



Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development**

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Liam Kenna
Moneystown
Roundwood
Co. Wicklow


 August 2025

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX90/2025 for Andrew Fox**

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,


**ADMINISTRATIVE OFFICER
PLANNING, ECONOMIC & RURAL DEVELOPMENT**





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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT
2000 AS AMENDED

Applicant: Andrew Fox

Location: Tomriland, Roundwood, Co. Wicklow

Reference Number: EX 90/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/875

A question has arisen as to whether "the raising and re-contouring of lands" at Tomriland, Roundwood, Co. Wicklow is or is not exempted development.

Having regard to:


- Section 5 application details, submitted on the 24th July 2025.
- An Bord Pleanála References ABP-315532-23, RL 3609, RL3540, RL2987, RL3034, RL 3604, ABP-301484-18
- Section 2,3 , 4 and Schedule 5 : Part 2 of the Planning and Development Act 2000(as amended)
- Article 5, Article 6(3), Article 8 C, and Class 11: Part 3: Schedule 2 of the Planning and Development Regulations 2001(as amended)

Main Reasons with respect to Section 5 Declaration:

- The bringing in of soil for the purpose of raising/re-contouring of land constitutes works, and is, therefore, development as defined in Section 2 and Section 3, respectively, of the Planning and Development Act, 2000(as amended),
- The development does not come within the scope of the provisions of Article 8C of the Planning and Development Regulations, 2001(as amended) as the development involves the bringing in of soils from outside of the farm holding which is outside the remit of Article 8C. In addition it is not evident that the material for importation is not a waste material, noting that the recovery of excavated inert soil, for the purpose of the improvement or development of land, is identified as a waste activity in the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended).
- The development would not come within the description set out within Class 11 of the Planning and Planning and Development Regulations 2001(as amended) having regard to the definition of wetlands under Article 5 of the Regulations.
- It cannot be established that the development would not require Environmental Impact Assessment, as the information submitted has not clearly identified the amount of deposition involved , and whether such deposition would come within the description set out in Schedule 5 Part 2 of the Planning and Development Act 2000(as amended) which identifies Environmental Impact Assessment as mandatory for
 - Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

The Planning Authority considers that "the raising and re-contouring of lands" at Tomriland, Roundwood, Co. Wicklow is development and is NOT exempted development

Signed:


ADMINISTRATIVE OFFICER
PLANNING, ECONOMIC & RURAL DEVELOPMENT


Dated 16 August 2025



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)

SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/875

Reference Number: EX 90/2025

Name of Applicant: Andrew Fox

Nature of Application: Section 5 Referral as to whether or not "the raising and re-contouring of lands" is or is not development and is or is not exempted development.

Location of Subject Site: Tomriland, Roundwood, Co. Wicklow

Report from Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the raising and re-contouring of lands" at Tomriland, Roundwood, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

- (a) Section 5 application details, submitted on the 24th July 2025.
- (b) An Bord Pleanála References ABP-315532-23, RL 3609, RL3540, RL2987, RL3034, RL 3604, ABP-301484-18
- (c) Section 2,3 , 4 and Schedule 5 : Part 2 of the Planning and Development Act 2000(as amended)
- (d) Article 5, Article 6(3), Article 8 C, and Class 11: Part 3: Schedule 2 of the Planning and Development Regulations 2001(as amended)

Main Reason with respect to Section 5 Declaration:

- i. The bringing in of soil for the purpose of raising/re-contouring of land constitutes works, and is, therefore, development as defined in Section 2 and Section 3, respectively, of the Planning and Development Act, 2000(as amended),
- ii. The development does not come within the scope of the provisions of Article 8C of the Planning and Development Regulations, 2001(as amended) as the development involves the bringing in of soils from outside of the farm holding which is outside the remit of Article 8C. In addition it is not evident that the material for importation is not a waste material, noting that the recovery of excavated inert soil, for the purpose of the improvement or development of land, is identified as a waste activity in the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended).
- iii. The development would not come within the description set out within Class 11 of the Planning and Planning and Development Regulations 2001(as amended) having regard to the definition of wetlands under Article 5 of the Regulations.

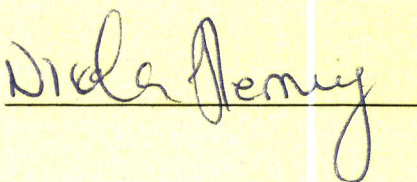
- iv. It cannot be established that the development would not require Environmental Impact Assessment, as the information submitted has not clearly identified the amount of deposition involved, and whether such deposition would come within the description set out in Schedule 5 Part 2 of the Planning and Development Act 2000(as amended) which identifies Environmental Impact Assessment as mandatory for

(b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

Recommendation:

The Planning Authority considers that "the raising and re-contouring of lands" at Tomriland, Roundwood, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed



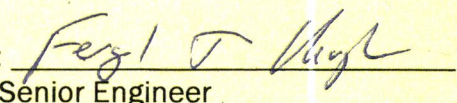
Dated 14th day of August 2025

ORDER:

I HEREBY DECLARE:

That "the raising and re-contouring of lands" at Tomriland, Roundwood, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:



Senior Engineer

Planning, Economic & Rural Development

Dated 14th day of August 2025

Section 5 Application Reference EX 90/2025

Date : 30/7/2025

Applicant : Andrew Fox

Address : Tomriland, Roundwood, Co. Wicklow.

Exemption Whether or not :

Raising and re-contouring of lands

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

Relevant Legislation

Planning and Development Act 2000 (as amended)

Section 2 of the Planning and Development Act 2000:

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins, or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds and "agricultural" shall be construed accordingly;

"land" includes any structure and any land covered with water (whether inland or coastal);

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"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 :

3.—(1) In this Act, “development” means, except where the context otherwise requires “development” means

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).

(2) For the purposes of *subsection (1)* and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders’ waste, rubbish or debris, the use of the land shall be taken as having materially changed.

Section 4(1) The following shall be exempted developments for the purposes of this Act—

(h) 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;

(l) development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced or works consisting of land reclamation or reclamation of estuarine marsh land and of callows, referred to in section 2 of that Act.]

Section 4 (2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act

(4) 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.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and
- (b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

Planning and Development Regulations 2001 (as amended).

Article 5

“Wetlands” means natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water.

Article 8

- 8 Works specified in a drainage scheme confirmed by the Minister for Finance under Part II of the Arterial Drainage Act 1945 (No. 3 of 1945) or the Arterial Drainage (Amendment) Act 1995 (No. 14 of 1995), carried out by, on behalf of, or in partnership with, the Commissioners, with such additions, omissions, variations and deviations or other works incidental thereto, as may be found necessary by the Commissioners or their agent or partner in the course of the works, shall be exempted development
- 8C Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development

Article 6 (3)

Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), 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.

Article 9(1) Note see Regulations for full Article

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—

(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,

CLASS 11

Development consisting of the carrying out of drainage and/or reclamation of wetlands

Limitations

1. The area to be affected shall not exceed 0.1 hectares.
2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. above.

Land reclamation Act 1949

S(1)

works" refers to the following or any of them:—

- (a) field drainage;
- (b) land reclamation;
- (c) the construction and improvement of watercourses;
- (d) the removal of unnecessary fences;
- (e) the construction of new fences and the improvement of existing ones;
- (f) improvement of hill grazing;
- (g) reclamation of estuarine marsh land and of callows;
- (h) any operations ancillary to the foregoing.

Relevant Referrals

ABP-315532-23

An Bord Pleanála concluded that the construction of an agricultural shed (194.5 square metres) with access roadway and land improvement works that involve importing 9000 cubic metres of topsoil and subsoil (stated to be imported from building sites) over a two year period used to raise the site by up to 500 millimetres and all associated services at Cloghaun, Claregalway, County Galway is development and is not exempted development as

- As the intended agricultural structure, as measured on the submitted site layout plan, would be sited closer than 100 metres of the closest house, where there is no evidence that it is the house of the person providing the agricultural shed structure and where the consent of either the owner or occupier or person in charge thereof has not been provided, this element of the development set out in the referral question does not come within the Condition and Limitation 6 of Class 6 of Part 3 of Schedule 2 to article 6 of the Planning and Development Regulations 2001, as amended, and therefore, the proposed agricultural shed is not exempted development,
- No evidence has been provided in relation to effluent storage facilities being adequate and therefore, it cannot be ascertained that Condition and Limitation 3 of Class 6 of Part 3 of Schedule 2 to article 6 of the Planning and Development Regulations 2001, as amended is met and therefore, the new agricultural shed is not exempted development,

- The works comprising infilling of land, by importing material (stated to be topsoil and subsoil from building sites) does not include any evidence that the material is not a 'waste' and is, therefore, presumed as comprising a waste and the importation of a waste material does not come within the meaning of the term 'land reclamation', as set out in article 8C of Part 2 of the Planning and Development Regulations, 2001, as amended, and therefore, the importation of soils and stone material from building sites as described does not constitute exempted development
- As the possibility exists that the construction of the stated proposed land improvements through importation of material (stated to be topsoil and subsoils from building sites and hereby presumed to be waste) to the site may lead to a loss of water quality in the Lough Corrib Special Area of Conservation and Special Protection Area, under the precautionary principle, appropriate assessment cannot be excluded, and therefore, under section 4(4) of the Planning and Development Act 2000, as amended, these improvements are not exempted development.

