3 P01	Section 5 Request	MB	GW	GW	10.03.23

Approval for issue	10 May 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
GW	10 March 2	023

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Prepared by: Prepared for:

RPS Eli Lilly Kinsale Ltd.

Dublin | Cork | Galway | Sligo rpsgroup.com

PPS Group Limited, registered in Ireland No. 91911
RPS Consulting Engineers Limited, registered in Ireland No. 161581
RPS Planning 3. Environment Limited, registered in Ireland No. 160191
PPS Engineering Services Limited, registered in Ireland No. 99795
The Registered office of each of the above companies is West Pier Business Climpus. Due Laughaire, Co. Dublin, 496 N817















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1 INTRODUCTION

Eli Lilly Kinsale Ltd. (Lilly) is seeking a declaration from Cork County Council under Section 5 of the Planning and Development Act, 2000, as amended (the PDA), as to whether a proposed development at its pharmaceutical complex in Dunderrow, Kinsale, Co. Cork is or is not exempted development.

The specific development relates to the provision of a new Regenerative Thermal Oxidiser (RTO-1) to replace the existing RTO-1. The RTO takes waste from the production process, treats it by a heating process before discharging to air in a manner that complies with the plant's waste licensing requirements with respect to emissions.

The existing RTO-1 will be decommissioned, dismantled and removed off-site. The new thermal oxidiser will be located within the established built-up area of the industrial complex. It will be connected to existing systems by way of ducting and will be provided with an access platform and stair for maintenance purposes. Other ancillary development such as monitoring apparatus and minor concreting works to a supporting concrete plinth, along with associated temporary works, will also be necessary for the implementation of the proposed development.

It is respectfully submitted that the development may be considered to be exempted development under Article 6 of the Planning and Development Regulations 2001, as amended (the PDRs), under Class 21 with associated temporary construction activity falling within the scope of Class 16 of Part 1 Schedule 2.

The purpose of this report is to provide relevant information to the Planning Authority to enable it to assess the development and make a declaration in respect of its status in the context of the exempted development provisions of the legislation.

In this regard, this report firstly describes the details of the development in question and thereafter sets out the grounds on which it is considered that the development would comprise exempted development. This report is accompanied by maps and drawings of the development prepared by RPS.

2 SITE LOCATION AND CONTEXT OF PROPOSED DEVELOPMENT

2.1 Site Location

The development in question relates to the provision of a new RTO-1 which will be located within the overall Eli Lilly pharmaceutical complex at Dunderrow, Kinsale. The location of the proposed development, both within a wider context and in the context of the overall pharmaceutical plant is shown on drawings Nos. MCC0081L-RPS-00-XX-DR-T-DG0001 and 0002 accompanying this request.

The overall Lilly landholding at Dunderrow extends to approximately 62.7ha, with the developed part of the site accommodating the pharmaceutical plant extending to circa 42.5ha.

The pharmaceutical complex is dominated by the existing manufacturing buildings and plant. A solar farm has been developed in recent years to provide electricity supply to the manufacturing facility. Lilly is bounded to the north by a local road, the Ballyvrin Road, and to the west by the R605 regional road. Beyond these roads and to the south and east of the complex are agricultural lands. The wider setting of the Lilly plant is then predominantly rural in nature, with lands used for both tillage and pasture. Dunderrow village is located to the northwest of the complex along the R605.

The site boundaries along the Ballyvrin Road and the R605 generally comprise of well-established, dense screen planting which includes trees and hedges; in the past year, an area of hedging to the boundary with the R605 at one of the main entrances to the complex has been replaced with new planting which will establish over time. There is an area of woodland to the south of the overall landholding. The southeastern and eastern boundaries are formed by robust field boundaries incorporating trees and hedgerows.

2.2 Planning History

There have been a significant number of previous planning applications on the overall Lilly landholding in recent years. These have included facilities to expand production, and to alter and improve the premises. The most recent planning applications on the overall landholding relate to the proposed construction of a new single-storey electrical substation (Ref. 22/5840), an extension to a chiller house / boiler building (Ref. 22/5793), the extension of and modifications to a permitted pharmaceutical manufacturing building IE2B (Ref. 21/6812), modifications to the IE08 pharmaceutical manufacturing building (Ref. 21/6388), and a warehouse extension at IE27 (Ref. 20/6978).

The location of the proposed development is not relevant to consented structures under any of the extant planning permissions on the overall Lilly holding.

No conditions have been identified on planning permissions associated with the complex that would be contravened by the proposed development.

In the context of exempted development and section 5 of the PDA, in 2020 Eli Lilly sought a declaration from Cork County Council (Ref. D/203/20) to determine whether upgrade works to the wastewater treatment plant was exempted development. Part of the works identified within that declaration request included a new equalisation tank T114 which was set within a bunded area. Cork County Council determined that the works were exempted development under Class 21. Eli Lilly has also recently received a declaration of exemption from the local authority (Ref. D261/22) with respect to the installation of a new liquid waste tank on the site.

2.3 Site Context and Potential Environmental Sensitivities

2.3.1 Major Accidents and Disasters

The proposed development is located within a complex to which the Control of Major Accidents Directive applies, i.e., a SEVESO site. The development comprises the installation of a new thermal oxidiser to replace an existing oxidiser which has been operational on the site for a period of over thirty years. The new equipment will be of an improved design and reliability of operation.

Eli Lilly's internal specialists have confirmed that there is no material change to the process being carried out such as would require consultation with the Health and Safety Authority or any assessment with respect to the sites status as an establishment under the afore-mentioned Directive.

2.3.2 Population and Surrounding Land Use

The lands at the Lilly complex are industrial and the proposed site is located within the established Lilly site boundary. There are buildings, tanks and plant to all sides of the proposed RTO location and the structure will sit in the location of the current RTO-1. According to the EPA CORINE land cover classification, the lands across the complex are classified as 'discontinuous urban fabric'.

The main resource in the wider area surrounding the Lilly complex is agricultural land. Construction works proposed are standard in nature and normal good construction practice will be adhered to during the construction phase. The oxidiser will be linked to the existing process flows using ducting and will replace an existing unit. The output from the oxidiser will be in line with the emission limit values (ELVs) of the site's Industrial Emissions licence (both the current licence, P0009-04 and proposed new licence, P0009-05) and will be monitored in line with requirements of the licence. No potential for significant effects on the surrounding land use is expected to arise.

