



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

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Ballybeg  
Ennis  
Co. Clare**

RL 4096 6285 5 IE

**23rd December, 2021**

**Your Client: Michael Morrissey**

**Section 5 referral Reference R21-71 – Michael Morrissey**

Is the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare, development and if so, is it exempted development? This proposed development is in a new location, changed from the original Section 5 granted under reference number R20-31.

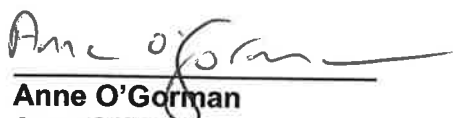
A Chara,

I refer to your application received on 15th December 2021 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at [www.pleanala.ie](http://www.pleanala.ie)

Mise, le meas



**Anne O'Gorman  
Staff Officer  
Planning Department  
Economic Development Directorate**

**An Roinn Pleanála  
An Stiúrthóireacht Forbairt Gheilleagrach  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2**

**Planning Department  
Economic Development Directorate  
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2**



**DECLARATION ISSUED UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

**Reference No.: R21-71**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R21-71**

**Is the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare, development and if so, is it exempted development? This proposed development is in a new location, changed from the original Section 5 granted under reference number R20-31.**

**AND WHEREAS, Michael Morrissy** has requested a declaration from Clare County Council on the said question.

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

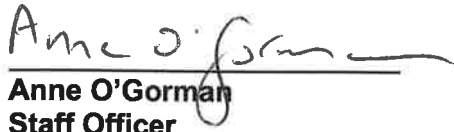
- a. Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- b. Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- c. Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- d. The works as indicated in submitted documents from the referrer.

**And whereas Clare County Council has concluded:**

- (a) the development of the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) the said development of the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare is exempted development having regard to Class 6 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended, provided that this proposed development is in a new location, superseding the Section 5 declaration issued under reference number R20-31.

**THEREFORE:** The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



**Anne O'Gorman**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**23rd December, 2021**

**CLARE COUNTY COUNCIL**

**SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED**

**DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT**

Chief Executive's Order No:

78999

Reference Number:

R21-71

Date Referral Received:

15th December 2021

Name of Applicant:

Michael Morrissey

Location of works in question:

Carrowniska South

**Section 5 referral Reference R21-71 – Michael Morrissey**

Is the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare, development and if so, is it exempted development? This proposed development is in a new location, changed from the original Section 5 granted under reference number R20-31.

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

**AND WHEREAS Clare County Council has concluded:**

- (a) the development of the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) the said development of the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare is exempted development having regard to Class 6 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended, provided that this proposed development is in a new location, superseding the Section 5 declaration issued under reference number R20-31.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021; Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Garreth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

**NOW THEREFORE** pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Garreth Ruane, Senior Executive Planner, hereby declare that the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare is development and is exempted development.

**Signed:**

  
\_\_\_\_\_  
**GARRETH RUANE**  
**SENIOR EXECUTIVE PLANNER** 

**Date:** 23rd December, 2021

**CLARE COUNTY COUNCIL  
SECTION 5 DECLARATION OF EXEMPTION APPLICATION  
PLANNERS REPORT**

**FILE REF:** R21-71

**APPLICANT(S):** MI. Morrissey

**REFERENCE:** Is the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare, development and if so, is it exempted development? This proposed development is in a new location, changed from the original Section 5 granted under reference number R20-31.

**LOCATION:** Carrowniska South, Kilmurry McMahon, Co. Clare

**DUE DATE:** 21st January 2021

**Site Location**

The site of the proposed development is located 180m southeast of Kilmurry McMahon Post Office. The access road to the site forms a 4-arm junction with the R473 and the R485. The access road is an unregistered road which terminates as a cul-de-sac c.400m south of the site. The site is within a rural area, is part of an agricultural field that has the unregistered road as its western boundary. The location itself has grasslands on all sides. There is a newly-constructed dwelling house 75m NE of the site, in an adjoining field.

**Recent Planning History**

**R21/30:** Clare County Council declared under Section 5 of the Planning and Development Act 2000 that the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare is development and is exempted development.

**P17/337:** Permission granted to MI. Morrissey to construct a new dwelling house, private garage, create a new entrance, install a new wastewater treatment system and water facilities along with all associated site works.

**Enforcement History**

None

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by MI. Morrissey.

The applicant is seeking a Section 5 Declaration as to whether construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare, is or is not development and is or is not exempted development. The slatted unit that is subject of this query has not been constructed.

**Development details and specification**

The following has been submitted:

- Ordnance Survey maps that clearly show the location of the site and the extent of the landholding;
- Scaled Layout Plan, Floor Plan, Elevations and Section drawing of the proposed structure;
- Declaration request form fully completed, with written description of the proposal.

### **Flood Risk**

Following examination of the relevant GIS information in relation to flood risk assessment, it is noted that the proposed slatted unit is located outside Flood Zones A and B, and that the slurry spreadlands which surround the site are also outside the Flood Zones.