RL 3609

An Bord Pleanála concluded that the spreading of clean topsoil and subsoil on lands for agricultural use and the importing of that soil for recontouring of land at Oldcourt Lane, Oldcourt, Ballycullen, Dublin is development and is not exempted development:

- (a) the importation and spreading of soil for the purpose of recontouring land constitutes works, and is, therefore, development as defined in Section 2 and Section 3, respectively, of the Planning and Development Act, 2000, as amended,
- (b) the proposed works would not comply with Condition and Limitation number 1 of Class 11 of Part 3 of Schedule 2 (Land Reclamation) and with the provisions set out within Article 6(3) of the Planning and Development Regulations, 2001, as amended. The proposed works would not, therefore, comprise exempted development under Article 6(3),
- (c) having regard to the nature of the proposed development, which entails the importation of material to the site which the Board is not satisfied is not waste material, the development does not come within the scope of the provisions of Article 8C of the Planning and Development Regulations, 2001, as amended, in respect of Land Reclamation, and does not, therefore, comprise exempted development under Article 8C, and
- (d) land reclamation comes within the scope of works referred to in the Land Reclamation Act, 1949, and would normally constitute exempted development as set out in section 4(1)(l) of the Planning and Development Act, 2000, as amended. However, the works in question, comprising infilling of land, by imported material which the Board is not satisfied is not waste material, do not come within the meaning ascribed to land reclamation, as set out in article 8C of the Planning and Development Regulations, 2001, as amended, and therefore, do not constitute exempted development under section 4(1)(l) of the Act.

RL 3540

An Bord Pleanála, has concluded that the recovery of surplus excavated inert soil and the importing of that soil for infilling low lying area at Dunancory, Virginia, County Cavan is development and is not exempted development for the following reasons :

- (a) the importation of soil for the purpose of infilling a low lying area of land constitutes 'works' and alteration of that land, and therefore 'development' as defined in section 2 and section 3, respectively, of the Planning and Development Act, 2000, as amended,
- (b) the development does not come within the scope of the exemption set out under section 4(1)(l) of the Planning and Development Act 2000, as amended by the Environment (Miscellaneous Provisions) Act 2011,
- (c) the development does not come within the scope of the exemption set out in Article 8C of the Planning and Development Regulations, 2001, as amended, in respect of Land Reclamation, because it is proposed to import material from outside the landholding in order to carry out the development, and furthermore the material proposed to be imported is a waste material (noting that the recovery of excavated inert soil, for the purpose of the improvement or development of land, is identified as a waste activity in the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended),
- (d) the development does not come within the scope of Class 11 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, (Land Reclamation - infilling of wetlands) because of non compliance with the Conditions and Limitations Column 1 of that Class, as the area in question exceeds the 0.1 hectares, and
- (e) as no exemptions are available for the development in question, it is not necessary for the Board to examine whether appropriate assessment issues or traffic hazard issues arise:

RL2987 –

WHEREAS a question has arisen as to whether the importation of inert soils and overburden materials for spreading on agricultural land at Barntick, Clarecastle, County Clare is or is not development or is or is not exempted development:

An Bord Pleanála, concluded that the said importation of inert soils and overburden materials for spreading on agricultural land at Barntick, Clarecastle, County Clare is development and is not exempted development as

- (a) the importation of soils and overburden for spreading on agricultural land constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended, and
- (b) the soils and overburden materials to be imported to the farm holding constitute 'waste'. The activity does not, therefore, come within the scope of Article 8 (c) of the Planning and Development Regulations, 2001, as amended:

RL 3034

WHEREAS the question has arisen as to whether works involving the re-contouring of land for the purposes of land reclamation for agricultural purposes, is or is not development and is or is not exempted development

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the importation of soil for infilling on lands constitutes “works” as defined in section 2(1) of the Planning and Development Act 2000,
- (b) the infilling of soil constitutes development by reference to section 3(1) of the Planning and Development Act, 2000,
- (c) Article 8C of the Planning and Development Regulations 2001, as amended, does not provide an exemption for the importation of soil to a farm holding for the purposes of re-contouring of land from external sources. The exemption under Article 8C of the Planning and Development Regulations, 2001, as amended, is confined to land reclamation works including infilling of soil (but not waste material) within a farm holding, and
- (d) it is not possible to state beyond reasonable doubt that the infilling of soil on this particular site would not have a significant negative impact on European Sites. The proposed infilling of soil on this site may not be considered to be exempted development by reference to section 17(1)(b) of the Environmental (Miscellaneous Provisions) Act 2011, which amends section 4(4) of the Planning and Development Act, 2000.

RL3604

An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the reinstatement of land by the importation of 94,683 cubic metres of non-waste/by-product soil and stones, consisting of 43,900 cubic metres of topsoil and 50,783 cubic metres of subsoil, sourced from greenfield development sites in the Dublin Region at Basketstown, Summerhill, County Meath is development and is not exempted development as

- (a) the importation of soil and subsoil for infilling on lands constitutes ‘works’ as defined in Section 2(1) of the Planning and Development Act, 2000, as amended and is, therefore, development,
- (b) it has not been established that the soil and subsoil does not constitute ‘waste’ and, therefore, the development does not fall within the scope of Section 4 (1)(l) of the Planning and Development Act, 2000, as amended, and does not come within the meaning of the term ‘land reclamation’ as set out in Article 8 of the Planning and Development Regulations, 2001, as amended,
- (c) in such circumstances, the development would require environmental impact assessment and would come within the scope of Section 4 (4) of the Planning and Development Act, 2000, as amended, and would, therefore, not be exempted development,
- (d) if it could be established that the soil and subsoil was not waste, then the development in question would be classified as land reclamation, but would not come within the scope of Article 8C of the Planning and Development Regulations, 2001, as amended, because this exemption relates only to land reclamation works including infilling of soil within a farm holding and does not provide an exemption for importation of soil to a farm holding for the purposes of re-contouring of land from external sources (as in the current case), and, therefore, the development in question would not be exempted development:

ABP-301484-18

An Bord Pleanála hereby decides that the laying of crushed stone to a depth of 100 millimetres and the laying of gravel above the crushed stone to a depth of 50 millimetres constitutes development which is exempted development as

- (a) the excavation of lands and the laying of crushed stone and gravel constitutes works under the definition of the Act,
- (b) the act of excavation and the laying of crushed stone and gravel fall within the definition of structure as set out in the Act,
- (c) the excavation and layout of crushed stone and gravel constitute works for the maintenance, improvement or other alteration of any structure as defined in Section 4(1)(h) of the said Act and having regard to the nature, scale, extent and location of the said works these works do not materially affect the external appearance of the existing windfarm so as to render the appearance inconsistent with the character of the windfarm and that of neighbouring structures,
- (d) having regard to the nature, scale and extent of the proposed storage area in the context of the existing windfarm any change of use in the said lands are not considered to be material in the context of the existing windfarm,
- (e) the proposed works would not be likely to have a significant effect, either individually or in combination with other plans and projects on any European Sites and therefore do not require an appropriate assessment. (f) Furthermore, having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, the proposed works undertaken do not require the submission of an Environmental Assessment Report.

Assessment :

The declaration queries whether the raising and re-contouring of lands is or is not development or is or is not exempted development.

The site in question is c. 3.63 ha. The submission identifies that –

The exemption is sought for raising and re-contouring of lands at Tomriland, Roundwood, Co. Wicklow, infilling them with soils, levelling and raising the shown area by c. 0.75m to a maximum of 1m. The proposed objective is to allow for improved soil quality and extended grazing season of beef cattle operations on these lands. The lands in this area are low lying with hollows and dips. The soils are to be sourced from sites where the Economic Operation will possess an Article 27 application process.

Cross-sections, mapping, photographs and Agricultural Consultant Report have been submitted with the Section 5 Declaration.

The site is located in Tomriland, with access from an existing agricultural entrance off the L-1076-33.

The first question to be asked is whether the raising / re-contouring of lands is or is not development. The information indicates that soils are to be brought onto site. Ground levels will be raised by between 0.75m to a max of 1m. Such operations would come within the definition of work as set out in Section 2 of the Planning and Development Act 2000 (as amended) as it involves the alteration of ground levels, and would be development having regard to the definition set out in Section 3(1)(a) of the Planning and Development Act 2000 (as amended).

The application form references the following exemptions which it is considered the development would come within i.e. Article 8 and Schedule 2, Part 3, Class 11

Article 8C of the Planning and Development Regulations 2001(as amended) provides for that

Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development

From the referrals to An Bord Pleanála of similar works of infilling/ reclamation it is evident that the exemption provided for by Article 8C of the Regulations, only applies to soils sourced within the same farm-holding, which would not appear to be the case in this instance (RL 3540 and RL 3034). In addition the use of a by-product i.e. soils/ subsoils even where an Article 27 Notification has issued would still be considered a waste, as identified in Referrals ABP-315532-23, RL 3609, RL3540 and RL2987. In this regard An Bord Pleanála has identified that the bringing in of soils / subsoil would be considered a waste material as the recovery of excavated inert soil, for the purpose of the improvement or development of land, is identified as a waste activity in the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended).

Class 11 is not applicable in this case given the definition of wetlands in Article 5 of the Regulations i.e.

Wetlands" means natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water.

Screening for EIA/ AA

No information has been submitted to the scale of the works, or to show that they would not come within the description or scale of works requiring EIA as set out in Part 2 of Schedule 5 : Other Projects -

(b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

Development is not located within or adjoining any Natura 2000 site, and is not hydrologically connected to any Natura 2000 site, it is therefore considered that the works would not give rise to any negative impacts on any Natura 2000 site, on their own, or in combination with other projects.

Conclusion :

The raising and re-contouring of land with soil is development and is not exempted development.

Recommendation :

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether

the raising and re-contouring of lands at Tomriland, Co. Wicklow

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that :

the raising and re-contouring of lands at Tomriland , Co. Wicklow **is Development and is Not Exempted Development**

Main Considerations with respect to Section 5 Declaration :

(a) Section 5 application details, submitted on the 24th July 2025.

