

# Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Dell Technologies  
c/o Kevin O Connor  
Real Estate & Facilities  
Dell Technologies  
IDA Industrial Estate  
Ovens  
Co. Cork

08/01/2020

**RE: Section 5 Declaration R549/19 – Dell Technologies,  
Ballincollig Technology Park, Mechterstadt Road,  
Innishmore, Ballincollig, Cork**

A Chara,

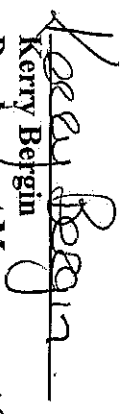
With reference to your request for a Section 5 Declaration at the above named property, I wish to advise as follows:

having regard to —

- Planning permission reference 12/5971 and the alterations from the permitted development;
- The fact that these are replacement signs;
- Sections 4(1)(h) of the Planning & Development Act 2000 (as amended)

It is considered that proposed 3 no. Illuminated signs on the eastern elevation on the southern and eastern elevations, is development and is exempted development

Is misa le meas

  
Kerry Bergin

Development Management Section  
Community, Culture and Placemaking Directorate  
Cork City Council



We are Cork.

**COMHAIRLE CATHRACH CHORCAI**  
**CORK CITY COUNCIL**

Strategic Planning & Economic Development Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.

R-Post/E-Mail [planning@corkeity.ie](mailto:planning@corkeity.ie)  
Fon/Tel: 021-4924564/4321  
Lionra/Web: [www.corkeity.ie](http://www.corkeity.ie)

**SECTION 5 DECLARATION APPLICATION FORM**  
under Section 5 of the Planning & Development Acts 2000 (as amended)

**1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT**  
BALINCOURT TECHNOLOGY PARK,  
MECHTERSADT ROAD, INWISHMORE,  
BALINCOURT, CO. CORK

**2. QUESTION/ DECLARATION DETAILS**

**PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:**

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

CHANGE OF 3 NO. ILLUMINATION SIGNS ON THE  
SOUTH & EASTERN ELEVATIONS TO REFLECT  
CHANGE OF COMPANY NAME FOR REBRANDING.  
IS THIS EXEMPTED DEVELOPMENT?

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**  
(Use additional sheets if required).

~~Additional details regarding question/ works/ development.~~

**3. APPLICATION DETAILS**

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m)
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	
(c) If concerning a change of use of land and / or building(s), please state the following: Existing/ previous use (please circle)	Proposed/existing use (please circle)

**4. APPLICANT/ CONTACT DETAILS**

Name of applicant (principal, not agent):	DELL TECHNOLOGIES	
Applicants Address	IDA INDUSTRIAL ESTATE, OVENS, CO. CORK	
Person/Agent acting on behalf of the Applicant (if any):	Name:	KEVIN O'CONNOR
	Address:	REAL ESTATE & FACILITIES DELL TECHNOLOGIES IDA INDUSTRIAL ESTATE, OVENS, CO. CORK
	Telephone:	021 4281690
	Fax:	
E-mail address:	Kevin.oconnor@dell.com	
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

**5. LEGAL INTEREST**

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	LEASED BUILDING	
If you are not the legal owner, please state the name and address of the owner if available	DECLAN McELHINNEY D.M.C TRUST PARTNERSHIP, BREFANI COURT, 2 WATERCOURSE ROAD, CORK	



6.1 / We confirm that the information contained in the application is true and accurate:

Signature: 

Date: 16/10/19

7. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Contact number	
Email address	

**ADVISORY NOTES:**

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

The application should 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 Development Management Section, Strategic Planning & Economic Development  
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- 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 is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration 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 was due to be issued by the Planning Authority.

*The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration 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.*

PLANNER'S REPORT  
Ref. R549/19

Cork City Council  
Development  
Management  
Strategic Planning and  
Economic Development

<b>Application type</b>	Section 5 Declaration
<b>Description</b>	<i>Whether change of 3 no. illuminated signs on the south and eastern elevation to reflect change of company name for rebranding is exempted development.</i>
<b>Location</b>	Dell, Ballincollig Technical Park, Mechterstadt Road, Inishmore Ballincollig, Cork.
<b>Applicant</b>	Dell Technologies
<b>Date</b>	07/01/2020

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

#### 1. REQUIREMENTS FOR A SECTION 5 DECLARATION

Section 5(1) of the Planning and Development Act 2000 as amended states,  
5.—(1) *If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.*  
The requirements for making a section 5 declaration are set out in the Act.

#### 2. THE QUESTION BEFORE THE PLANNING AUTHORITY

In framing the question to the planning authority, the applicant states in Q2 of the application form: *'Change of 3 no. illuminated signs on the south and eastern elevations to reflect company name for rebranding. Is this exempted development?'*

#### 3. SITE DESCRIPTION

The property in question is the former EMC building located in the Ballincollig Technology Park.