Several residences are located in proximity to the site. These residences are well dispersed within the rural area. The nearest residence is located over 300m from the proposed new RTO-1. The proposed development is minor in the context of projects ongoing at the Lilly site and no potential for likely significant effects to sensitive receptors is identified.

2.3.3 Biodiversity and Proximity to Designated Sites

The development is not located within any Natura 2000 sites. No Special Protection Areas (SPAs) or Special Areas of Conservation (SACs) are located within 5km of the site. The Bandon Valley Below Innishannon proposed Natura Heritage Area (pNHA) is located c. 3km to the west of the development boundary.

The Courtmacsherry Bay SPA and the Courtmacsherry Estuary SAC are located c. 9.5km from the development. The Sovereign Islands SPA is c. 10km from the development boundary over 3.5km from the Lilly effluent discharge point. The Old Head of Kinsale SPA is c. 12km from the construction footprint boundary.

There is a theoretical hydrological connection between the Lilly site and the above Natura 2000 sites via the stream that passes through the site (which discharges into the Bandon Estuary) and via the outfall near Sandy Cove Island in the outer Kinsale Harbour. However, all emissions to air and water from the Lilly site (via identified air emission points and via the stream and outfall respectively) are already strictly managed and controlled under the existing IE licence, which is reviewed, when necessary, by the Environmental Protection Agency.

2.3.4 Landscape and Visual Amenity Designations

The landscape in the area is classified as a landscape of local importance that is of medium value and sensitivity according to the Cork County Draft Landscape Strategy, 2007. The Bandon River Valley lies immediately south and west of the Lilly site.

Several scenic routes run through this valley in a northwest – southeast orientation. The S63 "R605 Regional Road and Local Road between Innishannon and Kinsale via Shippool" runs from Kinsale to Innishannon and adjoins the southwestern boundary of the site. The S62 between Kinsale and Ballythomas terminates close to the site to its west. The S65 "Local Roads from Innishannon to Ballinadee to Kinsale Western Bridge" runs along the top of the Bandon River Valley affording views over the Bandon River Estuary and to the wider landscape to the north in which the Lilly plant is located.

The proposed development will be set among the established industrial buildings and plant of the overall complex and will not have any significant effects on the landscape or visual resource of the local area.

2.3.5 Cultural Heritage Designations

There are six recorded archaeological sites within the Lilly lands and adjoining areas (CO111-085, CO111-034, CO111-035, CO111-099 and CO111-100). None of these will be impacted by the

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proposed development as the proposed location is at a remove from these features. Further, the proposed development is located within the Lilly facility on which archaeological investigations have been conducted in the past. The majority of these investigations revealed no features or finds of archaeological significance.

There are no protected structures listed in the Cork County Development Plan 2022 within the proposed development site. In addition, there are no structures listed in the National Inventory of Architectural Heritage (NIAH) for Co. Cork within the site.

3 DESCRIPTION OF THE PROPOSED DEVELOPMENT

3.1.1 Function and Operational Overview of the Proposed Development

The proposed development comprises of a new Regenerative Thermal Oxidiser to replace an existing piece of plant at the Lilly complex. Regenerative Thermal Oxidisers or RTOs are a widely accepted air pollution control technology for use in industry. RTOs are considered a versatile and efficient method of controlling process emissions to air. The method has high thermal energy recovery and is best suited to situations where there is a high waste stream flow rate and low concentrations of volatile organic compounds (VOCs).

An oxidation system for controlling emissions to air has been a fundamental part of the Eli Lilly site infrastructure since the existing RTO-1 was installed in 1991. This was supplemented by the installation of a second backup Thermal Oxidizer, namely RTO-2 in 2007. The RTOs essentially are part of the final control devices for waste fumes from the process line before emission to the atmosphere.

The overall fume oxidation system consists of a fume collection and transport system to convey the fumes from the respective processing facilities to the fume incinerator, two Thermal Oxidizers, an exhaust acid-gas scrubber and associated continuous emissions monitoring and control instrumentation.

The intake of fumes to the RTO is via a duct system. The purpose of this fume transport system is to safely collect and transport process exhaust vapours from the individual emission sources; within the different production buildings, to the online RTOs. This is a robust system, capable of handling a range of process conditions.

Within the RTOs, the thermal oxidation process is essentially a process to clean the emissions to air by burning dilute solvent vapour. The destruction and removal efficiency (DRE) for both RTO-1 and RTO-2 has historically been 98% or better.

An acid gas scrubber (SC-10) was installed in 2002 to specifically provide the site with the capability to treat off-gas from chlorine containing processes. Outlet vapours from the RTO are cleaned in the scrubber (to remove particulate, chlorine etc.) before being vented through the fume incinerator stack.

The existing RTO-1 reached its end-of-life use in 2020 and was designed for a 22,300 Nm³/h¹ flue gas flow rate. RTO-2 was designed for 25,200Nm³/h flue gas flow rate. The new RTO-1 will have a design capacity of 30,000 Nm³/h flue gas flow rate and will be larger and more efficient than the existing unit. The current average outlet rate is 15,000 Nm³/h.

RTO-1 and RTO-2 are controlled on an identical basis and only one RTO is ever operated as a thermal oxidiser. The second RTO is available as a standby unit and is used when the other RTO requires maintenance.

The new RTO-1 will be operated to the same licensed parameters as the existing RTOs and will be designed to meet any future licence requirements. It will also have the same environmental monitoring equipment and adhere to the same environmental monitoring standards as apply to the existing RTOs.

In essence, no new processes are proposed to be carried out and the new plant will be attached to the existing fume transportation ducting from the existing process lines.

3.1.2 Decommissioning and Demolition of Existing RTO-1

The existing RTO-1 and all ancillary venting and apparatus will be decommissioned and removed off-site to an authorised facility. This existing RTO measures approx. 10.5m long, 7.0m high, and 3.5m wide.

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¹ Normal cubic metres per hour (a unit for measuring volumetric flow of air or gas.