- (b) An Bord Pleanála References ABP-315532-23, , RL 3609, RL3540, RL2987, RL3034, RL 3604, ABP-301484-18
- (c) Section 2,3 , 4 and Schedule 5 : Part 2 of the Planning and Development Act 2000(as amended)
- (d) Article 5, Article 6(3), Article 8 C, and Class 11: Part 3: Schedule 2 of the Planning and Development Regulations 2001(as amended)

Main Reasons with respect to Section 5 Declaration :

- i. The bringing in of soil for the purpose of raising/ re-contouring of land constitutes works, and is, therefore, development as defined in Section 2 and Section 3, respectively, of the Planning and Development Act, 2000(as amended),
- ii. The development does not come within the scope of the provisions of Article 8C of the Planning and Development Regulations, 2001(as amended) as the development involves the bringing in of soils from outside of the farm holding which is outside the remit of Article 8C. In addition it is not evident that the material for importation is not a waste material, noting that the recovery of excavated inert soil, for the purpose of the improvement or development of land, is identified as a waste activity in the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended).
- iii. The development would not come within the description set out within Class 11 of the Planning and Planning and Development Regulations 2001(as amended) having regard to the definition of wetlands under Article 5 of the Regulations.
- iv. It cannot be established that the development would not require Environmental Impact Assessment, as the information submitted has not clearly identified the amount of deposition involved , and whether such deposition would come within the description set out in Schedule 5 Part 2 of the Planning and Development Act 2000(as amended) which identifies Environmental Impact Assessment as mandatory for
 - (b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

30/7/2025

30/7/2025

*Issue declaration as detailed
Fig 1 T Hg L 52
14/08/25*

MEMORANDUM

WICKLOW COUNTY COUNCIL

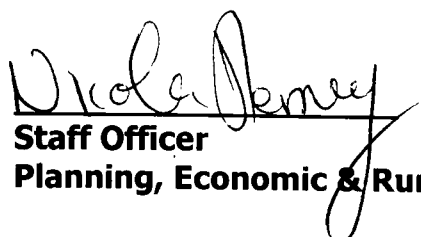
TO: Edel Bermingham
Senior Executive Planner

FROM: Nicola Fleming
Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX90/2025**

I enclose herewith application for Section 5 Declaration received completed on 24th July 2025.

The due date on this declaration is 20th August 2025.


Staff Officer
Planning, Economic & Rural Development



Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development**

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

24th July 2025

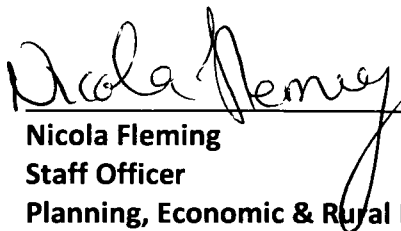
**Liam Kenna
Moneystown
Roundwood
Co. Wicklow**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and
Development Act 2000 (as amended). – E90/2025 – for Andrex Fox**

A Chara

I wish to acknowledge receipt on 24/07/2025 details supplied by you in respect of the above
Section 5 application. A decision is due in respect of this application by 20/08/2025.

Mise, le meas


**Nicola Fleming
Staff Officer
Planning, Economic & Rural Development**



Liam Walsh & Co. Ltd

Agricultural Consultant

Department of Agriculture Approved and Registered ACRES Planning and BPS Agency
059 9143780 / email walshagricarlow@gmail.com



Office 1
Ray Whelan Offices
Cannery Rd
Carlow
Co. Carlow.
11-7-2025

Environmental Services Section
Wicklow County Council
County Buildings
Wicklow

Re: Application for a Waste Management Permit (Class 10) on lands at Tomriland townland, Roundwood, Co Wicklow

To whom it may concern,

We have looked at an area of land (3.6 ha) in the townland of Tomriland, for Andrew Fox, Newrath, Rathnew, Co Wicklow A67 V998.

The site is presently in grassland. The application of soil materials to this area, if finished with topsoil, properly drained and reseeded, would be of benefit for agricultural purposes, with a newly reseeded sward of grass and clover.

A fence should be erected at the site to protect stock during the filling process.

It is important to minimise compaction of the fill material, and hence it is advised to complete the work in dry weather. It may be necessary to have some areas ripped where they have become compacted.

Areas that have become heavily compacted, such as areas that are used as trackways and roadways during the filling process, will need to be loosened with a digger to ensure that drainage on the site is not impeded and that water can drain through the soil.

It is recommended that the surface layer be comprised of 200-300mm of good

quality topsoil. This should be graded to an even surface finish, and have any stones picked before harrowing.

Prior to reseeded, a soil sample should be taken of the topsoil and the analysis recommendations followed. The area should be reseeded with a certified grass/clover seed mixture. The inclusion of clover where it can be established successfully will aid soil structure recovery.

Yours sincerely,

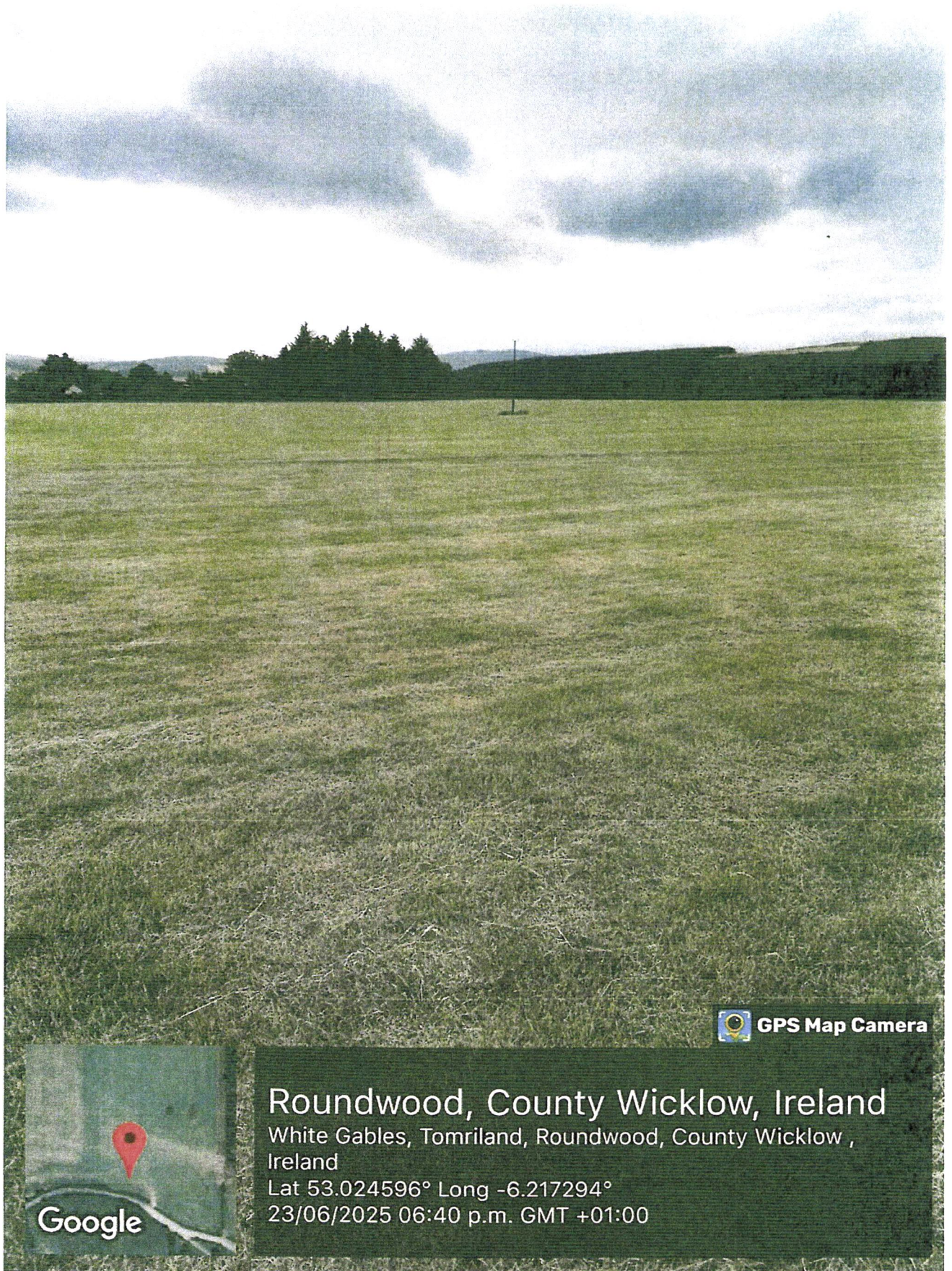
A handwritten signature in cursive script, reading 'Liam Walsh', positioned above a horizontal line.

Liam Walsh B.Agr.Sc., Dip EIA., M.Sc., M.A.C.A..

Attached:

Proposed location outlined in red on the attached map

Photos of proposed location attached - taken 23 June 2025.