### **Statutory Provisions**

#### **Planning and Development Act, 2000 (as amended)**

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

S.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.***

‘Works’ are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

*“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.*

#### **Planning & Development Regulations, 2001, as amended**

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

**Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6**  
*Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.*

1. *No such structure shall be used for any purpose other than the purpose of agriculture.*
2. *The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*
3. *Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution*
4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
6. *No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

Under Article 9 (1) of the same Regulations, 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 compromise 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.*

### **Environmental Impact Assessment**

I do not consider that the proposed development falls within the mandatory requirements for an EIA as stated in EU Directive 85/337/EEC (as amended by Directive 97/11/EC, 2003/31/EC and 2009/31/EC). The proposed development is also not considered to fall within the sub-threshold criteria having regard to the third schedule to the European Communities Environmental Impact Assessment (Amendment) Regulations 1999 and in Schedule 7 of the Planning and Development Regulations 2001, as amended.

### **Appropriate Assessment**

See assessment below.

### **Assessment**

#### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare, is or is not development and is or is not exempted development.

#### Particulars of Proposal

The particulars of the proposal and site are set out below:

- |                           |                               |
|---------------------------|-------------------------------|
| • Height                  | 7.019 metres                  |
| • Proposed Floor Area     | 198 sqm                       |
| • Distance from road      | Greater than 10 metres        |
| • Distance from dwellings | See further assessment below. |

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6  
*Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200*

*square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.*

It is proposed that the structure will be used as a livestock slatted unit, and its gross floor space does not exceed 200sqm.

- 1. No such structure shall be used for any purpose other than the purpose of agriculture.*

The use proposed is agricultural.

- 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*

The 300 sqm threshold is not exceeded in this instance. The subject structure will be the first / only structure of its type within the landholding.

- 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*

Floor plan and section details of the tank are set out in the drawings submitted. It will occupy the space beneath the structure and will have a capacity of 194.12m<sup>3</sup>. The slatted tank must be in line with standards as set by the Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government.

- 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*

The proposed development is shown to be c.150m from the public road.

- 5. No such structure within 100 metres of any public road shall exceed 8 metres in height.*

This height and separation thresholds are not exceeded in this instance.

- 6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*

The proposed structure is within 100 metres of a house, as it will be c.72m from the applicant's own dwelling, i.e. the person providing the structure. Another house is c. 160m to the north.

7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

Agri-cladding proposed.

Article 9 of the Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

No on-site planning permissions exist.

- (ii) *consist of or compromise 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 alterations to the existing access point are proposed.

- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

Not applicable in this instance. There is an existing private entrance roadway to the agricultural lands from the public road, at the R485 / R473 junction.

- (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,*

Not applicable in this instance.

- (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,*

Not applicable in this instance.

*(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.*

This site is located within a Settled Landscape. Having regard to the nature of the proposed development, the nature of the proposal site and its receiving environs and the view available towards the site it is considered that development proposed would not interfere with the character of the landscape or views in the area.

*(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,*

This is not applicable in this instance.

*(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,*

This is not applicable in this instance.

*(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 proposal site is located circa 770m from the River Shannon and River Fergus Estuaries SPA, and c.970m from the Lower River Shannon SAC.

Having regard to the nature and scale of the proposed development and the proximity and connectivity to the European Sites of the site and the slurry spreadlands as mapped in the documents submitted by the applicant, I consider that the proposed development will not have a significant effect individually or in combination with other plans or

projects, on a European Site. A screening for Appropriate Assessment report is included at the end of this report.

(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."*

Not applicable in this instance.

(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,*

This is not applicable in this instance.

(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,*

This is not applicable in this instance.

(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,*

This is not applicable in this instance.

(xi) *obstruct any public right of way,*

This is not applicable in this instance.

(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.*

This is not applicable in this instance.

## **Conclusion**

Having regard to the above it is considered that the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare constitutes both 'works' and 'development'. However regard has also been had to Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

### **Recommendation**

**The following questions have been referred to the Planning Authority:**

Whether the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare is or is not development and is or is not exempted development. This proposed development is in a new location, changed from the original Section 5 granted under reference number R20-31.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) the development of the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) the said development of the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare is exempted development having regard to Class 6 of Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended, provided that this proposed development is in a new location, superseding the Section 5 declaration issued under reference number R20-31.

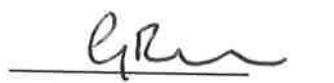
Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare is development and is exempted development.