3.1.3 New Regenerative Thermal Oxidiser (RTO-1)

RTO-1 will comprise of an insulated stainless-steel barrel-roofed structure which will be just under 7.6m in height, just over 15m in length and just under 4.6m wide. The tank is designed to prevent leakage and odour from process air emissions.

3.1.4 Ducting

The RTO will be connected to the process air systems via new ducting / pipes which will replace the connections currently in place for the existing RTO-1. The new ducting / pipework will be located to the west and north of the proposed RTO and will be lower in height than the RTO structure, as demonstrated by the elevational drawings provided.

3.1.5 Other Ancillary Development

The existing RTO-1 sites on a concrete plinth. It is anticipated that the proposed development will require minor concrete works once the current RTO-1 is removed, to renew and provided minor extension where necessary to the plinth to accommodate the new RTO-1.

A steel platform and stairs for maintenance access will be provided externally to the RTO and apparatus for the operation and monitoring of the RTO will also be installed.

3.1.6 Associated Temporary Works

Given the replacement nature of the proposed development and its location within an established industrial site, temporary works will be limited to the minor demolition works associated with the decommissioning and removal of the existing RTO-1 and minor concreting works related to the plinth on which the RTO will sit. Standard construction plant and machinery will suffice for the works required. Compound, lay down and parking requirements will be minimal, and these and temporary welfare facilities can be accommodated within areas in similar use at the overall complex.

4 LEGISLATIVE CONTEXT

4.1 Planning and Development Act, 2000, as amended

The PDA provides that development requires planning permission unless it is exempted development under the provisions of the PDA or the PDRs. Section 32 sets out same:

- "32.—(1) Subject to the other provisions of this Act, permission shall be required under this Part—
 - (a) in respect of any development of land, not being exempted development, and
 - (b) in the case of development which is unauthorised, for the retention of that unauthorised development.
- (2) A person shall not carry out any development in respect of which permission is required by subsection (1), except under and in accordance with a permission granted under this Part."
- Section 4 of the Act provides for exempted development. Section 4(1) sets out specific categories of exempted development that will not be subject to the general requirement to obtain planning permission. None of these categories apply to the subject development. Section 4(2) makes provision for the making of regulations by the Minister for further classes of development to be exempted development. Such classes are discussed below under the provisions of the PDRs.

Section 4(4) of the Act states as follows:

"Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required."

4.2 Planning and Development Regulations, 2001, as amended

4.21 Article 6

Article 6 of the PDRs provides for exemptions from the need to obtain planning permission.

Article 6(1) provides for exemptions for general development classes. It states as follows:

"Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1."

Part 1 of Schedule 2 of the Regulations sets out 'Classes' of development which are exempted from requiring planning permission in accordance with Article 6. In cases, there are conditions and limitations applied to these exemptions.

RPS has reviewed the content of Schedule 2 Part 1 of the Regulations and considers the following classes to be of relevance to the development in question.

4.2.2 Class 21

Class 21 of Schedule 2 examines 'development for industrial purposes'. Class 21(a) sets out the following:

- (a) "Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking -
 - (i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,
 - (ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus.

- (iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery."
- (b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building."

This class of exempted development is subject to the following conditions and limitations:

- 1. "Any such development shall not materially alter the external appearance of the premises of the undertaking.
- 2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater."

4.2.3 Class 16

Class 16 of Part 1 of Schedule 2 pertains to temporary works, structures, plant or machinery which are necessary to facilitate construction works. It comprises of:

"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."

The following condition / limitation applies to this class of exempted development.

"Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act."

4.2.4 Interpretations

'Industrial Process' is defined in Article 5 of the Regulations as follows:

""Industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

- (a) For or incidental to the making of any article or part of an article, or
- (b) For or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,

'Industrial undertaker' is defined in the Regulations as "a person by whom an industrial process is carried on and "industrial undertaking" shall be construed accordingly".

'Plant' or 'Machinery' are not defined in Planning legislation. While not directly applicable to Planning legislation it is noted that 'industrial plant' is defined under the Air Pollution Act, 1987. As Class 21 relates to plant or machinery for industrial undertakers for industrial processes, it is considered that the Air Pollution Act provides useful reference for understanding and interpreting Class 21. In this regard under section 6(1) of the Air Pollution Act, 1987 'Industrial Plant' is defined for the purposes of that Act as meaning,

"any plant, equipment, appliance, apparatus, machinery, works, building or other structure or any land or any part of any land which is used in the course off trade, business or industry for the purposes of, or incidental to, any industrial process . . ."

4.3 Article 9

...."

Article 9 of the Regulations applies further restrictions beyond those conditions and limitations set out in Schedule 2 to the exempted development status of development which otherwise falls within the provisions of Article 6 and Schedule 2. It states that,

"9.(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act-

- (a) if the carrying out of such development would -
 - (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
 - (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
 - (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
 - (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
 - (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,
 - (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
 - (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
 - (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
 - (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
 - (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
 - (viii)consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
 - (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
 - (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
 - (xi) obstruct any public right of way,

- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,
- (b) In an area to which a special amenity area order relates, if such development would be development:-
 - (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or
 - (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or
 - (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or
 - (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited.
- (c) If it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive.
- (d) If it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards."

APPLICATION OF ARTICLE 6 (SCHEDULE 2) EXEMPTED 5 DEVELOPMENT CLASSES TO THE PROPOSED DEVELOPMENT

The development subject of the section 5 declaration request comprises in brief of the following:

- The decommissioning and demolition of the existing RTO-1
- Installation of a replacement Regenerative Thermal Oxidiser (RTO-1)
- Ducting
- Other ancillary development
- Associated temporary works

The potential exempted development status of each of these items under Article 6 and Schedule 2 of the Regulations are considered hereunder.

5.1 Decommissioning and Demolition of the existing RTO-1 and the Installation of a Replacement RTO-1

It is considered that the proposed replacement of the existing RTO with a new RTO comprises the replacement of plant of machinery for industrial purposes and would fall within the provisions of Class 21(a)(iii) of Schedule 2 Part 1 of the PDRs, subject to checks under the Article 9 restrictions considered in Section 6 below.