GPS Map Camera

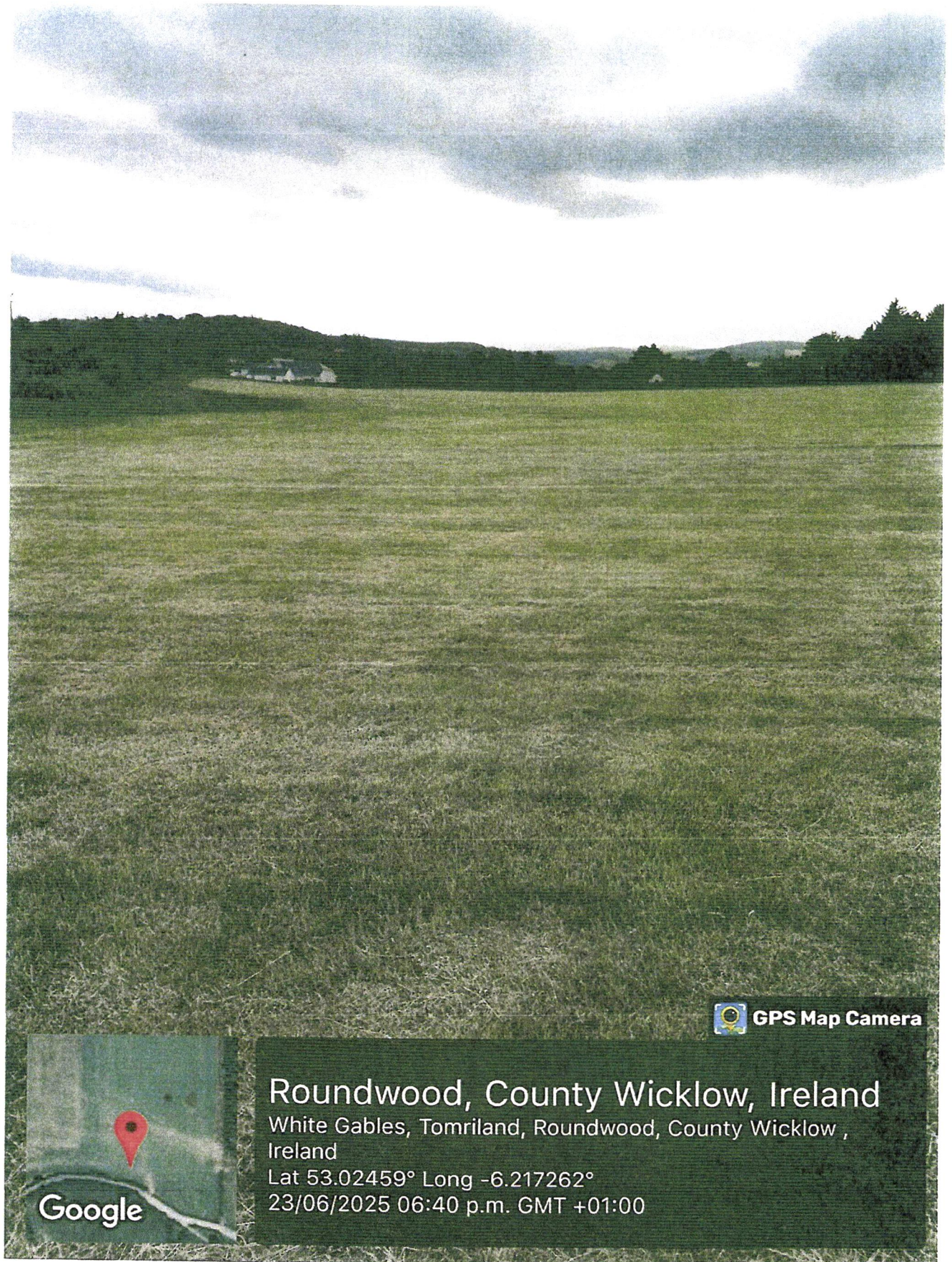


Roundwood, County Wicklow, Ireland

White Gables, Tomriland, Roundwood, County Wicklow ,
Ireland

Lat 53.024596° Long -6.217294°

23/06/2025 06:40 p.m. GMT +01:00



 GPS Map Camera

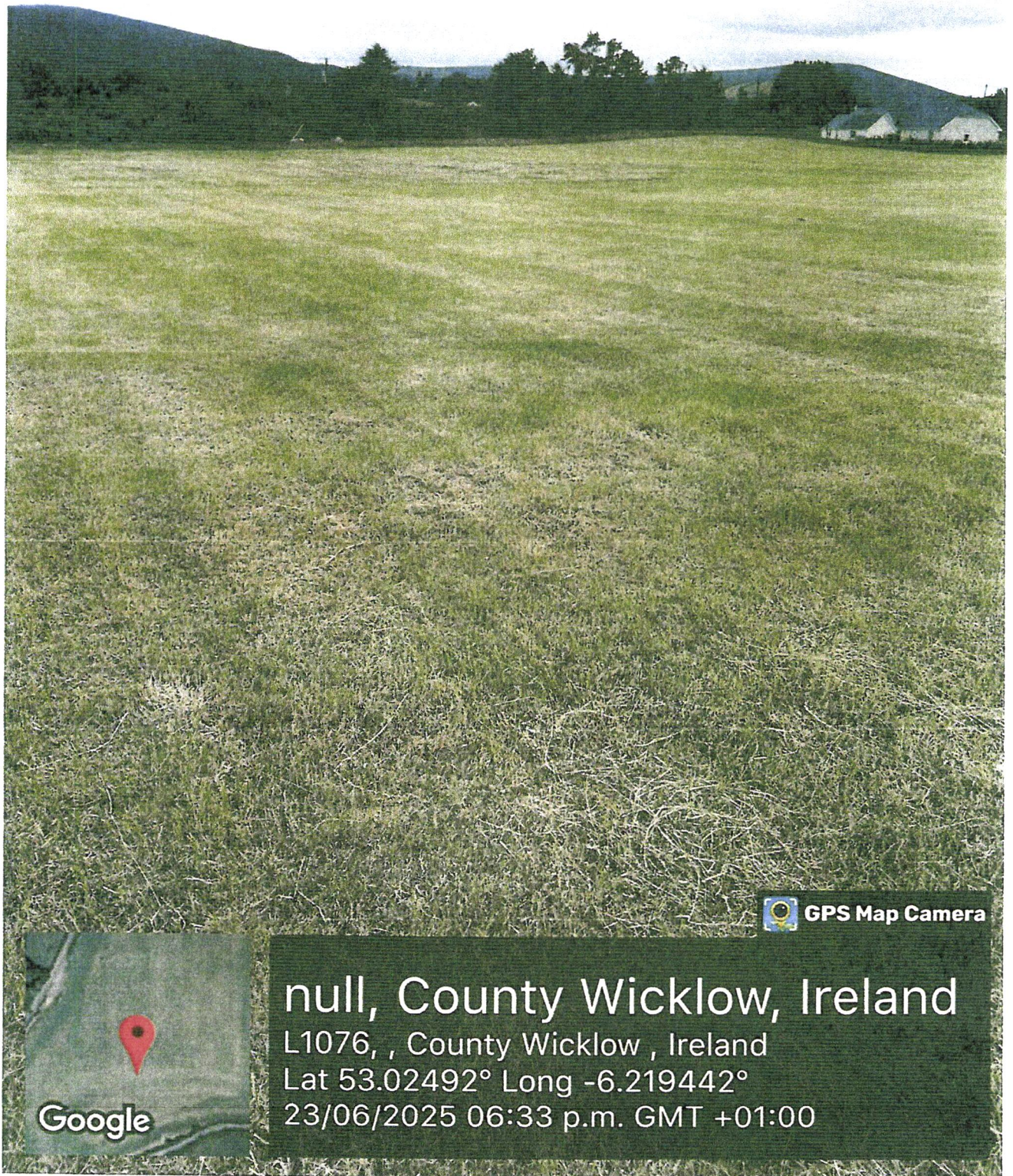


Roundwood, County Wicklow, Ireland

White Gables, Tomriland, Roundwood, County Wicklow ,
Ireland

Lat 53.02459° Long -6.217262°

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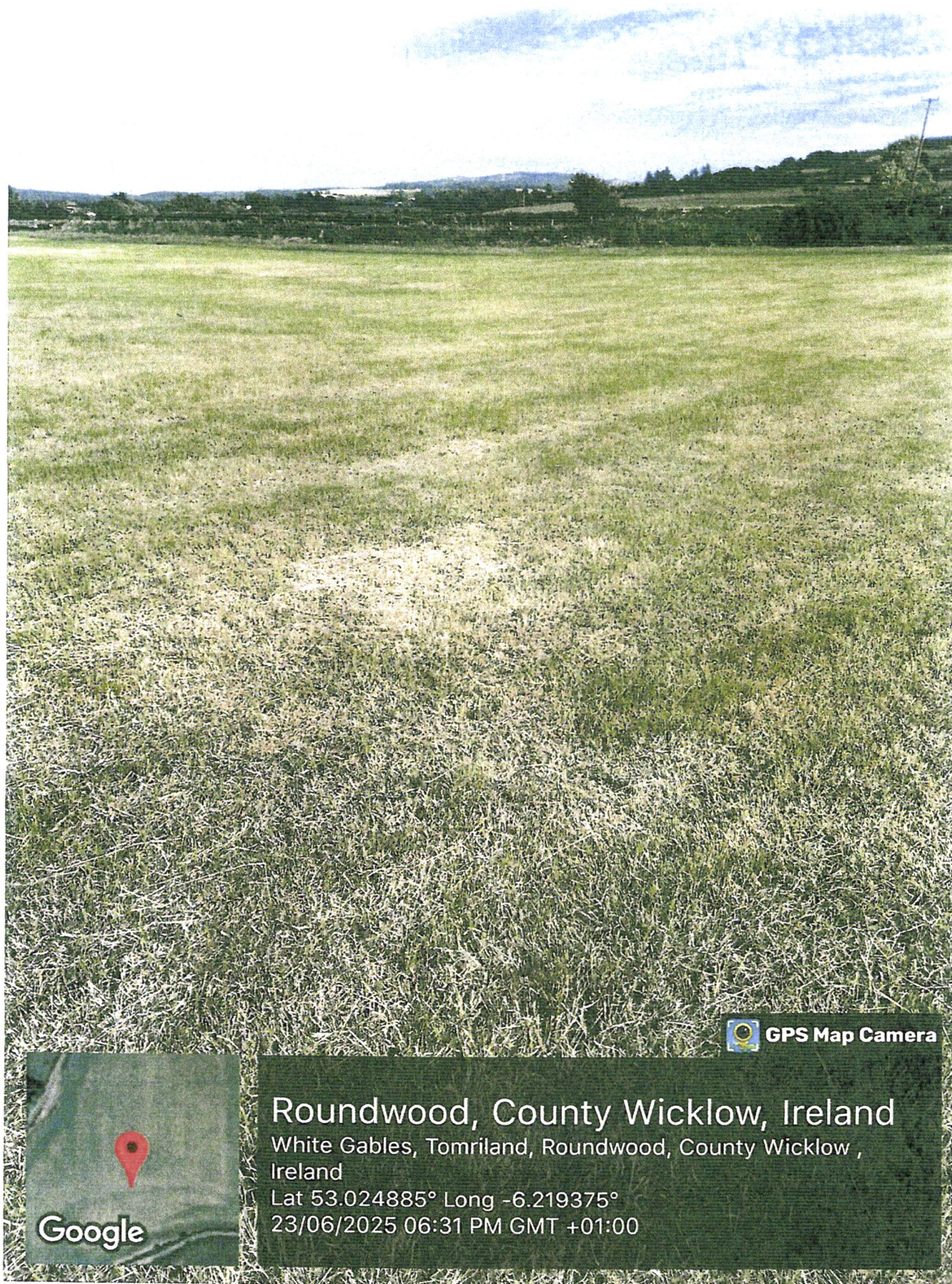
null, County Wicklow, Ireland