#### 4. PLANNING HISTORY

S/12/5971: EMC2 Information Systems International were granted permission for the erection of 4 no. internally illuminated signs, 2.7m x 0.9m each, 2 no. on south elevation, 1 no. on east elevation and 1 no. on west elevation of existing industrial building including boundary railing with pedestrian vehicular access gates.

The following 2 conditions were attached to that permission:

1. *The proposed development shall be carried out in accordance with the plans and particulars lodged with the Planning Authority on 17/09/12, save where amended by the terms and conditions herein.*

*Reason: In the interests of clarity.*

2. Details of the finish and colour scheme of the signage shall be submitted to, and agreed with, the Planning Authority prior to the commencement of development.

Reason: In the interests of orderly development and visual amenity.'

From a perusal of the hard copy file returned from Cork County Council no compliance details appear to have ever been submitted on foot of Condition 2 of this permission.

**D/258/16:** Section 5 application made to Cork County Council asking whether the change of 4 internally illuminated signs on the south, east and west elevation to reflect company merger and rebranding is or is not exempted development. The Executive Planner concluded that the change 'was development and was not exempted development' however the Senior Planner concluded that as there were existing authorised signs and these were being replaced by similar and smaller signs that they could be considered exempt under Section 4 (1) (h) of the Planning Act.

## 5. LEGISLATIVE PROVISIONS

### 5.1 The Act

#### Section 2(1),

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

#### Section 3(1),

In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

#### Section 4(1)(h),

The following shall be exempted developments for the purposes of this Act-development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or **which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;**

#### Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

#### Section 5(1),

(See section 1 of this report)

#### Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

## 5.2 The Regulations

### Article 9 (1)

*Development to which article 6 relates shall not be exempted development for the purposes of the Act –*

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (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,*

### Article 10 (1)

*Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –*

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

## 6. ASSESSMENT

### 6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

'Development' as defined in the Act (3)(1) comprises two possible chief components: 'the carrying out of any works on, in, over or under land', or 'the making of any material change in the use of any structures or other land'. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

'Works' is defined in section 2(1) of the Act as 'the carrying out of any works on, in, over, or under land' including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'

I consider that the proposed element constitutes development as it comprises of works which includes alteration of the existing facade. The issue of whether the said works constitute development insofar as whether they are material or not shall be considered further below.

### 6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

Permission was granted in 2012 for 4 EMC signs (each 2.43 sq.m. in area). 4 smaller round DELL signs (each 1.5m in diameter) were subsequently erected on the building following the issuing of a certificate of exemption. It is now intended to replace these 4 round signs with 3 no. rectangular signs (none on western elevation) (each 5m x .465 m i.e. 2.325 sq.m. in area).

The proposal does not come under the exemptions outlined in Class 1 of Part 2 Exempted Development (Advertisements) of the Planning and Development Regulations 2001 (as amended) given their size:

- (Class 1, Limitation 2 - The total area of each sign is over 2.3 sq.m and illuminated (breaching the exempted limit of 0.3 sq.m. in total for illuminated signage);
- (Class 1, Limitation 4(b)): No part of any such advertisement...shall be more than 4m in height above ground level. Signs are to be located above this level.
- Class 1, Limitation 8: The letters are greater than 0.3m in height.

I note that the previous certificate of exemption on this site (Ref D258/16) and in the case of Ref R428/16 in Cork City Council area - Dell Technologies - City Gate Park, Mahon Point) relied on Section 4,(1),(h) of the Planning Act to issue certificates of exemption. In both cases replacement signage was smaller than the permitted. In this case the replacement signage while longer, is shallower in depth than the permitted sign and is smaller in overall area. As previously concluded I do not consider that the signs would materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

## 7. ENVIRONMENTAL ASSESSMENT

### 7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

### 7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

## 8. CONCLUSION & RECOMMENDATION

In view of the above and having regard to:

- Planning permission reference 12/5971 and the alterations from the permitted development;
- The fact that these are replacement signs;
- Sections 4(1)(h) of the Planning and Development Act 2000 (as amended),

it is considered that proposed 3 no. illuminated signs on the eastern elevation on the southern and eastern elevations, **is development and is exempted development.**