The only Schedule 2 'conditions and limitations' of Class 21 relate to the material alteration of the external appearance of the premises of the undertaking and a 15m height restriction. The proposed development will be provided within the development footprint of the site and will be surrounded by other existing industrial structures. It will therefore not materially affect the external appearance of the Lilly premises. There is no potential for adverse visual impact in this case. Further, the proposed development will be below 15m above ground level and is therefore comfortably within the height limit set by the legislation.

5.2 **Ducting**

It will be necessary to replace ducting to connect the new RTO-1 to the venting emission lines from the existing process flows. The ducting essentially moves or conveys the waste air emission to the RTO for treatment before onward movement to the emission point to the atmosphere. Class 21 (a)(i) and (ii) provide exemptions for industrial undertakers for the provision or replacement of conveyors, and also for pipes and other apparatus, and it is considered that any new ducting therefore falls under Class 21 (a). Again, neither the limitation relating to visual impact or height will apply as the ducting will be well below the 15m height limit and will not alter the external appearance of the Lilly premises.

5.3 Other Ancillary Development

Any works to the concrete plinth are considered to works of the nature of the provision of a hard surface which will relate to the use of the area in connection with the industrial process carried on within the curtilage of the Lilly premises. It is therefore considered that this will fall within Class 21(c).

A steel access platform and stairs will be necessary to facilitate the operation and maintenance of the new RTO. These features are considered ancillary to the function of the oxidiser and further consist of an apparatus or a private way to provide access or passage for personnel to the machinery. Apparatus will also be required to be installed to monitoring the workings of the new RTO. Such development is provided for within Class 21(i), (ii) and (iii).

Neither the limitation relating to external visual appearance of the premises or the height limitation on Class 21 applies to any of the ancillary development.

5.4 Other Temporary Works

Temporary use of construction plant and machinery at the site falls under Class 16 of Schedule 2 Part 1 of the PDRs.

5.5 Conclusion in Respect of Article 6

Having regard to all of the foregoing it is considered that the proposed development comprises of exempted development of a nature specified under Article 6 (Class 21 of Part 1 of Schedule 2) of the PDRs, with any temporary use of plant and machinery exempted under Classes 16 of same.

The principles applied to the determination of a previous request for a section 5 declaration (D/202/20) which Cork County Council determined to comprise exempted development, are considered relevant to the current proposal.

6 ARTICLE 9 AND SECTION 4(4) RESTRICTIONS

6.1 Consideration of Article 9 and Section 4(4) Restrictions

A review of Article 9 and Section 4(4) Restrictions has been undertaken to consider whether any of the restrictions apply to the proposed development. **Table 6.1** below considers the Article 9 restrictions against the context of the site and the proposed development.

Table 6.1: Consideration of Article 9 Restrictions

Article 9 Provision	General Content	Relevance to Proposed Development
9(1)(a)(i)	Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,	Not aware of any conditions which would be contravened or any inconsistencies with any land use on site.
9(1)(a)(ii)	Consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,	No works to an access to a public road are proposed to be carried out.
9(1)(a)(iii)	Endanger public safety by reason of traffic hazard or obstruction of road users,	No traffic hazard or obstruction to road users is expected to arise; the development is located internally within an existing industrial complex.
9(1)(a)(iv)	Comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area	The proposed development consists of works internally within a large industrial complex and no works on a public street are proposed.
9(1)(a)(v)	Consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable,	No works under a public road are proposed as part of the development.
9(1)(a)(vi)	Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed,	The proposed development will not interfere with the character of a landscape, or a view or prospect of special amenity value or special interest which an objective of the relevant development plan seeks to preserve. The development will be located internally within a large established industrial complex and will replace an existing piece of plant.
9(1)(a)(vii)	Consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed,	The area where the proposed development is to be sited does not contain any of these features.
9(1)(a)(viiA)	Consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places,	The proposed development will not be located at the site of any archaeological monument included in the Record of Monuments and Places.
9(1)(a)(viiB)	Comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,	The proposed development will replace an established treatment process for emissions to air which will remain within licensed parameters for the premises. No potential for impact on European sites or the need for appropriate assessment is identified.

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Article 9 Provision	General Content	Relevance to Proposed Development		
9(1)(a)(viiC)	Consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area,	There are no Natural Heritage Areas in close proximity to the site.		
9(1)(a)(viii)	Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use	The proposed development will not involve any works to an unauthorised structure or a structure the use of which is an unauthorised use.		
9(1)(a)(ix)	Consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use	No demolition works or building alteration works are proposed that would affect the continuance of an existing use of any building or other structure. The proposed RTO-1 will replace the existing RTO-1 to be removed and the process will continue following the replacement.		
9(1)(a)(x)	Consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure,	The proposed development will be located wholly within a privately owned pharmaceutical complex; there has not been public access to the lands on which the development is to be located for considerably in excess of 10 years.		
9(1)(a)(xi)	Obstruct any public right of way	The proposed RTO and ancillary structures will not obstruct a public right of way.		
9(1)(a)(xii)	Comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area	The development will not be located within an Architectural Conservation Area.		
9(1)(c)	If it is development to which Part 10 applies	On considering the scale, nature and location of the proposed development, it is not considered that EIA is required.		
9(1)(d)	If it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards	The Eli Lilly complex at Dunderrow consists of an establishment. The proposed development will replace an existing piece of plant that serves a similar function and is designed to clean process emissions for safe emission to air in line with the site's IE licence. The RTO is insulated, and the waste output goes through a scrubber in advance of the outlet stack. The equipment will operate in the same manner as the existing RTO-1 and thus no changes arise in this regard.		

The restrictions of section 4(4) of the PDA are addressed under 9(1)(a)(viiB) and 9(1)(c) within Table 6.1 above.