L1076, , County Wicklow , Ireland

Lat 53.02492° Long -6.219442°

23/06/2025 06:33 p.m. GMT +01:00

Google



 GPS Map Camera

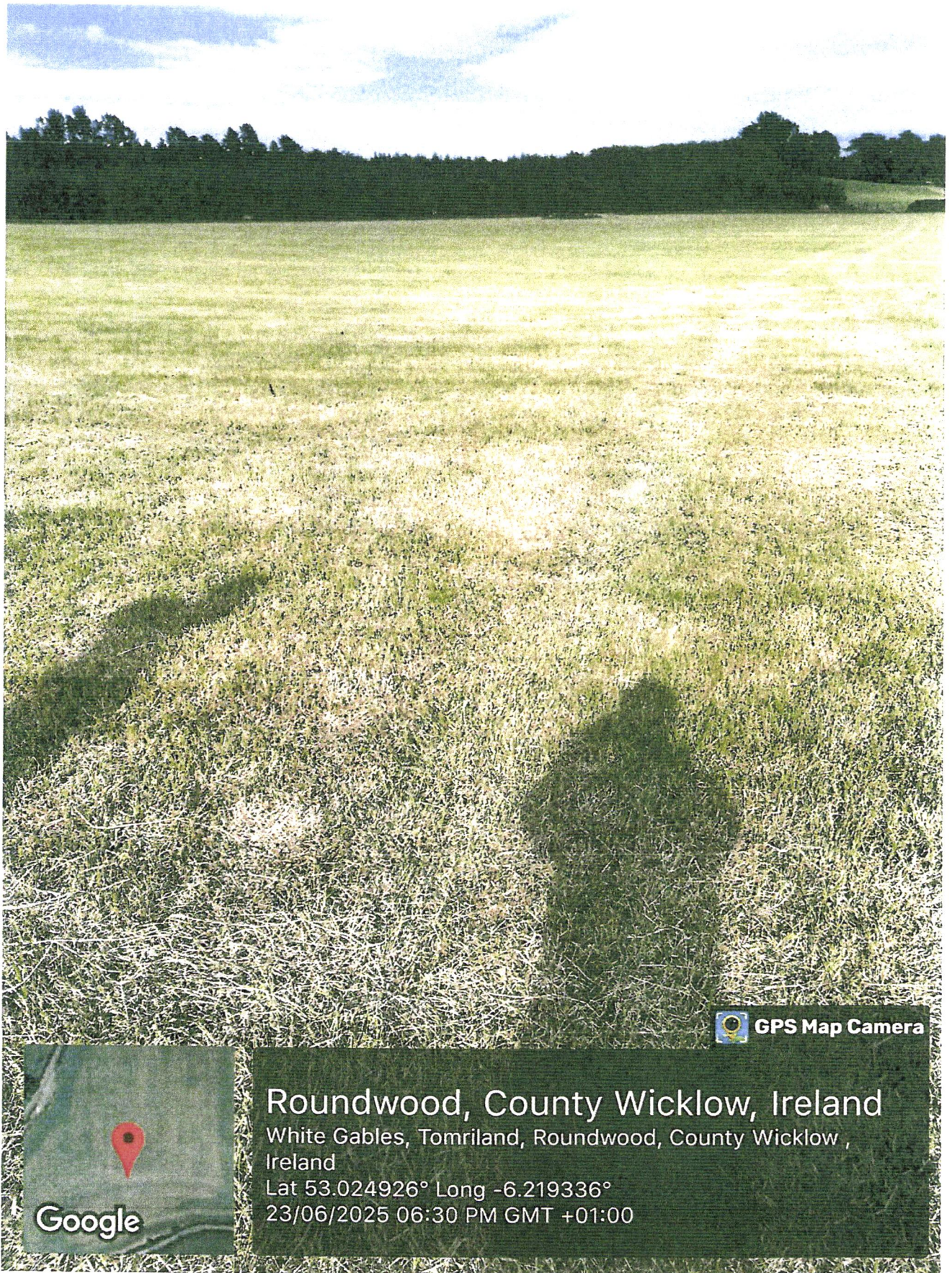


Roundwood, County Wicklow, Ireland

White Gables, Tomriland, Roundwood, County Wicklow ,
Ireland

Lat 53.024885° Long -6.219375°

23/06/2025 06:31 PM GMT +01:00



GPS Map Camera



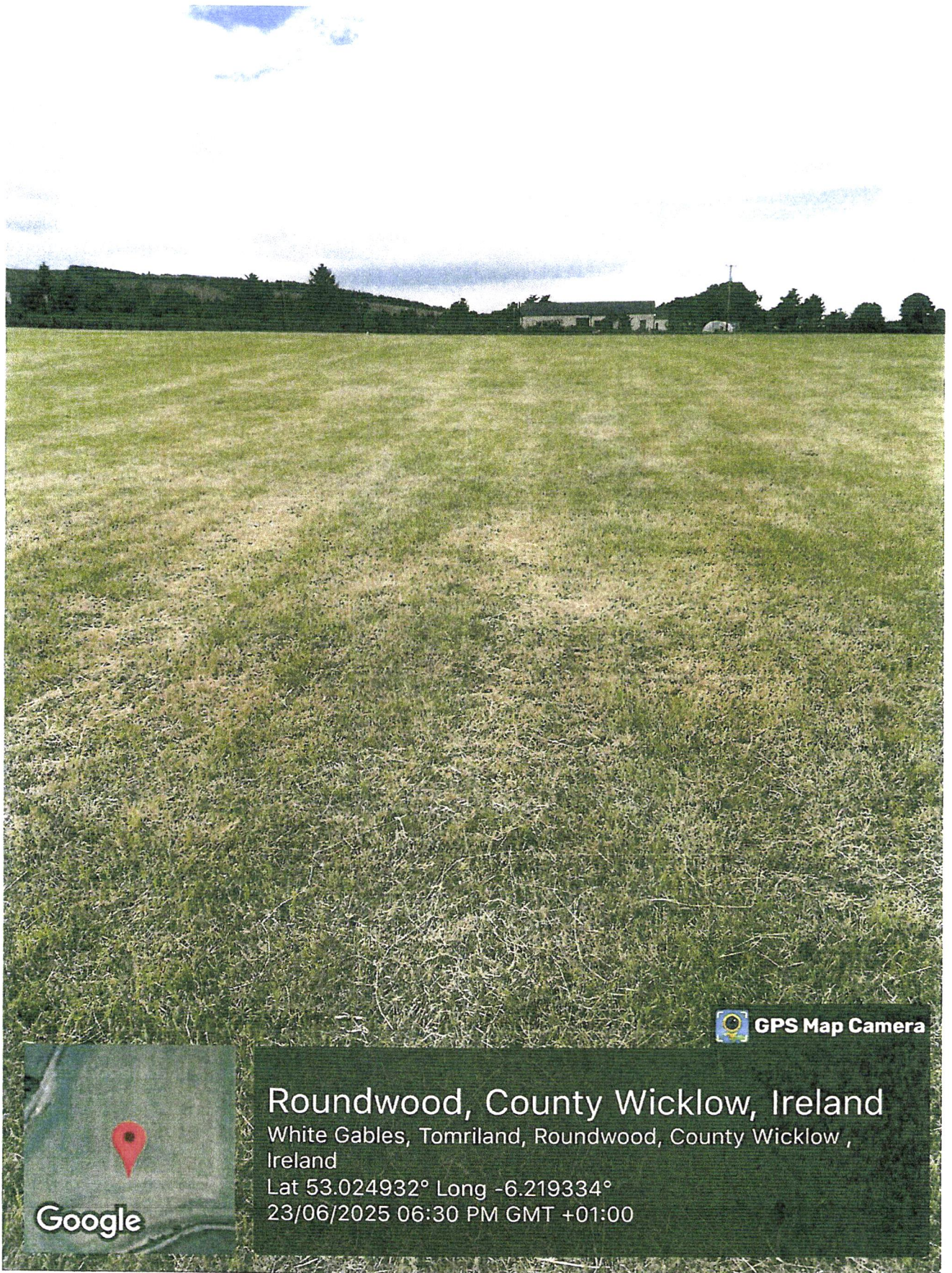
Google

Roundwood, County Wicklow, Ireland

White Gables, Tomriland, Roundwood, County Wicklow ,
Ireland

Lat 53.024926° Long -6.219336°

23/06/2025 06:30 PM GMT +01:00



 GPS Map Camera

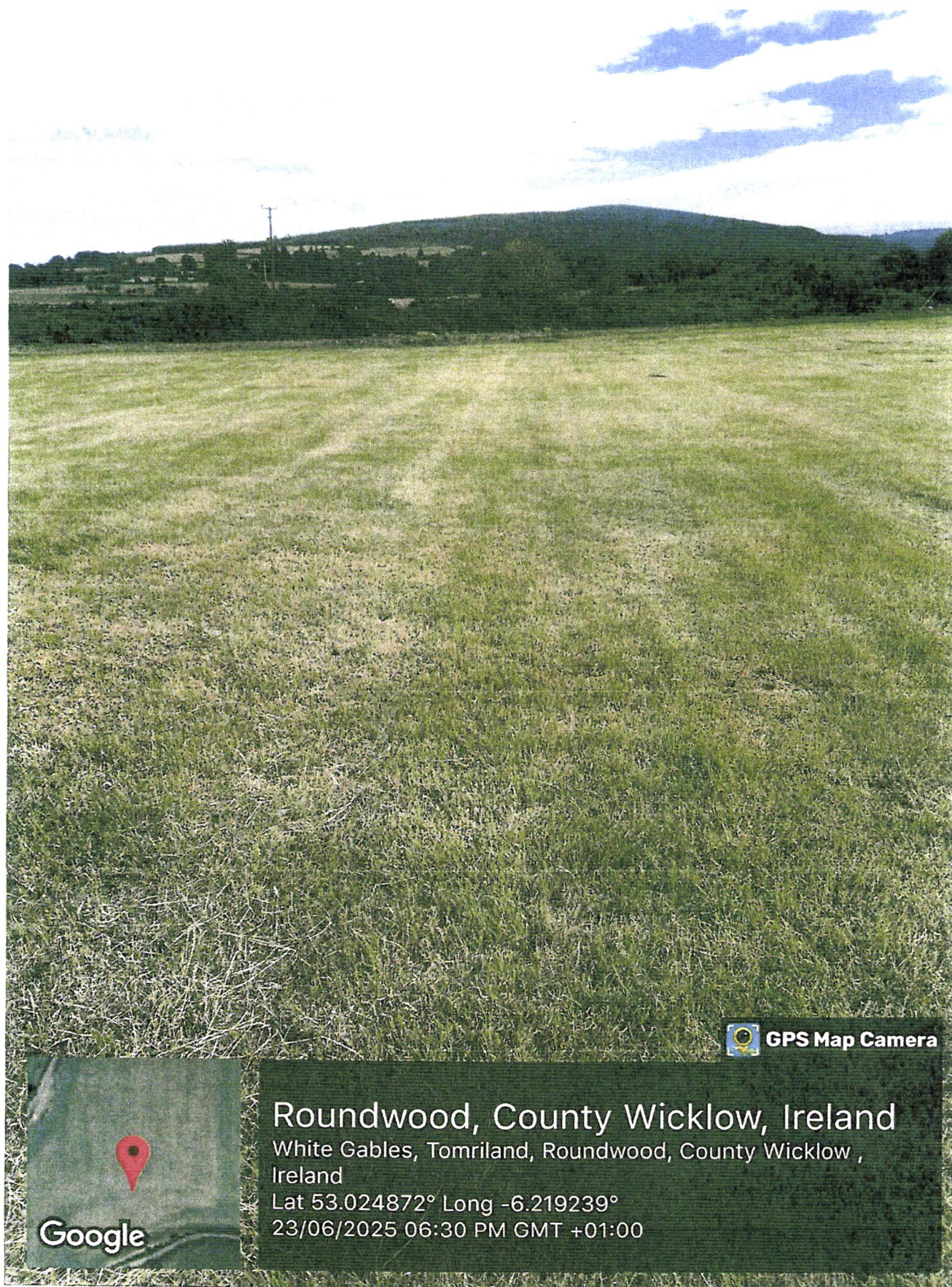


Roundwood, County Wicklow, Ireland

White Gables, Tomriland, Roundwood, County Wicklow ,
Ireland

Lat 53.024932° Long -6.219334°