Assistant Planner

Date: 21<sup>st</sup> December 2021

10

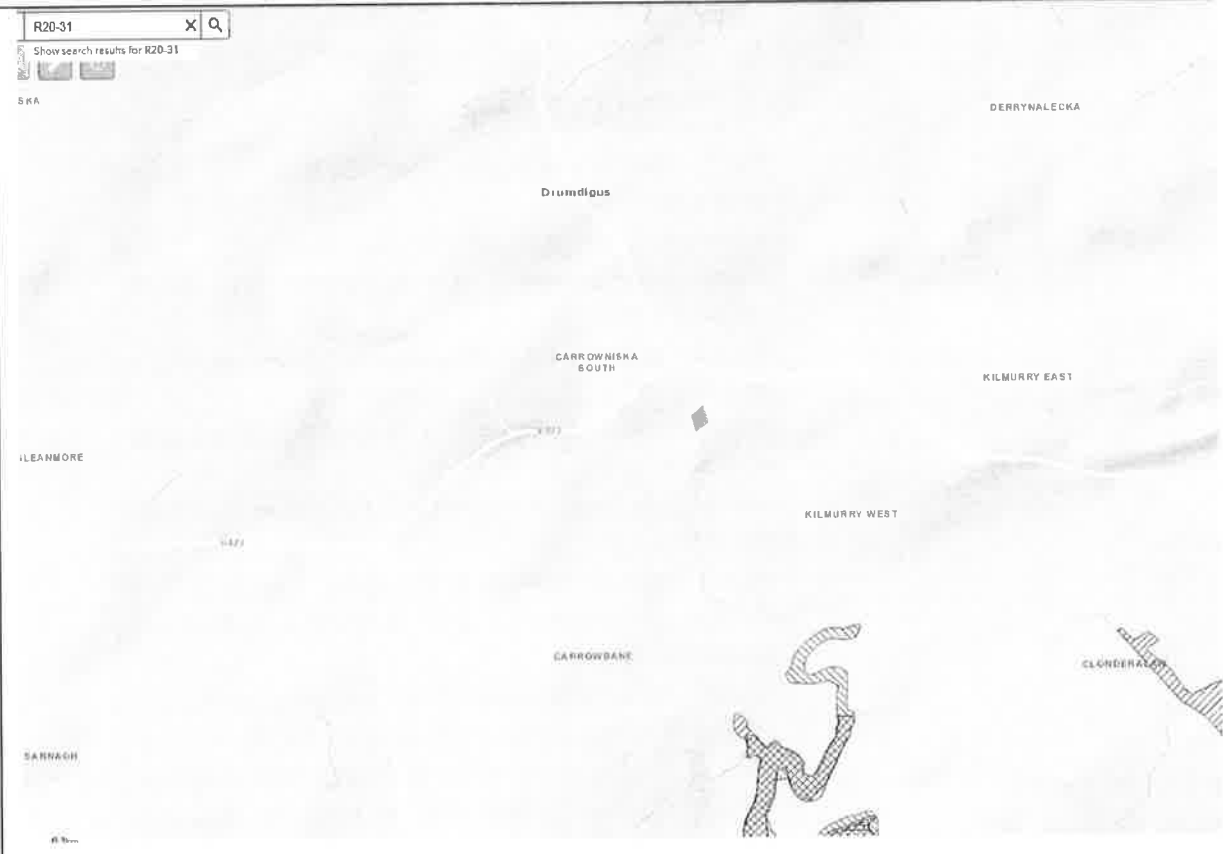
  
Senior Executive Planner  
Date: 22/12/21

## Clare County Council

### Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

**Table 1: Project Details**

<b>Planning File Reference</b>	R2171
<b>Applicant Name</b>	MI. Morrissey
<b>Development Location</b>	Carrowniska South, Kilmurry McMahon, Co. Clare
<b>Application accompanied by an EIS</b>	No
<b>Application accompanied by an NIS</b>	No
<b>Description of the project (To include a site location map): construction of a slatted unit</b>	
	

**Table 2: Identification of European sites which may be impacted by the proposed development.**



This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)<sup>1</sup> is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

**Table 2 (a): European Sites within 15km of Applicant Site**

European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0] Margaritifera margaritifera (Freshwater Pearl	0.97

<sup>1</sup> European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

<sup>2</sup> European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
	Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	
River Shannon & River Fergus Estuaries SPA	Cormorant (Phalacrocorax carbo) [A017] Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Scaup (Aythya marila) [A062] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Greenshank (Tringa nebularia) [A164] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999]	0.77

1	<b>Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.</b>	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	No
2	<b>Impacts on terrestrial habitats and species.</b>	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	Yes
3	<b>Impacts on designated</b>	<i>Is the development located within marine or intertidal</i>	No

	<b>marine habitats and species.</b>	<i>areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	
4	<b>Impacts on birds in SPAs</b>	<i>Is the development within 1km of a Special Protection Area</i>	Yes
5	<b>Indirect effects</b>	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No

2	<b>Impacts on terrestrial habitats and species.</b> <i>Please answer the following if the answer to question 2 in table 2 was yes. Does the development involve any of the following:</i>	
2a	Removal of or interference with habitat within the European site. This includes reduction in habitat area or fragmentation of habitat. Is the timing of this interference liable to impact on the nesting or breeding period of any protected species?	No
2b	Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site	No
2c	Is the development liable to impact on water quality in the European site, or liable to give rise to any change in a key indicator of water quality, including salinity. If yes, is the site designated for any bird species or other plant species whose feeding ground or life cycle may be affected by changes in water quality?	No
2d	Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS.	No
4	<b>Impacts on birds in SPAs</b> <i>Please answer the following if the answer to question 5 in table 2 was yes. Does the development involve any of the following:</i>	
4a	Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No.
4b	Erection of wind turbines within 1km of an SPA.	No.
4c	All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4d	Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the	No.

	feeding, breeding and nesting grounds of Annex 1 birds	
4e	Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects	No.
4f	Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No.
4g	Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No.