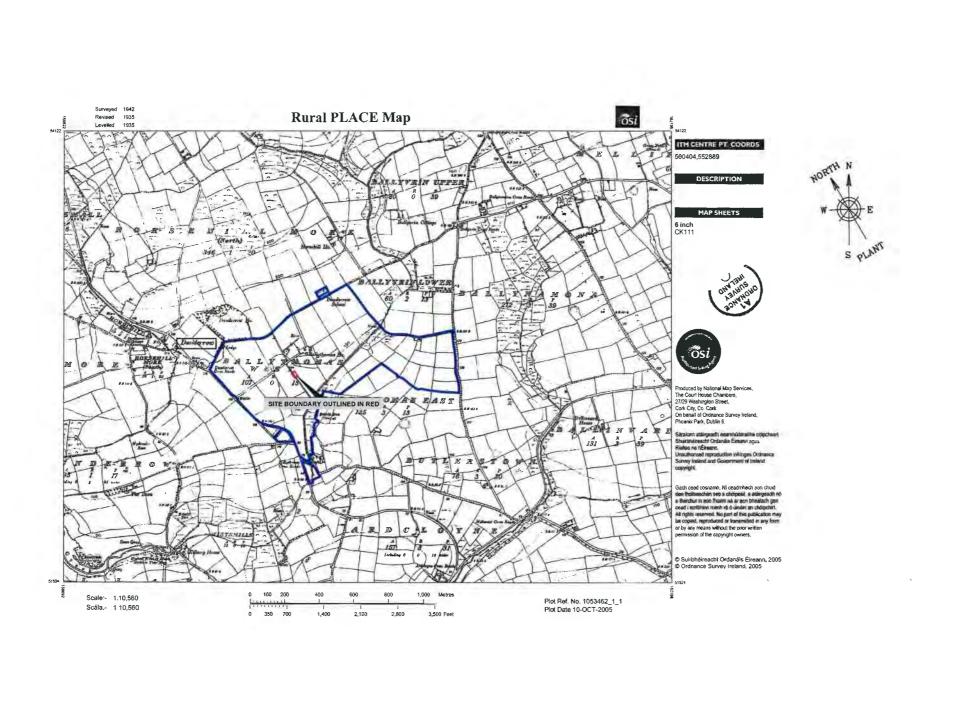
7 CONCLUSION

It is submitted that the proposed development is development of a nature that falls under Class 21 of Part 1 of Schedule 2 of the PDRs and that the associated temporary construction activities are of a nature of development set out under Class 16.

The development consists of the installation by way of replacement of plant or machinery and structures of the nature of plant or machinery, d the ancillary provision of private ways or conveyors, and pipes or apparatus, and hard surface provision for use in connection with an established industrial process, by an industrial undertaker within an established pharmaceutical manufacturing facility. The development does not materially alter the external appearance of the Lilly premises and the height of the new plant or apparatus does not exceed 15m above ground level.

Temporary site development works are necessary to facilitate the carrying out of the development and will be removed upon completion of the works.

Information in relation to the Article 9 and section 4(4) restrictions has been provided within this report to assist with the planning authority's assessment in this regard.



Notes

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KEY:

SITE BOUNDARY

LANDS UNDER THE CONTROL OF THE APPLICANT

O.S. MAP REFERENCE NUMBER: CORK 6" SHEET No.111

Ordnand Survey

Ordnance Survey Ireland Licence No. CYAL50252391

Ordnance Survey Ireland/Government of Ireland.

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Elī Lilly Kīnsale

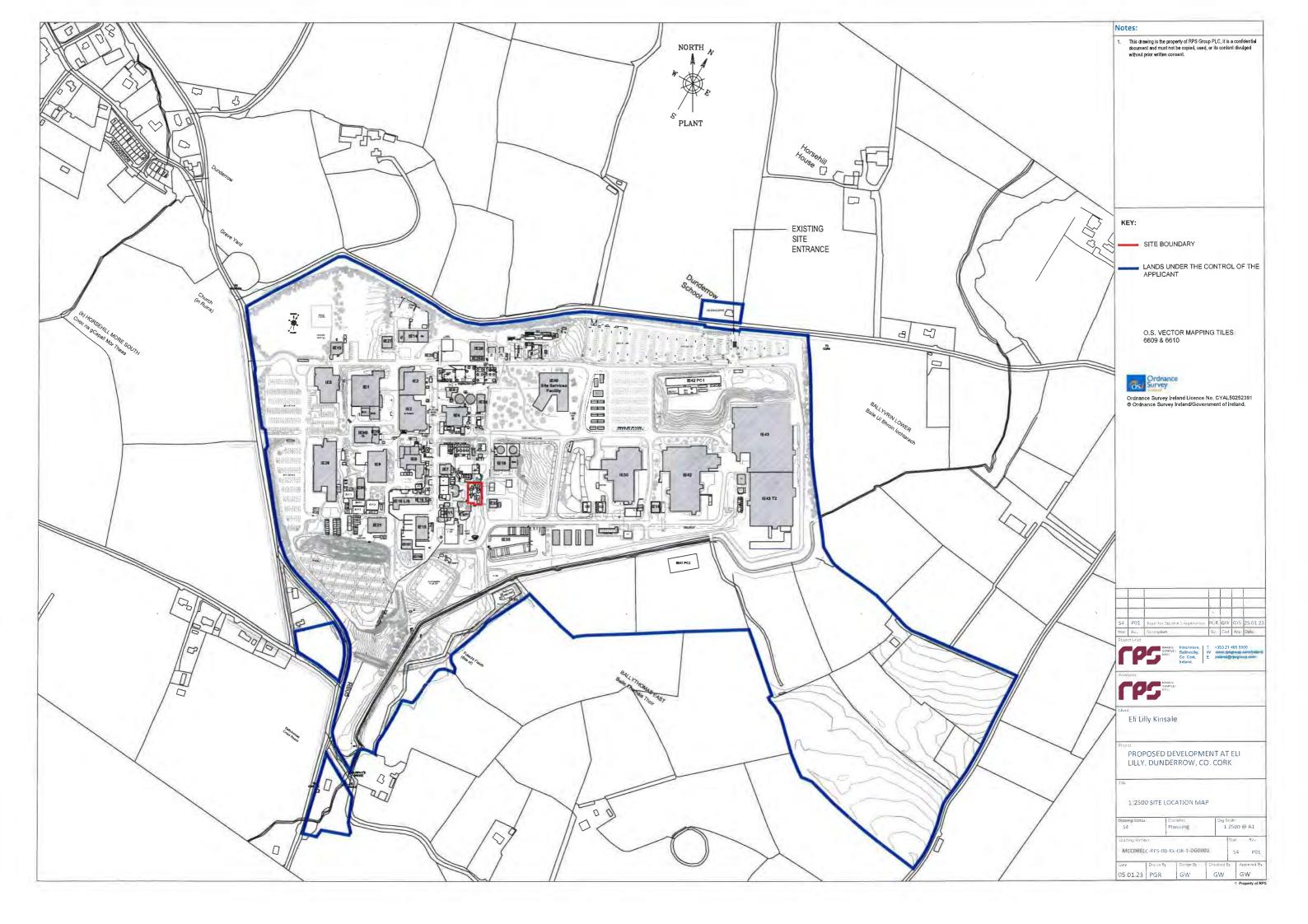
PROPOSED DEVELOPMENT AT ELI LILLY, DUNDERROW, CO. CORK