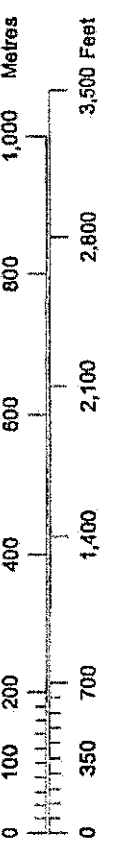
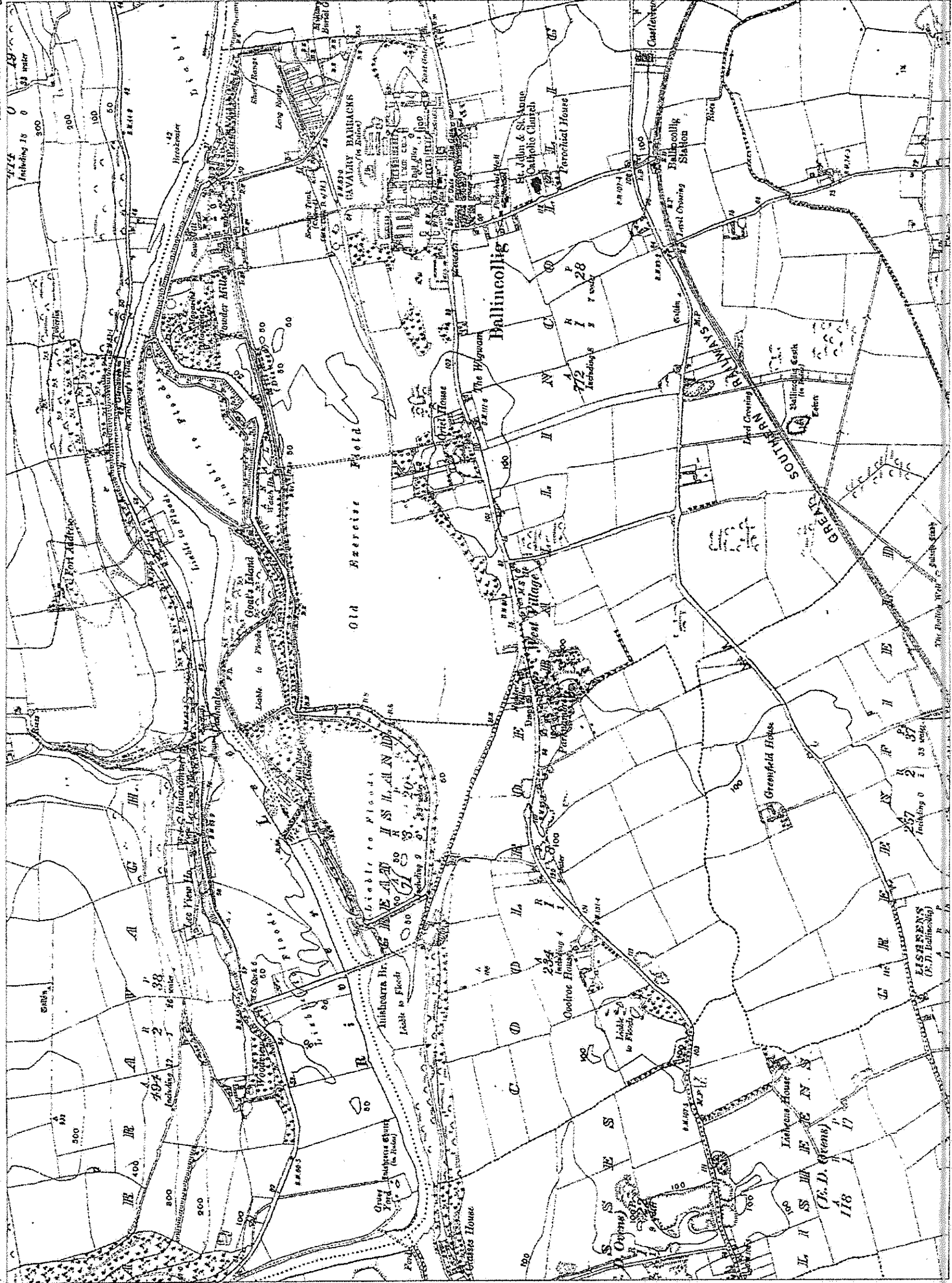
Evelyn Mitchell,  
Senior Executive Planner.

07.01.2020



Surveyed 1841  
 Revised 1935  
 Lavalled 1934

# Record PLACE Map



Plot Ref. No. 19625501\_1  
 Plot Date 05-SEP-2012

Scale:- 1:10,560  
 Scála:- 1:10,560

ITM CENTRE PT COORDS  
 558113.570733

DESCRIPTION

MAP SHEETS

6 Inch  
 CK073



Authorised  
 Internet Map

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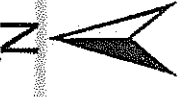
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572032