Appropriate Assessment Screening Determination	
<b>Planning File Reference</b>	R21-71
<b>Proposed Development</b>	construction of a slatted unit
<b>Development Location</b>	Carrowniska South, Kilmurry McMahon, Co. Clare
<b>European sites within impact zone</b>	Lr. R. Shannon SAC, R. Shannon & R. Fergus SPA.
<b>Description of the project</b>	
construction of a slatted unit	
<b>Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site</b>	
See listed above	
<b>Describe how the project or plan (alone or in combination) is likely to affect the European site(s).</b>	
No impacts envisaged	
<b>If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?</b>	
N/A	
<b>Documentation reviewed for making this statement</b>	
NPWS website, Plans and particulars received, GIS mapping database	
<b>Conclusion of assessment (a, b, c or d)</b>	
<b>The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)<sup>3</sup></b>	
<b>There is no potential for significant effects to European Sites<sup>3</sup></b>	Yes
<b>The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	
<b>Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010<sup>5</sup></b>	
<b>Completed By</b>	Tadhg MacNamara
<b>Date</b>	21 <sup>st</sup> December 2021

<sup>3</sup> Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

<sup>4</sup> In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura\\_2000\\_assess\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf)

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

<sup>5</sup> The proposed development must either be refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Niall Geoghegan**  
**Ballybeg**  
**Ennis**  
**Co. Clare**

**Your Client: Michael Morrissey**

**16/12/2021**

**Section 5 referral Reference R21-71 – Michael Morrissey**

Is the construction of a slatted unit for the housing of cattle at Carrowniska South, Kilmurry McMahon, Co. Clare, development and if so, is it exempted development? This proposed development is in a new location, changed from the original Section 5 granted under reference number R20-31.

A Chara,

I refer to your application received on 15th December 2021 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

*Tadhg Holmes*

**Tadhg Holmes**  
**Planning Department**  
**Economic Development Directorate**

**An Roinn Pleanála**  
**An Stiúirthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**  
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



P07

**CLARE COUNTY COUNCIL**  
**COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,  
 Economic Development Directorate,  
 Clare County Council,  
 New Road, Ennis,  
 Co. Clare.  
 V95DXP2

Telephone No. (065) 6821616  
 Fax No. (065) 6892071  
 Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
 Website: [www.clarecoco.ie](http://www.clarecoco.ie)



Comhairle Contae an Chláir  
 Clare County Council

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**  
**(Section 5 of the Planning & Development Act 2000 (as amended))**

**FEE: €80**

*This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority*

**1. CORRESPONDENCE DETAILS.**

(a) Name and Address of person seeking the declaration	MICHAEL MORRISSY CARROWNISKA SOUTH KILMURRY McMAHON, CO. CLARE
(b) Telephone No.:	
(c) Email Address:	NONE
(d) Agent's Name and address:	NIAL GEORGHEGAN BALLYBEG, ENNIS, CO. CLARE.

**2. DETAILS REGARDING DECLARATION BEING SOUGHT****(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT***Note: only works listed and described under this section will be assessed.*Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

IS THE CONSTRUCTION OF A SLATTED UNIT FOR THE HOUSING OF CATTLE  
AT CARROWNISKA SOUTH, KILMURRY McMAHON, CO. CLARE, DEVELOPMENT AND  
IF SO IS IT EXEMPTED DEVELOPMENT. IN THE NEW LOCATION CHANGED FROM  
ORIGINAL SECTION 5 GRANTED REFERENCE NO. R20-31

**(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.**

ORIGINALLY GRANTED SECTION 5 REFERENCE NO. R20-31  
A SECTION 5 HAS BEEN GRANTED FOR THIS SHED  
ALREADY. NOW WE ARE LOOKING TO BUILD THE  
SAME SLATTED UNIT IN THE SAME FIELD 42 METERS  
APPROX NORTH EAST OF THE ORIGINAL POSITION.  
PLEASE SEE ORIGINAL POSITION COLOURED IN  
MAGENTA ON THE SITE LAYOUT.

**(c) List of plans, drawings etc. submitted with this request for a declaration:***(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)*

① DRAWINGS OF THE SLATTED UNIT.

② SITE LAYOUT 1:500

③ SITE MAP 1:2500



**3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT**

(a) Postal Address of the Property/Site/Building for which the declaration sought:	CARROWNISKA SOUTH, KILMURRY Mc MAHON, CO. CLARE.
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO.
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	APPLICANT IS OWNER
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	APPLICANT IS OWNER.
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	NO.
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	SECTION 5 REF: 20-31
(h) Date on which 'works' in question were completed/are likely to take place:	JANUARY 2022

SIGNED:

Mich Gault (AGENT)

DATE:

17/12/21

### **GUIDANCE NOTES**

*This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority*

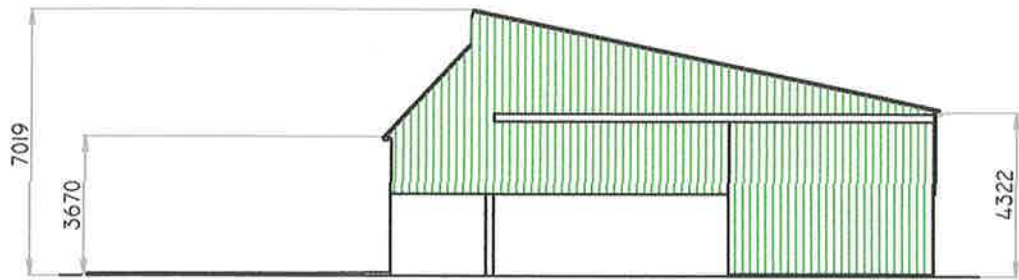
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,  
Economic Development Directorate,  
Clare County Council  
Aras Contae an Chlair,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2