23/06/2025 06:30 PM GMT +01:00



 GPS Map Camera

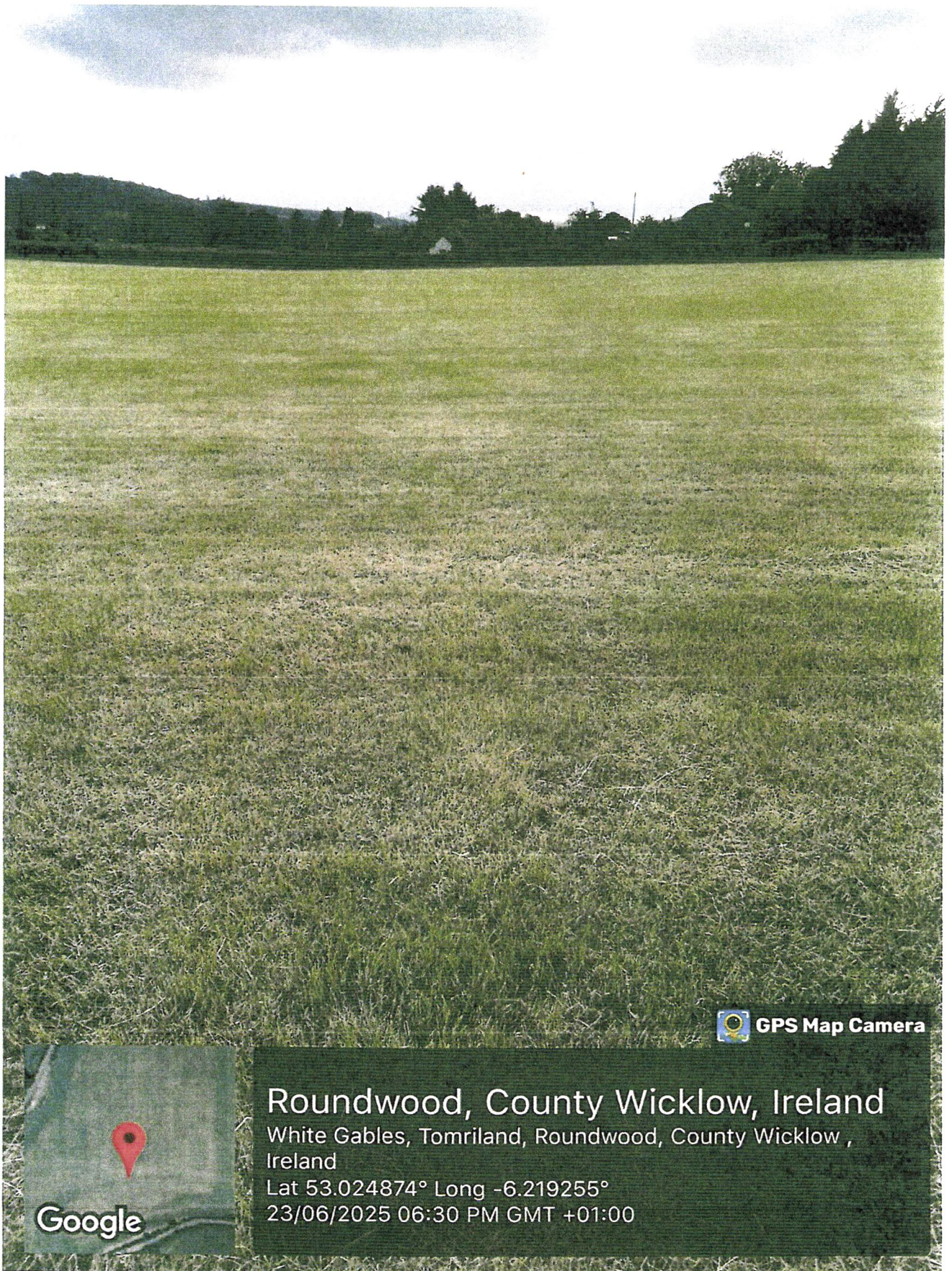


Roundwood, County Wicklow, Ireland

White Gables, Tomriland, Roundwood, County Wicklow ,
Ireland

Lat 53.024872° Long -6.219239°

23/06/2025 06:30 PM GMT +01:00





An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine

For Basic Payment Income Support for Sustainability, Areas
of Natural Constraint Scheme and other Area Based Scheme
purposes only
Year: 2025

Name: ANDREW FOX
Address: NEWRAITH
RATHNEW
CO. WICKLOW
A67 V998

Herd Nos: Z1271806
Townland Code : Z14005
Townland Name: TOMRILAND

Parcel	Digitised	Eligible Hectare	Claimed
Z1400500078	2.94	2.94	2.94
Z1400500112	0.92	0.92	0.92
Z1400500114	9.04	9.04	8.9
Z1400500117	6.89	6.89	6.89

