



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
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Tack Packaging (2000) Ltd
Kilcoole Industrial Estate
Kilcoole
Co. Wicklow


14 August 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX52/2023

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 DEVELOPMENT & ENVIRONMENT.

Tá an doiciméad seo ar fáil i bhformáidí eile ar iarratas.
This document is available in alternative formats on request.

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhísí, Forbairt Pleanála agus Comhshaol.
All correspondence should be addressed to the Director of Services, Planning Development & Environment.





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

Applicant: Tack Packaging (2000) :Limited

Location: Inchanappa North, Ashford, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PDE/1458/2023

A question has arisen as to whether "deposition of soil/stone on 10 acres to level agricultural lands" at Inchanappa North, Ashford, Co. Wicklow is or is not exempted development.

Having regard to:

- a) Declaration application details.
- b) An Bord Pleanála References RL2987, RL3034, RL 3540 and RL 3609
- c) Section 2,3 and 4 of the Planning and Development Act 2000(as amended)
- d) Article 8 and Schedule 2 :Part 3 :Class 11 of the Planning and Development Regulations 2001(as amended)

Main Reasons with respect to Section 5 Declaration:

- (i) The bringing in off soils/ stone for raising levels of existing agricultural land constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended, and
- (ii) 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, ,
- (iii) The bringing in of soils/ stone to the lands at Inchanappa North Ashford from a development site in Delgany which is outside of the farm holding would it is considered not come within the provisions of Article 8C of the Planning and Development Regulations 2001 (as amended), as this exemption only allows for infilling of soil (but not waste material) for the purposes of re-contouring of land where soil is sourced from within the farm holding itself and not from sources outside the farm. 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),
- (iv) 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)

The Planning Authority considers that "deposition of soil/stone on 10 acres to level agricultural lands" at Inchanappa North, Ashford, Co. Wicklow "is development and is not exempted development.

Signed:


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 14th August 2023

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WICKLOW COUNTY COUNCIL

**PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5**

CHIEF EXECUTIVE ORDER NO. CE/PDE/1458/2023

Reference Number: EX 52/2023

Name of Applicant: Tack Packaging (2000) Ltd

Nature of Application: Section 5 Referral as to whether "deposition of soil/stone on 10 acres to level agricultural lands" is or is not exempted development

Location of Subject Site: Inchanappa North, Ashford, Co. Wicklow

Report from Edel Bermingham, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "deposition of soil/stone on 10 acres to level agricultural lands" at Inchanappa North, Ashford, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

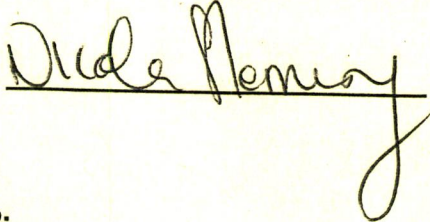
- (a) Declaration application details.
- (b) An Bord Pleanála References RL2987, RL3034, RL 3540 and RL 3609
- (c) Section 2,3 and 4 of the Planning and Development Act 2000(as amended)
- (d) Article 8 and Schedule 2 :Part 3 :Class 11 of the Planning and Development Regulations 2001(as amended)

Main Reasons with respect to Section 5 Declaration:

- i. The bringing in of soils/ stone for raising levels of existing agricultural land constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended, and
- ii. the development does not come within the scope of the exemption set out under section 4(1)(i) of the Planning and Development Act 2000, *as amended*,
- iii. The bringing in of soils/ stone to the lands at Inchanappa North Ashford from a development site in Delgany which is outside of the farm holding would it is considered not come within the provisions of Article 8C of the Planning and Development Regulations 2001 (as amended), as this exemption only allows for infilling of soil (but not waste material) for the purposes of re-contouring of land where soil is sourced from within the farm holding itself and not from sources outside the farm. 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),
- iv. 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)

Recommendation

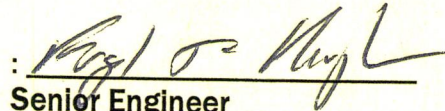
The Planning Authority considers that "deposition of soil/stone on 10 acres to level agricultural lands" at Inchanappa North, Ashford, Co. Wicklow is development and is not exempted development, as recommended in the report by the SEP.