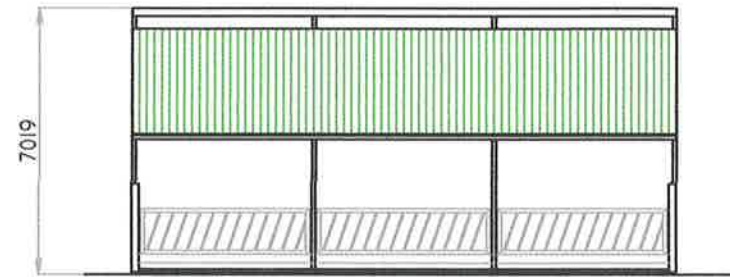
- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

### **FOR OFFICE USE ONLY**

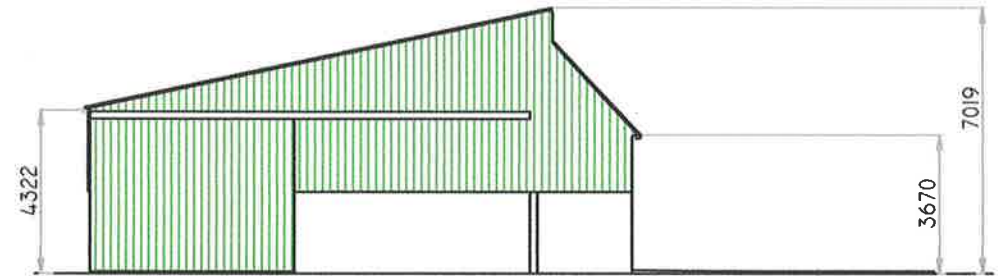
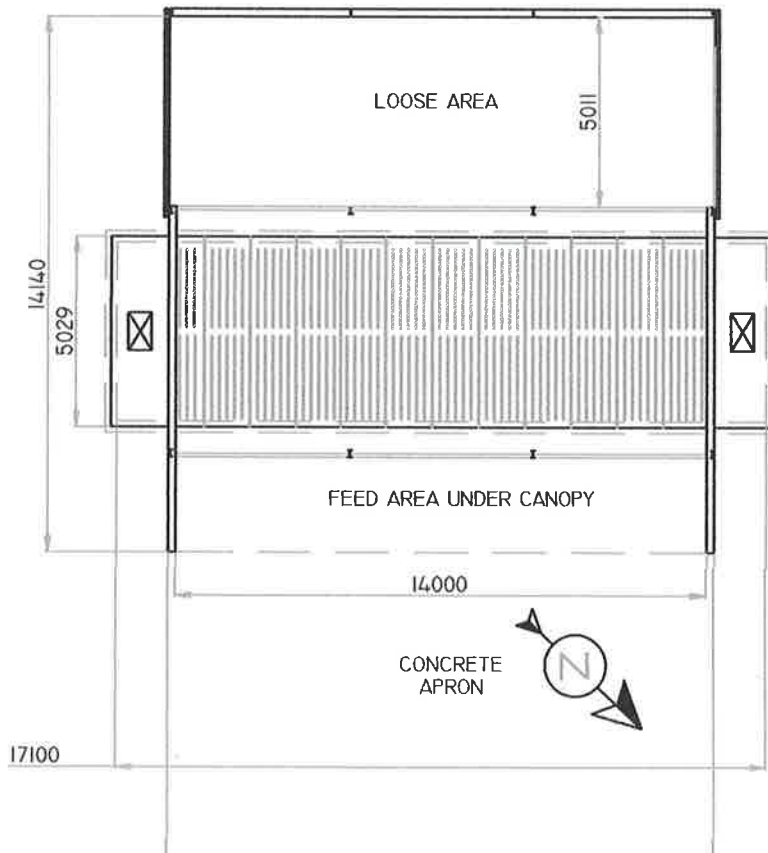
Date Received: .....	Fee Paid: .....
Date Acknowledged: .....	Reference No.: .....
Date Declaration made: .....	CEO No.: .....
Decision: .....	



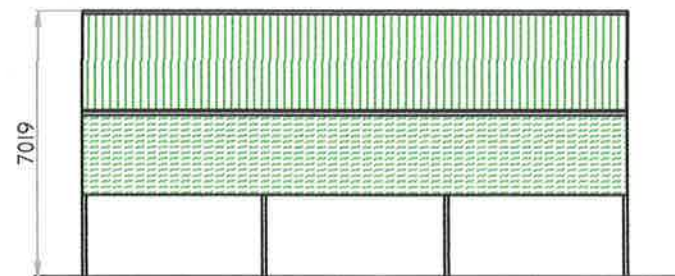
NORTH WEST ELEVATION



NORTH EAST ELEVATION



SOUTH EAST ELEVATION



SOUTH WEST ELEVATION

MICHAEL MORRISSY

PROPOSED NEW CONSTRUCTION OF A  
SLATTED UNIT  
& ASSOCIATED SITE WORKS.