Ortho Used: ColOrtohot uliCov:WMS:Imagery

All areas displayed above are in hectares

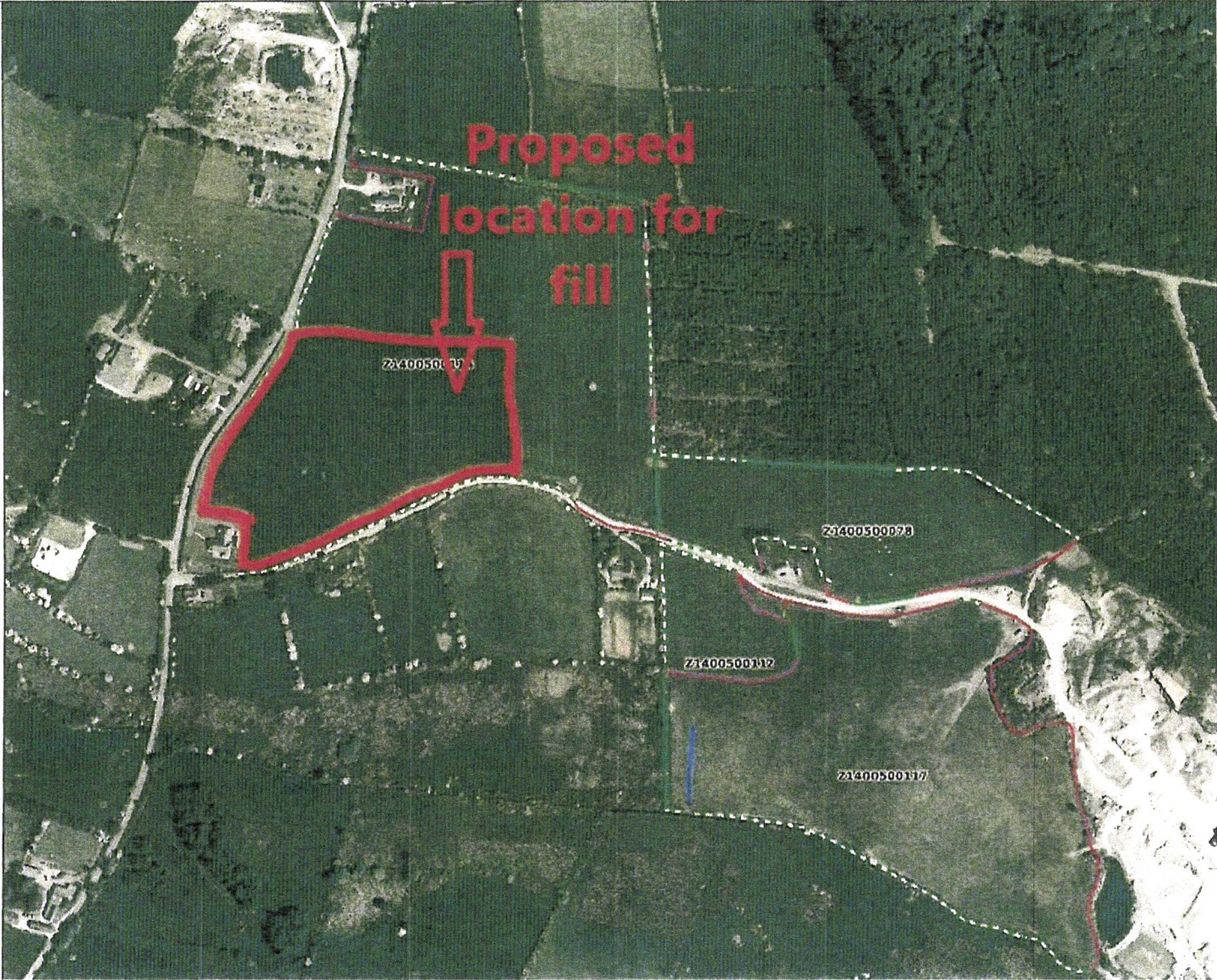
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Imagery Dates: 25/05/2023
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Z1271806

Page 2 of 4 Thu Dec 19 12:50:43 2024



Document Schedule

01 Application form

02 Drawing schedule



27 JUL 2015

Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

Fee Received _____

**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

- (a) Name of applicant: _____ Andrew Fox _____
Address of applicant: _____

Ballylusk, Ashford, Co. Wicklow _____

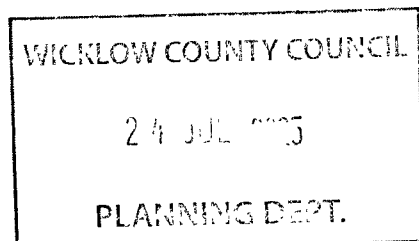
Note Phone number and email to be filled in on separate page.

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) LIAM KENNA _____
Address of Agent : _____

MONEYSTOWN, ROUNDWOOD, CO. WICKLOW

Note Phone number and email to be filled in on separate page.



3. Declaration Details

- i. Location of Development subject of Declaration
Tomriland Roundwood, Co. Wicklow
- ii. Are you the owner and/or occupier of these lands at the location under i. above ?
Yes.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

N/A

- iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and 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. You should therefore set out the query for which you seek the Section 5 Declaration

Please find enclosed our clients request for exempt development for raising and re-contouring of lands at Tomriland, Roundwood, Co. Wicklow, infilling them with soils, levelling and raising the shown area by approximately 0.75m to a maximum of 1m. The proposed objective is to allow for improved soil quality and extended grazing season beef cattle operations on these lands. The lands in this area are low lying with hollows and dips. The soils are to be sourced from sites where the Economic Operator will process an Article 27 application process. My clients now seek section 5 approval for the development under Schedule 2, Part 3, Class 11 and Article 8 of the Planning and Development Regulations, 2001.

- v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration

Schedule 2, Part 3, Class 11 and Article 8

- vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? NO
- vii. List of Plans, Drawings submitted with this Declaration Application _____
PLEASE SEE ATTACHED
- viii. Fee of € 80 Attached ? PLEASE CONTACT AGENT FOR PAYMENT

Signed : Liam Lons Dated : 17/7/25

Additional Notes :

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.

Scale:- 1:10,560
Scála:- 1:10.560

Land Registry Compliant Map

CENTRE COORDINATES:
ITM 719473,698620

PUBLISHED: 02/07/2021
ORDER NO.: 50204160_1

MAP SERIES: 1:5,000
MAP SHEETS: 3960

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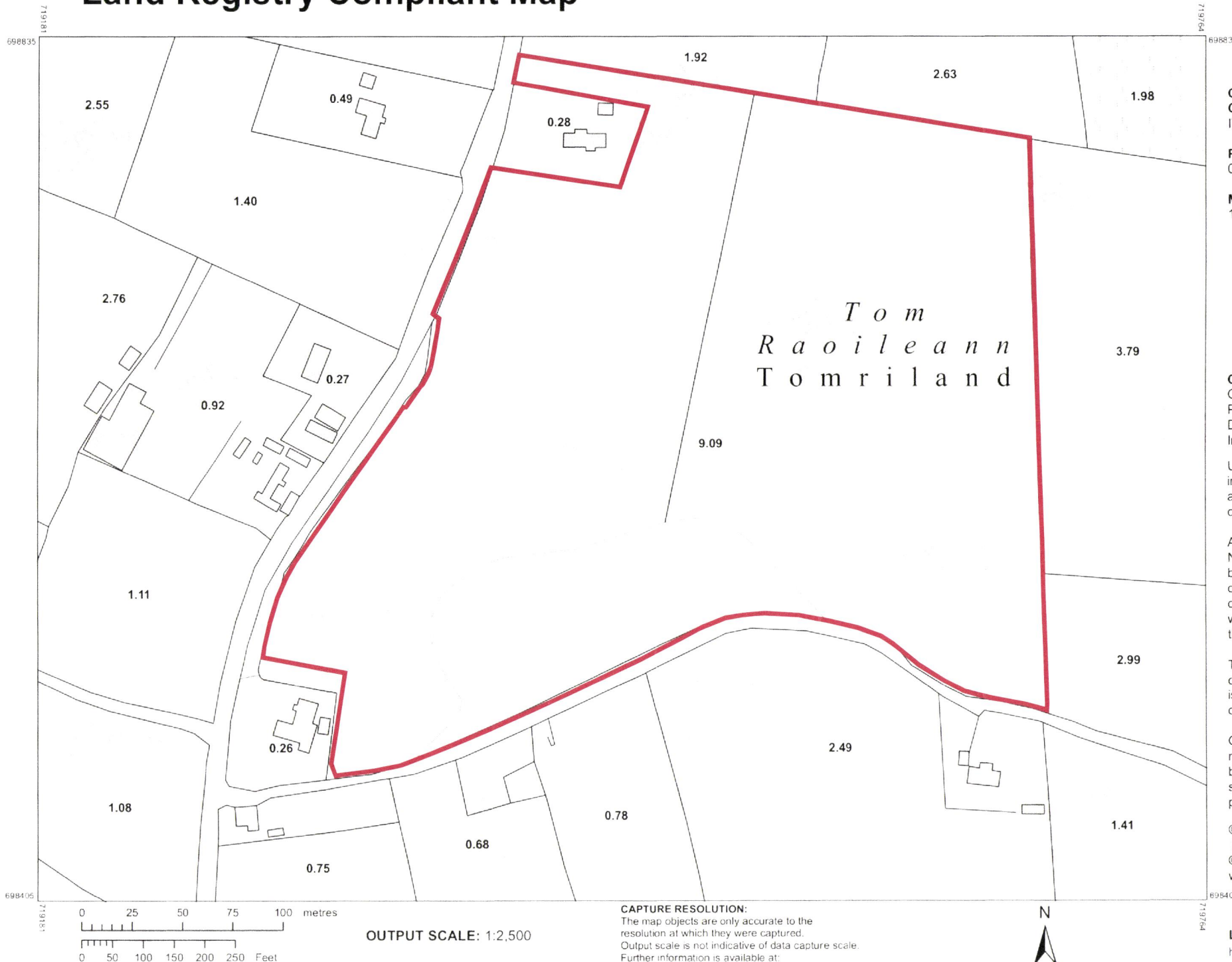
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LEGEND:
<http://www.osi.ie>
search 'Large Scale Legend'