Signed  Dated 16th day of August 2023

ORDER:

I HEREBY DECLARE:

That "deposition of soil/stone on 10 acres to level agricultural lands" at Inchanappa North, Ashford, Co. Wicklow is **development and is not exempted development** within the meaning of the Planning & Development Acts 2000 (as amended).

Signed : 
Senior Engineer
Planning Development & Environment

Dated 14th day of August 2023

Section 5 Application : EX 52/2023

Date : 9th August 2023

Applicant : Tack Packaging (2000) Limited

Address : Inchanappa North, Ashford , Co.Wicklow

Exemption Whether or not :

Deposition of soil/stone on 10 acres to level agricultural lands at Inchanappa North Ashford, Co. Wicklow

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.

"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, 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.

(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

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

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

(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) provides that the Minister may by regulations provide any class of development to be exempted development. The Regulations which are applicable in this case are the Planning and Development Regulations 2001 (as amended).

(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), (l), (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.

Planning and Development Regulations 2001 (as amended).

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
- 8A Initial afforestation shall be exempted development
- 8B Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, 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
- 8D Works consisting of the removal for the purposes of agriculture of field boundaries including stone walls, clay banks or wire or post fences shall be exempted development.
- 8E Articles 8B to 8D shall not apply in an area to which a special amenity area order relates.
- 8F. Development (other than the replacement of broadleaf high forest by conifer species) that is licensed or approved under section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of –
(a) the thinning, felling or replanting of trees, forests or woodlands, or
(b) works ancillary thereto,
shall be exempted development
- 8G. Development (other than development consisting of the provision of access to a national road within the meaning of the Roads Act 1993 (No. 14 of 1993)) that is licensed or approved under section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of-
(a) the construction, maintenance or improvement of a road (other than a public road within the said meaning), that serves a forest or woodland, or
(b) works ancillary thereto,
shall be exempted development.

Schedule 2 : Part 3

Class 11

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

1. The area to be affected shall not exceed 0.1ha
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 shall not exceed the limits set out in 1. Above.

Land Reclamation Act 1949

Works

- (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.

European Communities (Waste Directive) Regulations 2011 SI 126 of 2011.

Article 27 - Allows an economic operator to decide under certain circumstances, that a material by-product and not a waste. Tack Packaging (2000) Ltd currently have an Notification application with the EPA for 1340cum of soil/ stone i.e. c. 2412 tonnes.

Relevant Referrals

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.

RL3540

a question has arisen as to whether the recovery of surplus excavated inert soil and the importing of that soil for infilling low lying area at Dunancory, Virginia, County Cavan is or is not development or is or is not exempted development:

An Bord Pleanála has concluded that: (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 noncompliance 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:

RL3609

Whether the spreading of clean topsoil and subsoil, on the lands for agricultural use is at Oldcourt Lane, Oldcourt Ballycullen, is or is not development and is or is not exempted development
AND WHEREAS An Bord Pleanála has concluded that -

(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.

Submission :

A by-product notification has been submitted to the EPA in December 2022. The source site of the material is Priory Gate, Delgany, Co. Wicklow currently in development by Tack Packaging (2000)Ltd. It is proposed that the soil is used to level a 10 acres of agricultural land at Inchanappa North, Ashford. Considered Exempt by reference to Section 4(a) – the exempted development being the use of a by-product, soil for recontouring of farmland.

Assessment :

The declaration queries whether the infilling of 10 acres of agricultural land with soil and stone, from a by-product of development works at Priory Gate is or is not exempted development.

The lands where the soils are to be used for infilling are located in a rural area to the west of the M11 at Inchanappa north , and form a sliver of land between the R772 and the M11 at junction 15. From EPA mapping the Courtfoyle stream is identified as running through the lands along its eastern boundary, and another stream/ watercourse is evident along the western boundary adjoining the R772.

The first question to be asked is whether the infilling of lands is or is not development. In this regard soils/ stone are being brought onto site, and ground levels altered, such operations would come within the definition of work as set out in Section 2 of the Planning and Development Act 2000(as amended), and would fall within the definition of development as set out in Section 3 of the Act.

Such works would not come within the exemption set out under Section 4(a) of the Planning and Development Act 2000 (as amended) as that provision is for the use of land for agriculture and does not include works of infilling/ land reclamation.

Section 4(1) (l) provides for the following works to be exempt ie.

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.

As the works are land reclamation this provision is not applicable.