AT CARROWNISKA SOUTH,  
KILMURRY McMAHON, Co. CLARE.

SCALE: 1 : 200

DATE: JULY 2020

ALL DIMENSIONS IN MILLIMETERS  
UNLESS OTHERWISE STATED

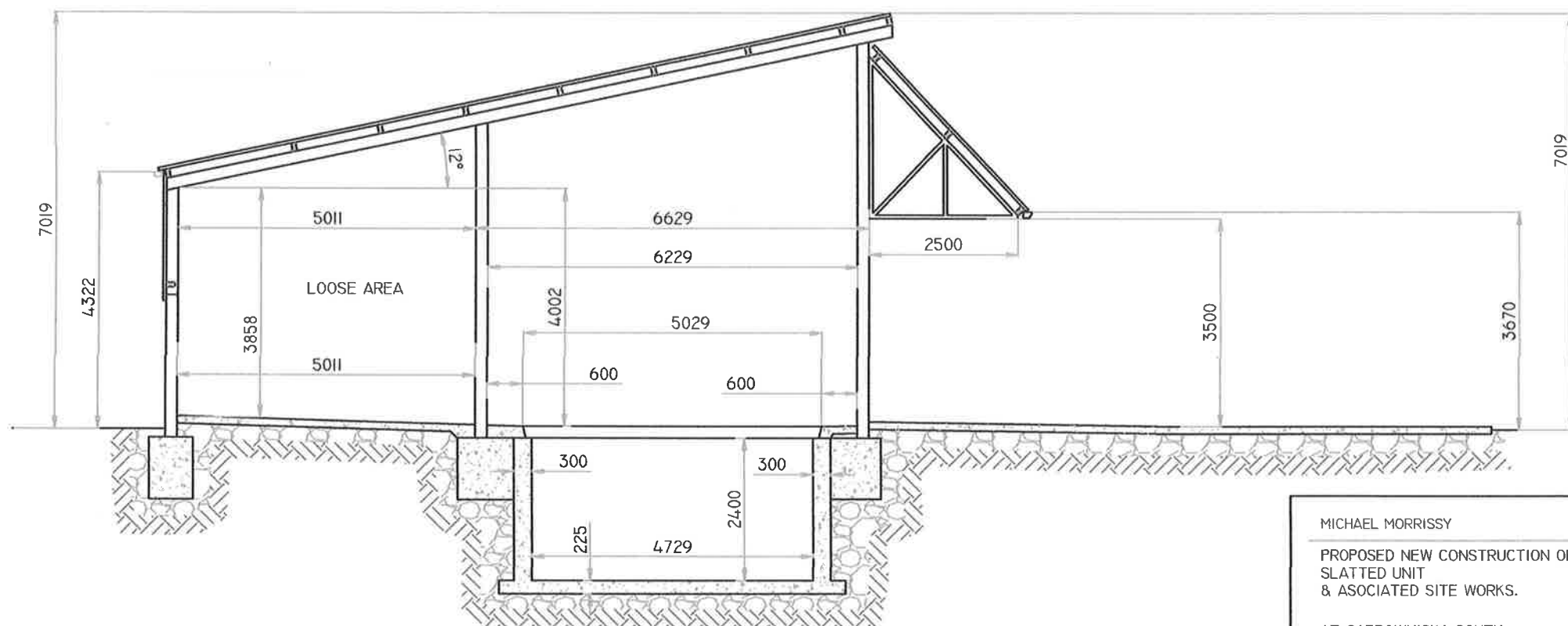
DRG'S PREP. BY : NIALl GEORGHEGAN  
ADDRESS: BALLYBEG, ENNIS.  
MOBILE : 087 2061697

#### ROOF

"TEGRAL AGRIBUILD 2000" STEEL CLADDING OR  
FIBRE-CEMENT CLADDING ON 150MM x 75MM TREATED TIMBER  
PURLINES WITH D . P . C . STRIP  
COVERING ON DIPPED STEEL STANCHIONS TO COMPLY  
WITH DEPT OF AGRICULTURE SPECIFICATION S.123, S.101 & 102

#### WALLS

TO CONSIST OF EITHER 225MM CONC BLOCK WALL CONSTRUCTION  
PLASTERED BOTH INTERNALLY & EXTERNALLY OR OF 225MM  
SHUTTERED SOLID CONC WALL WITH 28 DAY CRUSHING  
STRENGTH OF 35 N/MM<sup>2</sup> TO COMPLY WITH DEPT OF AGRICULTURE  
S.101, S.102 & S.123



#### SECTION

#### FLOOR

125MM CONC SLAB WITH 28 DAY CRUSHING STRENGTH OF 35 N/MM<sup>2</sup>  
ON 50MM SAND/DUST BLINDING ON 150MM HARDCORE.  
TO COMPLY WITH DEPT OF AGRICULTURE S.101 , S.123

FOUNDATIONS TO DEPARTMENT SPEC. S.101 & S.123  
TO ENGINEERS DETAIL.

MICHAEL MORRISSY

PROPOSED NEW CONSTRUCTION OF A  
SLATTED UNIT  
& ASSOCIATED SITE WORKS.

AT CARROWNISKA SOUTH,  
KILMURRY McMAHON, CO. CLARE.