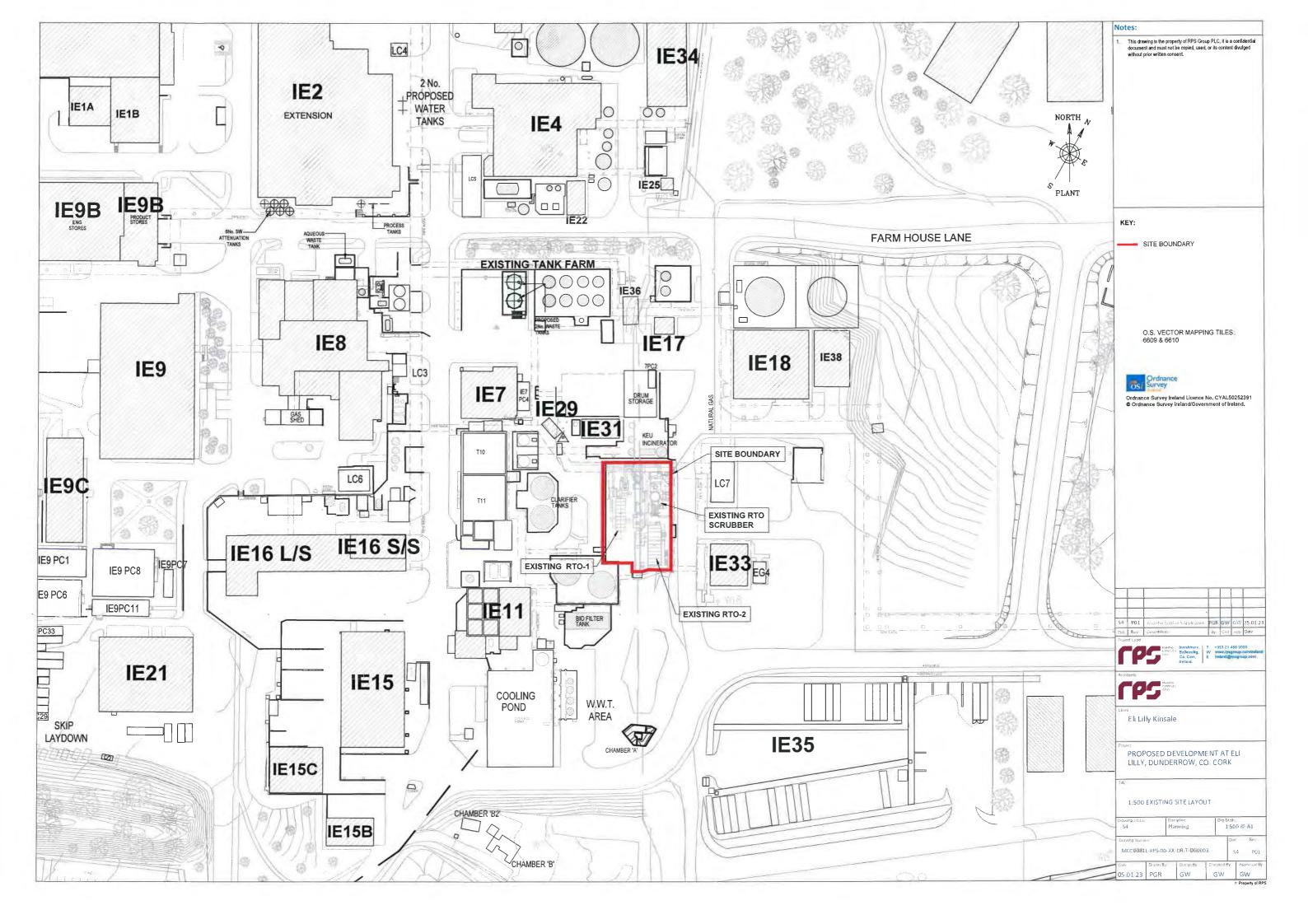
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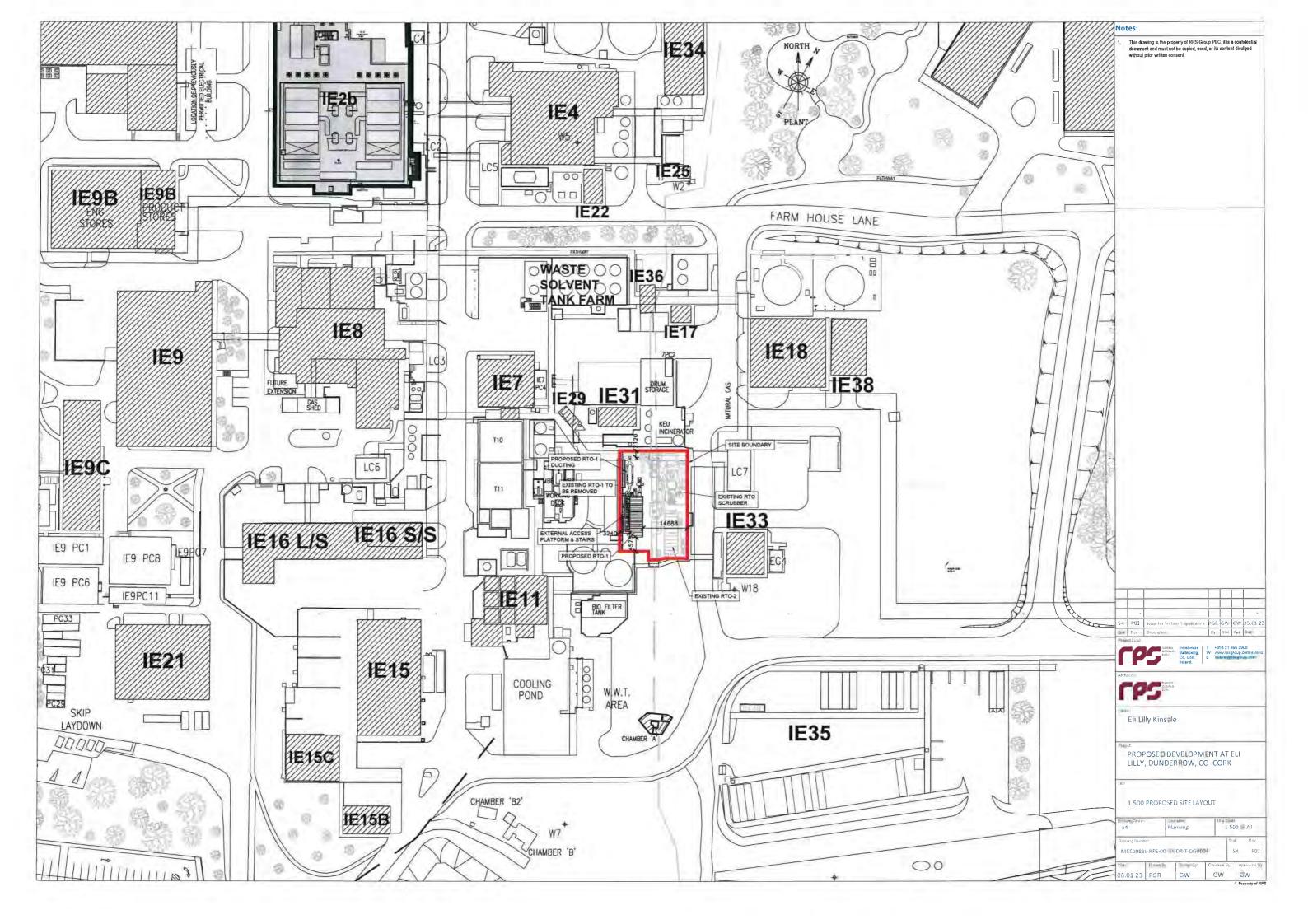
1-10,560 SITE CONTEXT MAP