559966

559966



# Urban PLACE Map

Surveyed 1990  
Revised 2012  
Levelled 1971-1986

570856  
558279

**ITM CENTRE PT. COORDS**  
558113,570733

**DESCRIPTION**

**MAP SHEETS**  
1:1000  
6380-18 6380-23



Ána thionsú agus arna fhóisiú ag Suirbhéireacht Ordánáil Éireann, Páirc an Fhionúisce, Baile Átha Cliath 8, Éire.  
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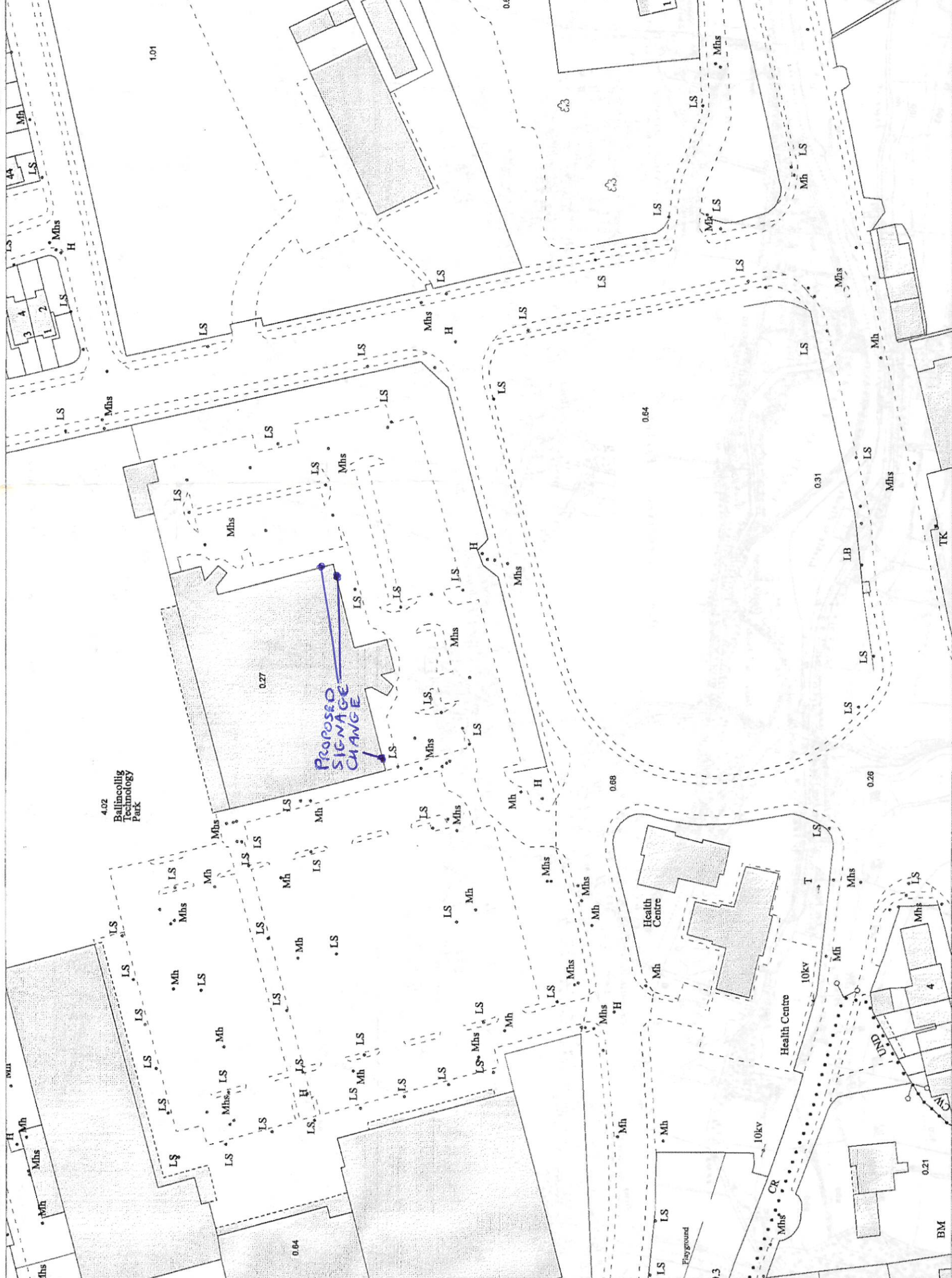
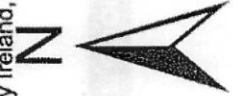
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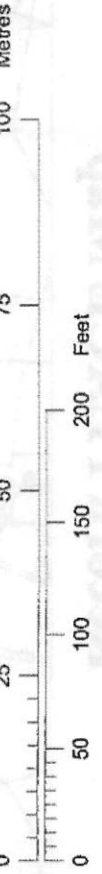
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Plot Ref. No. 19625501\_1\_1  
Plot Date 05-SEP-2012



Scale:- 1:1,000  
Scala:- 1:1,000

570856 557947 570810 558279