Article 8C of the Planning and Development Regulations 2001 (as amended) provides 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. The development the subject of the declaration seeks to bring in soils/ stone from a development site in Delgany which is considered to be outside the farm-holding to alter levels within the 10acres. Whilst it is noted in the documents submitted that Ballyhenry Entreprises i.e owner of the lands for infilling and Tack Packaging (2000) Ltd are owned by the same person, it is clear that the Priory Gate development does not form part of the farm holding at Ashford, and is a separate parcel of land which consists of a two-storey dwelling and its associated grounds, which currently has permission for development of houses. From declarations issued by An Bord Pleanala it is evident that the exemption provided for by Article 8C of the Regulations, only applies to soils sourced within the same farm-holding, as this is not the case in this instance the works the subject of this declaration would not be exempted development.

The Agent has identified that the soils/ stone are not a waste given the application for by-product notification to the EPA under Article 27 of the EC(Waste Directive) Regulations 2011. Notwithstanding, An Bord Pleanala in their declarations and assessment of similar declarations , in particular RL3609 and RL 3540, have identified 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), and therefore the soils/ stone are waste.

The works would not come within the exemption set out under Class 11 : Part 3 : Schedule 2.

As there is no other exemption available, and having regard to the above assessment, the works of infilling would not be exempted development .

Recommendation :

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

Deposition of soil/stone on 10acres to level agricultural lands at Inchanappa North Ashford, Co. Wicklow

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

The Planning Authority consider that :

Deposition of soil/stone on 10acres to level agricultural lands at Inchanappa North Ashford, Co. Wicklow **is Development and is Not Exempted Development**

Main Considerations with respect to Section 5 Declaration :

- (a) Declaration application details.
- (b) An Bord Pleanala References RL2987, RL3034, RL 3540 and RL 3609
- (c) Section 2,3 and 4 of the Planning and Development Act 2000(as amended)
- (d) Article 8 and Schedule 2 :Part 3 :Class 11 of the Planning and Development Regulations 2001(as amended)

Main Reasons with respect to Section 5 Declaration :

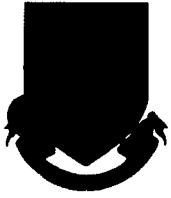
- i. The bringing in of soils/ stone for raising levels of existing agricultural land constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended, and
- ii. the development does not come within the scope of the exemption set out under section 4(1)(l) of the Planning and Development Act 2000, *as amended*
- iii. The bringing in of soils/ stone to the lands at Inchanappa North Ashford from a development site in Delgany which is outside of the farm holding would it is considered not come within the provisions of Article 8C of the Planning and

Development Regulations 2001 (as amended), as this exemption only allows for infilling of soil (but not waste material) for the purposes of re-contouring of land where soil is sourced from within the farm holding itself and not from sources outside the farm. 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),

- iv. 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)

Sal N ⁸⁰⁰
9/8/2023

Agreed
where a by-product decontaminant is used by the EPA, the relevant materials have to be used as a product. Where it is disposed of it doesn't carry its designation as a by-product. Class 12 exemption would not apply as it is not evident that the site is "waste".
Declaration to issue is recommended & modified
14/3/23
14/3/23



Comhairle Contae Chill Mhantáin
Wicklow County Council

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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). Ex 52/2023

I enclose herewith for your attention application for Section 5 Declaration received 31st July 2023.

The due date on this declaration is the 28th August 2023.


Staff Officer
Planning Development & Environment





Comhairle Contae Chill Mhantáin Wicklow County Council

**Forbairt Pleanála agus Comhshaol
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2nd August 2023

**Tack Packaging (2000) Ltd
Kilcoole Industrial Estate
Kilcoole,
Co. Wicklow**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and
Development Acts 2000 (as amended). Ex 52/2023
Removal of soil at Inchanappa North, Ashford**

A Chara

I wish to acknowledge receipt on 31st July 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 28th August 2023.

Mise, le meas

**NICOLA FLEMING
STAFF OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT**



Tack Packaging (2000) Ltd.
Kilcoole Industrial Estate,
Kilcoole,
Co. Wicklow

Wicklow County Council,
County Buildings,
Co. Wicklow

31st July 2023

WICKLOW COUNTY COUNCIL
CUSTOMER SERVICE
31 JUL 2023

Re: Section 5 Declaration Form Application

Dear Sirs/Madam,

A by-product notification application has been made to the EPA for the removal of soil at a development site at Priory Gate, Delgany, Co. Wicklow, and proposed use for levelling farmland at Inchanappa North, Ashford, Co. Wicklow. This farmland is in use by Ballyhenry Enterprises Ltd.