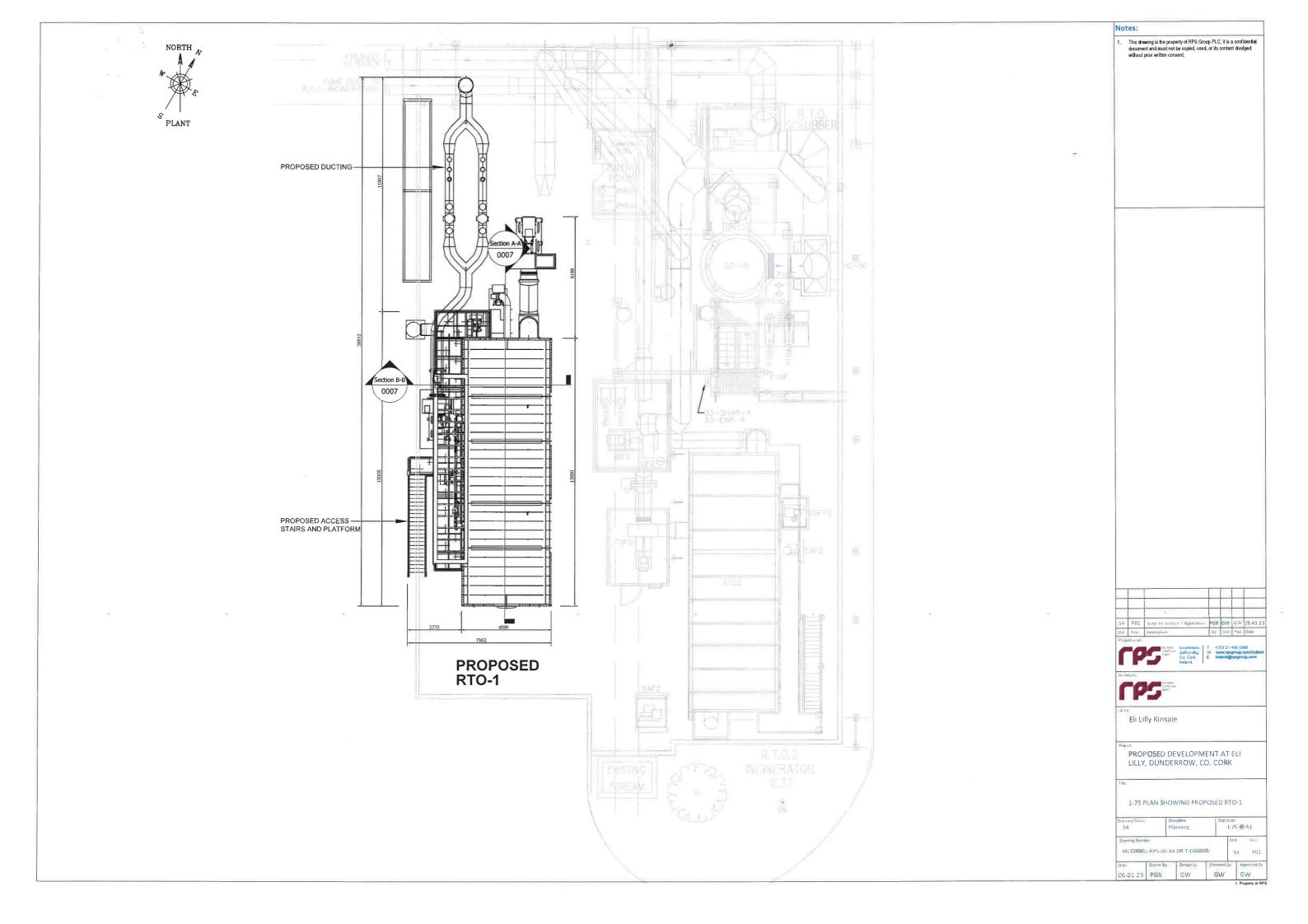
| Drawing Humber | Date | Drawing Humber | Drawing Humber