SCALE: 1 : 100

DATE: JULY 2020

ALL DIMENSIONS IN MILLIMETERS  
UNLESS OTHERWISE STATED

DRC'S PREP. BY : NIALL GEORGEHAN  
ADDRESS: BALLYBEG, ENNIS.  
MOBILE : 087 2061697

# Planning Pack Map

**CENTRE COORDINATES:**  
ITM 511968,656366

**PUBLISHED:** 07/07/2020  
**ORDER NO.:** 50127983\_1

**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 4731  
1:5,000 4732

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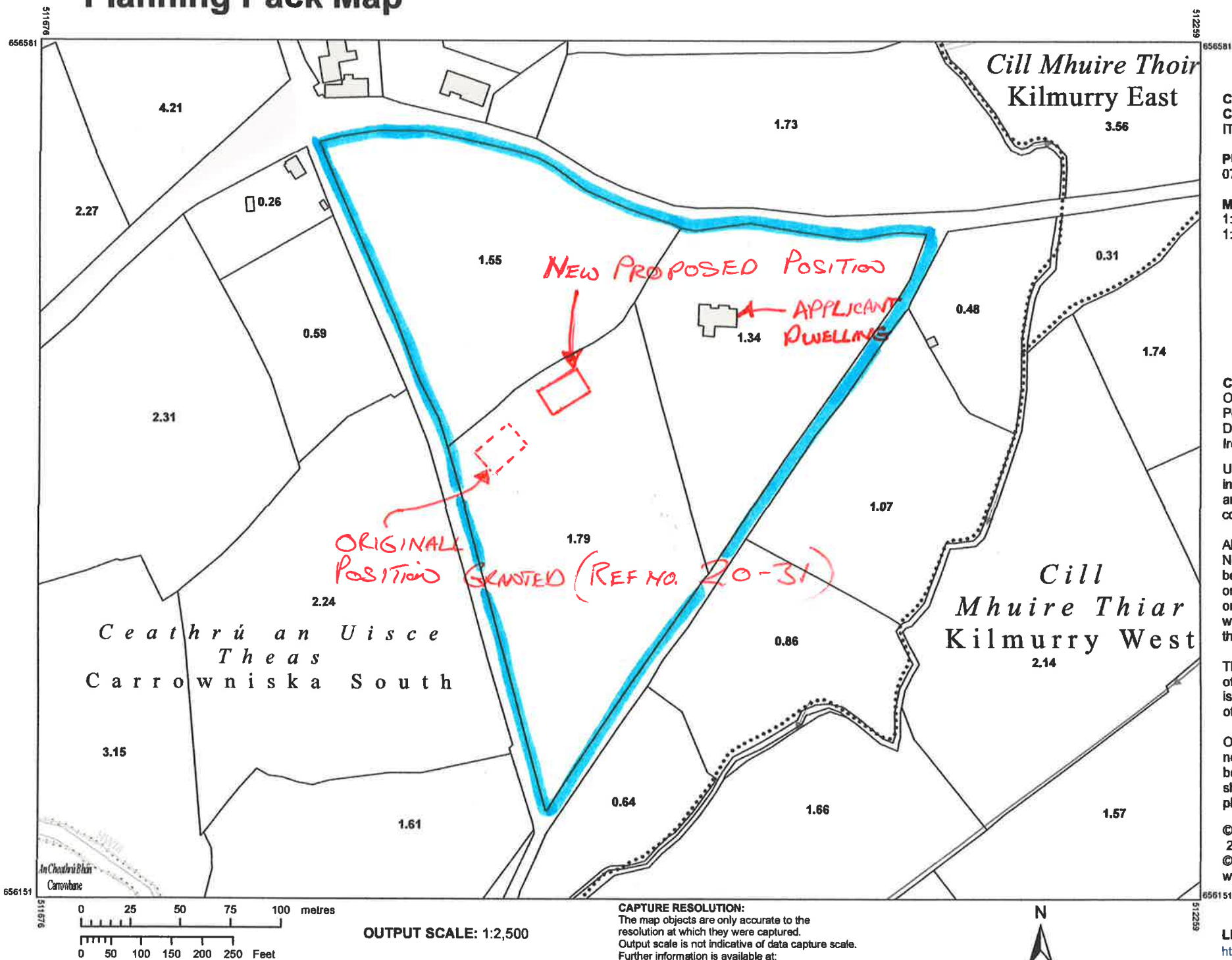
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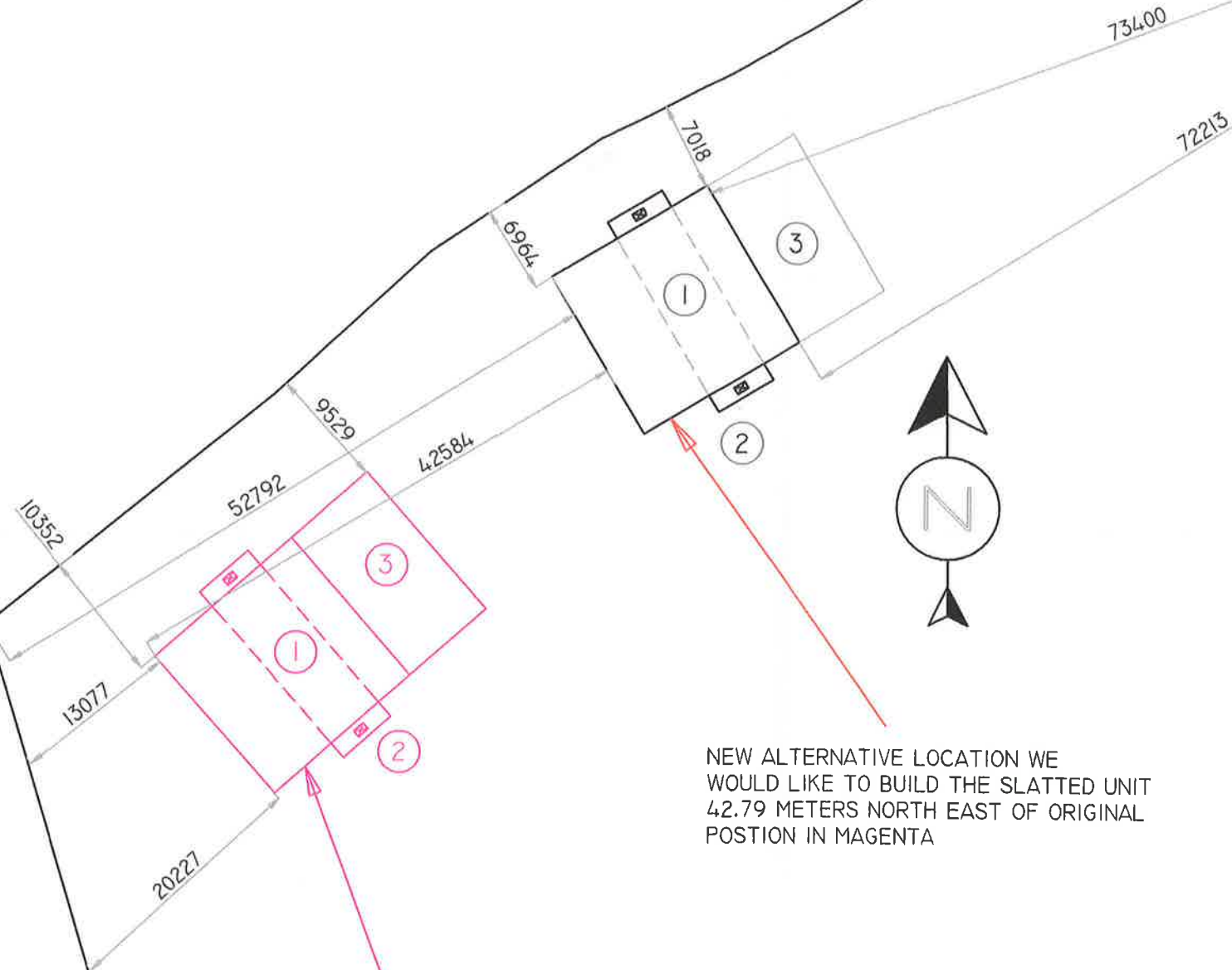
**LEGEND:**  
<http://www.osi.ie>;  
search 'Large Scale Legend'