Details of by-product notification application below:

Notification Details	
Notifier:	Tack Packaging (2000) Limited
Notification Register No:	ART27-2938
Notified Material:	Soil & Stone
Notification Received:	28 December 2022
Source Location:	Priory Gate, Delgany, Co. Wicklow
Local Authority at Source Location:	Wicklow County Council
Use Location:	Lands used by Ballyhenry Enterprises, Ballyhenry, Ashford Co. Wicklow
Local Authority at Use Location:	Wicklow County Council
Link to Register:	By-Product Register

A further information response from EPA has been received on the 19th July 2023, with a response due to the EPA within 3 weeks of this date, that being the 9th August 2023. We are working to pull together all the information required to clarify our submission and therefore are requesting a declaration from Wicklow County Council that the proposed use of this material at the proposed site, detailed in the attached application form, is exempt for planning permission.

I understand that this is an extremely short timeline but if there is anything that can be done to expedite this application it would be greatly appreciated.

Should you require any further information please don't hesitate to call me directly on the number below.

Kind Regards,

A handwritten signature in black ink, appearing to be 'SH' followed by a stylized flourish.

Shelley Hargadon
On behalf of,
Tack Packaging (2000) Ltd.
DDI: 0861021966

Wicklow County Council
County Buildings
Wicklow
0404-20100

01/08/2023 11 14 46

Receipt No 11/0/316798
***** REPRINT *****

TACK PACKAGING (2000) LTD
KILCOOLE INDUSTRIAL ESTATE
KILCOOLE
CO WICKLOW

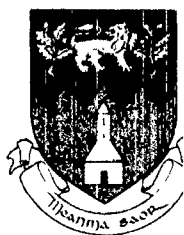
EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Cheque	80 00

Change	0 00
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Issued By Audrey Bower
From Customer Service Hub
Vat reg No 0015233H



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

Office Use Only

Date Received _____

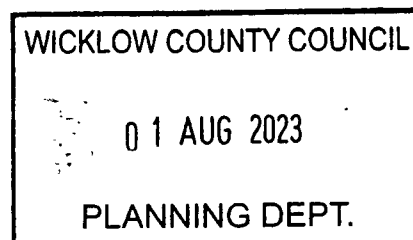
Fee Received _____

**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: Tack Packaging (2000) Ltd
Address of applicant: Kilcoole Industrial Estate,
Kilcoole, 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) _____
Address of Agent : _____

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

3. Declaration Details

- i. Location of Development subject of Declaration
Inchanappa North, Ashford, Co. Wicklow
53.024816, -6.096673
- ii. Are you the owner and/or occupier of these lands at the location under i. above?
Yes/ No.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier
Owner: Joe O'Connell
Occupier: In use by Ballyhenry Enterprises (BE) Ltd.
Joe O'Connell is owner of both Tack Packaging (2000) Ltd & Ballyhenry Enterprises (BE) Ltd.
- 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
A by-product notification has been submitted to The EPA in December 2022. The source site of the material is Priory Gate, Delgany, Co. Wicklow currently in development by Tack Packaging (2000) Ltd. It is proposed that the soil is used to level a 10-acre area of agricultural land at Inchanappa North, Ashford, Co. Wicklow currently in use by Ballyhenry Enterprises Ltd.
Additional details may be submitted by way of separate submission.
* Location maps included
We are therefore seeking a written declaration from the planning department to confirm that the proposed use at the proposed location is exempt from planning permission.
- v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration
Section 4a)
- The exempted development being the use of by-product (soil) for re-contouring farmland

Additional details may be submitted by way of separate submission.

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 _____

For ref : By Product Notification Reg No: ART27-2938
Application No: LA010513
Image 1 - Area of works & notified material
Image 2 - Proposed use location

viii. Fee of € 80 Attached ? Yes, cheque # 1113

Signed :  Dated : 31/7/23

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.

Image 1



*White line boundary is the Area of Works for the entire development. Notified material for use as by-product in red

Image 2

Inchanappa North, Ashford, Co. Wickow
Proposed Use Location for
By-Product (10acres)