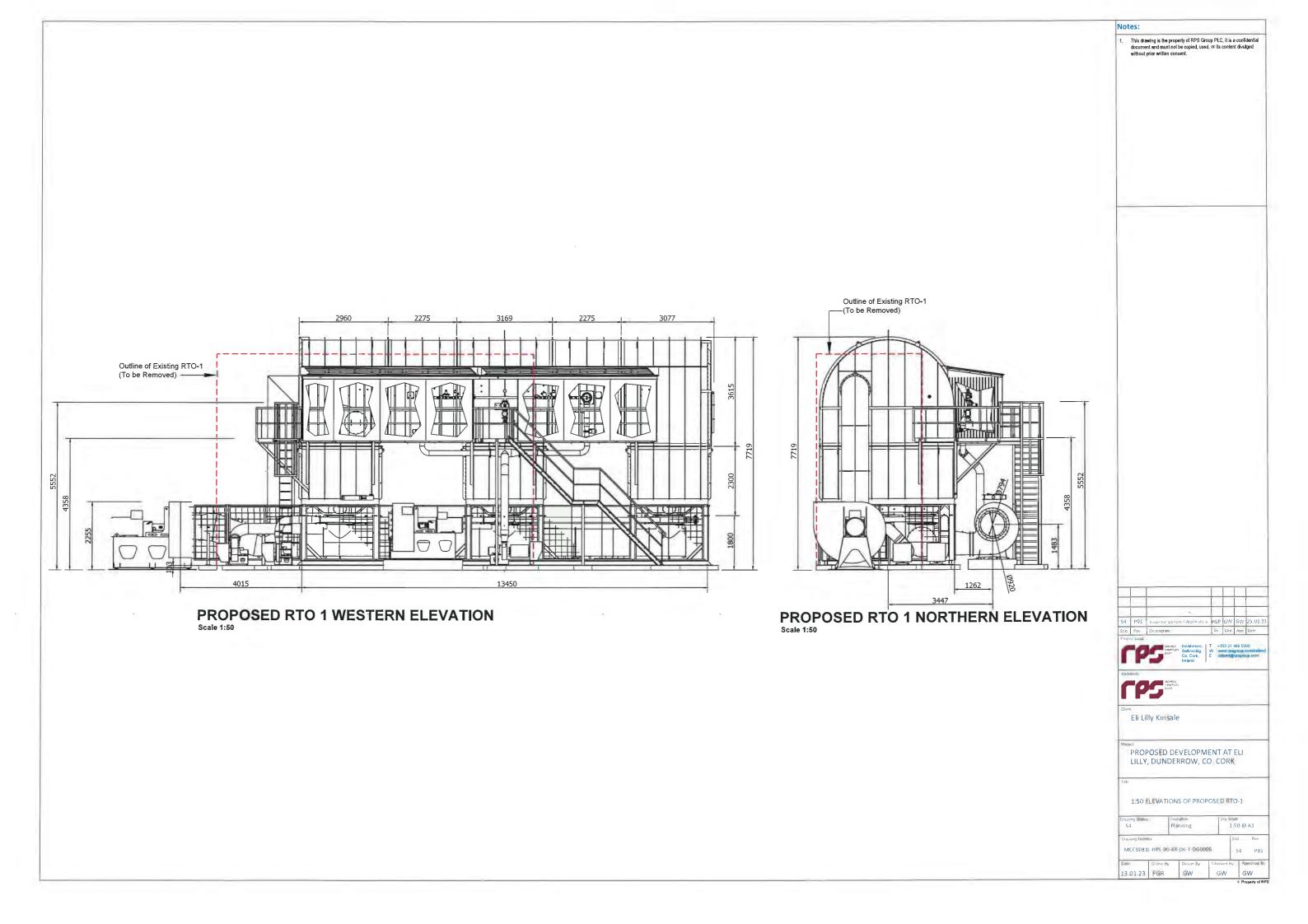
roperty of RPS

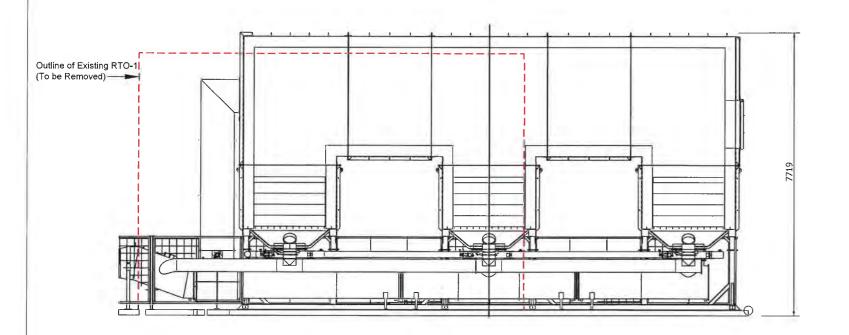




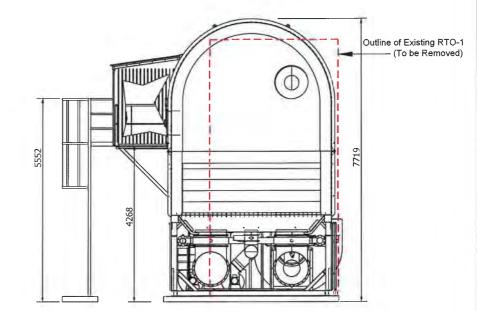








SECTIONAL ELEVATION A-A Scale 1:50



SECTIONAL ELEVATION B-B
Scale 1:50

Std P01 Estate for Section 5 Application PGR GW GW 25.01.23
Std Rev Deverageon Ballinosity The Section 5 Application PGR GW GW 25.01.23
Std Rev Deverageon By Cad App 25th Project Level Control of Co

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