MAGENTA LINE INDICATES
EXISTING GROUND LEVEL

BLUE LINE INDICATES
EXISTING GROUND LEVEL

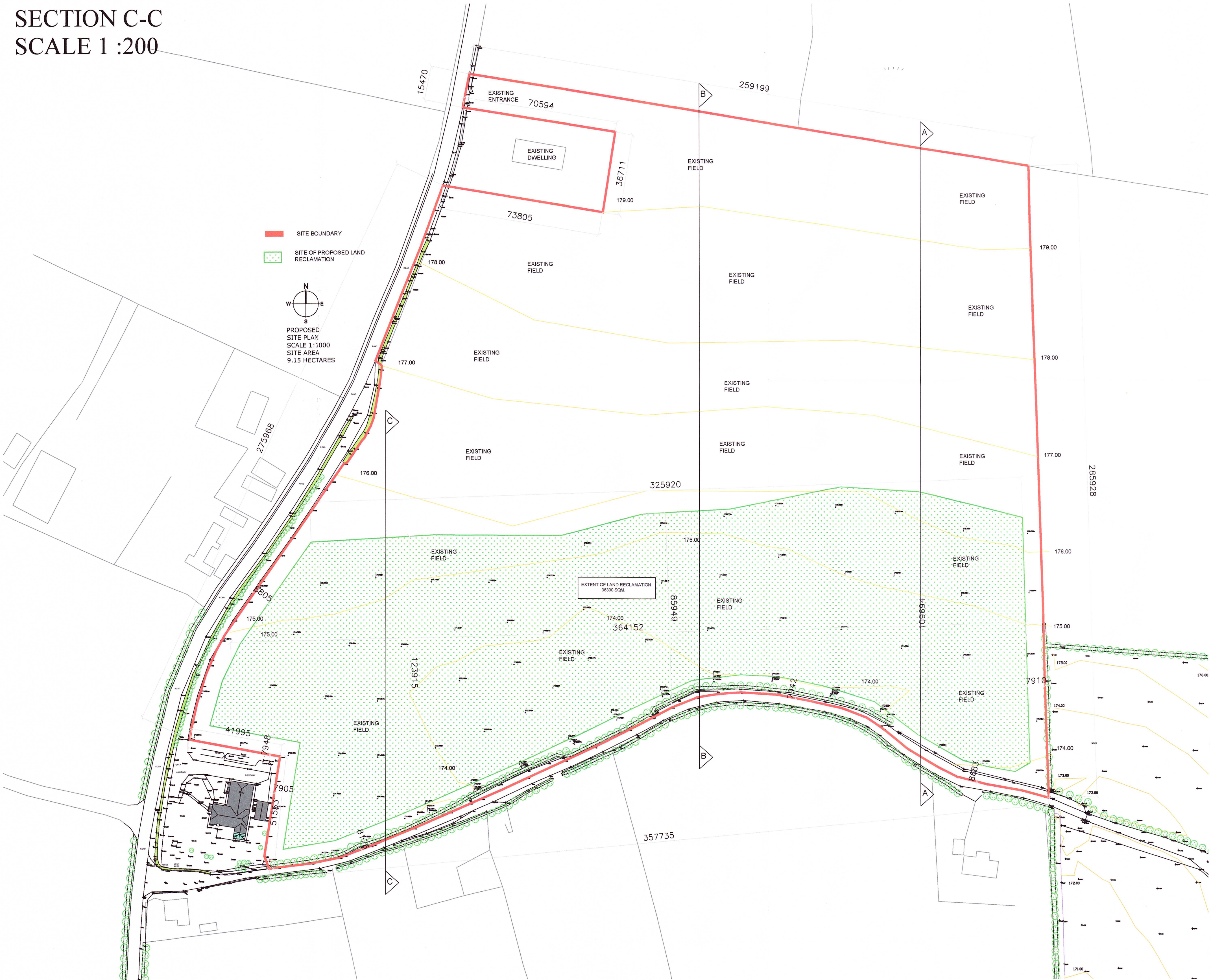
MAGENTA LINE INDICATES
EXISTING GROUND LEVEL

BLUE LINE INDICATES
EXISTING GROUND LEVEL

MAGENTA LINE INDICATES
EXISTING GROUND LEVEL

SITE BOUNDARY	182.00
	181.00
	180.00
	179.00
	178.00
	177.00
	176.00
	175.00
	174.00
	173.00
	172.00
	170.00
	169.00

SECTION C-C
SCALE 1 :200



NOTE : FIGURED DIMENSIONS ONLY.
DO NOT SCALE DRAWING.
CONTRACTOR TO CHECK DIMENSIONS
ON SITE BEFORE CONSTRUCTION.
DISCREPANCES ARE TO BE BROUGHT
TO ATTENTION OF THE SURVYORS
PRIOR TO THE COMMENCEMENT OF
WORK.

DRAWING IS INTENDED SOLEY FOR
PURPOSE NOTED. ONLY DRAWINGS
MARKED CONTRACT ARE TO BE USED
FOR CONSTRUCTION.

DRAWING:
SITE LAYOUT
SCALE 1:1000

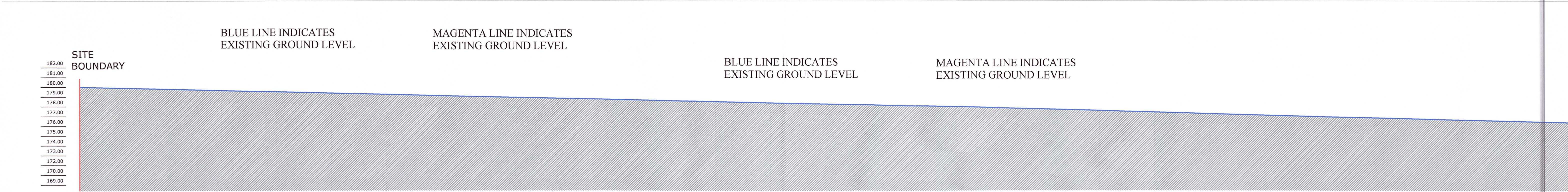
DRAWING BY:
LIAM KENNA

PROJECT:
ANDREW FOX,
TOMRILAND,
ROUNDWOOD,
CO. WICKLOW.

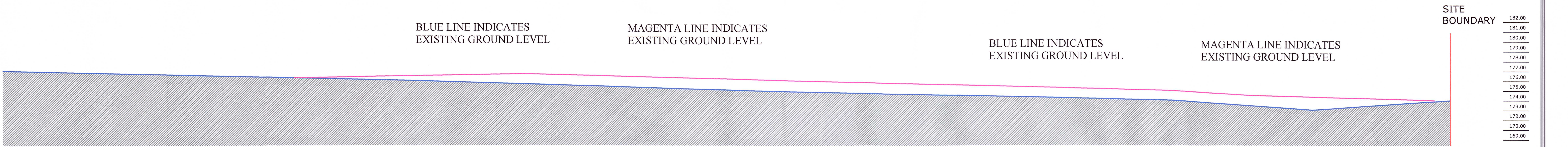
DATE:
23.04.25

DRAWING NO.
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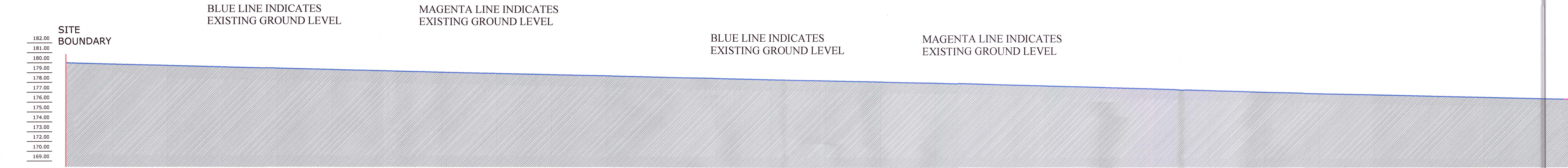
SHEET NO.
2



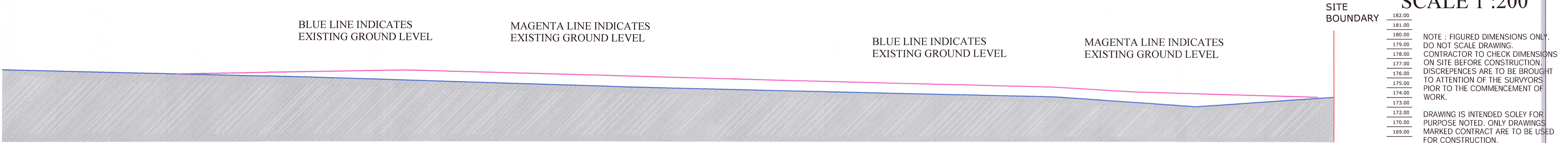
SECTION A-A
SCALE 1 :200



SECTION A-A
SCALE 1 :200



SECTION B-B
SCALE 1 :200



SECTION B-B
SCALE 1 :200

DRAWING: SECTIONS SCALE 1:200	PROJECT: ANDREW FOX. TOMRILAND, ROUNDWOOD, CO. WICKLOW.	DRAWING BY: LIAM KENNA		DATE: 23.04.25	
		DRAWING NO. 003	SHEET NO. 3		

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