- 1 = NEW SLATTED 14.0 x 14.14 = AREA 198.0 SQ. METERS
- 2 = UNDERSLAT TANK FOR (No. 1) 17.1 x 4.73 x 2.4 = VOLUME 194.12 CUBIC METERS
- 3 = CONCRETE APRON 14.4 x 8.0 = AREA 115.2 SQ. METERS
- 4 = APPLICANTS DWELLING HOUSE
- 5 = APPLICANTS DOMESTIC GARAGE

FARM ROAD



NEW ALTERNATIVE LOCATION WE  
WOULD LIKE TO BUILD THE SLATTED UNIT  
42.79 METERS NORTH EAST OF ORIGINAL  
POSTION IN MAGENTA

SECTION 5 (R20-31 REF. NO.) APPROVED BY CLARE CO PLANNING DEPARTMENT  
IN THE LOCATION COLOURED IN MAGENTA

MICHAEL MORRISSY

PROPOSED NEW CONSTRUCTION OF A  
SLATTED UNIT  
& ASSOCIATED SITE WORKS.

AT CARROWNISKA SOUTH,  
KILMURRY MCMAHON, Co. CLARE.

SCALE: 1 : 500  
DATE: JULY 2020

ALL DIMENSIONS IN MILLIMETERS  
UNLESS OTHERWISE STATED

DWG'S PREP. BY : NIALL GEORGEHAN  
ADDRESS: BALLYBEG, ENNIS.  
MOBILE : 087 2061697

CONTAE

AN CHLÁIR

Clare County Council  
Aras Contae an Chláir  
New Road  
Ennis  
Co. Clare

15/12/2021 15:33:48

Receipt No. : LICASH/0326123  
REPRINT

MICHAEL MORRISSEY  
C/O NIALL GEORGHEGAN  
BALLYBEG  
ENNIS  
CO. CLARE



SECTION 5 REFERENCES	80.00	80.00
GOODS	80.00	
VAT Exempt/Non-vatable		

Total : 80.00 EUR

COMHAIRLE

Tendered :  
CHEQUES 80.00

CONTAE

Change : 0.00

AN CHLÁIR

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