

**ROSCOMMON COUNTY COUNCIL**

**PLANNING AND DEVELOPMENT ACT, 2000 (as amended)**

**SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

**NOTIFICATION OF DECISION**

**REGISTERED POST**

Aneta & Marek Stasiuk,



Reference Number: DED 763  
Application Received: 13<sup>th</sup> September 2024  
Name of Applicants: Aneta & Marek Stasiuk  
Agent: Derek Tar, 5 Darley Court, Palatine Square, Arbour Hill/Stoneybatter  
Dublin 7, D07F6F2

WHEREAS a question has arisen as to whether 'to demolish existing shed and erect new shed on side of existing dwelling' at 2 Millcross Crescent, Bellanamullia, Co Roscommon, is or is not development and is or is not exempted development:

AND WHEREAS Roscommon County Council, in considering this application, had regard particularly to:

- a) Sections 2, 3, and 4 of the Planning and Development Act, 2000 (as amended)
- b) Article 9 of the Planning and Development Regulations, 2001 (as amended)
- c) Class 50, Part 1, Schedule 2 of the Planning and Development Regulations, 2001, (as amended)
- d) Class 3, Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended)
- e) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended).
- f) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

- a) 'The demolition of existing shed' is development and is exempted development.
- b) 'The erection of a new shed on side of existing dwelling' is development and is not exempted development.

**NOW THEREFORE:**

By virtue of the powers vested in me by the Local Government Acts 1925 – 2024 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the application described above, it is hereby declared in respect of the said works at 2 Millcross Crescent, Bellanamullia, Co Roscommon, having regard to the definitions and exempted development provisions contained within the Planning and Development Act 2000 (as amended) and associated Regulations that the said works 'The demolition of existing shed' constitute development that is exempted development and that 'The erection of a new shed on side of existing dwelling' constitute development that is not exempted development.

Signed on behalf of the Council:

  
Alan O'Connell,  
A/Senior Planner,  
Planning.

Date: 14<sup>th</sup> November 2024

**ADVICE NOTE**

**Any person issued with a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) may, on payment to An Bord Pleanála of the prescribed fee, refer a Declaration for review within 4 weeks of the date of the issuing of the Declaration.**

**Planner's Report on application under Section 5 of the  
Planning and Development Act, 2000, as amended**

**Reference Number:** DED 763

**Name and Address of Applicant:** Aneta & Mark Stasiuk

**AGENT:** Darek Tar

**WHEREAS** a question has arisen as to whether 'to demolish existing shed and erect new shed on side of existing dwelling' at 2 Millcross Crescent, Bellanamullia, Co Roscommon is development and is exempt development.

**1.0 Site Location and Description**

The application site is located c 1 km west of the 'District Centre' zoned lands in Monksland in the Millcross housing development. The site consists of a semi-detached dwelling and a timber shed located along the side elevation/north western elevation of the dwelling. The application site is zoned 'Existing Residential' in the Monksland/Bealnamullia LAP.

**2.0 Planning History**

PD/23/60182: Planning permission refused by RCC and decision up held by ABP for retention of 1. A single storey garden shed [16m<sup>2</sup>] located to the side of an existing semi-detached dwelling; 2. Alterations to the existing front and rear elevations of the garden shed; 3. Associated works

Reason for refusal: *'It is considered, by reason of its design, scale, construction materials and location, that the development proposed to be retained would seriously injure the visual and residential amenities of the area, would set an undesirable precedent for similar such developments in the area, and would, therefore, be contrary to the proper planning and sustainable development of the area'.*

Planning enforcement file – UDR 2793. Current, open case.

A Warning Letter issued in June 2023 in respect of "alleged unauthorised development consisting of a lean to extension to the gable end of the dwelling house at No.2 Mill Cross Crescent."

**3.0 Relevant Legislation**

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, and 4 of the Planning and Development Acts 2000 (as amended);
- (b) Article 9 of the Planning and Development Regulations 2001 (as amended).
- (c) Class 50, Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended)
- (d) Class 3 Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended)
- (e) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended);
- (f) The planning history on site.

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

### Section 2 (1)

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

### Section 3 (1)

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

Sub section 4 (1) (h) provides that development shall be exempt development if it consists 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

## Planning and Development Regulations, 2001 (as amended)

### Schedule 2, Part 1

Column 1 Description of Development	Column 2 Conditions and Limitations
<p>Class 50</p> <p>(a) The demolition of a building, or buildings, within the curtilage of—</p> <p>(i) a house,</p> <p>(ii) an industrial building,</p> <p>(iii) a business premises,</p> <p>or (iv) a farmyard complex.</p> <p>b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.</p>	<p>1. No such building or buildings shall abut on another building in separate ownership.</p> <p>2. The cumulative floor area of any such building, or buildings, shall not exceed:</p> <p>(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and</p> <p>(b) in all other cases, 100 square metres.</p> <p>3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.</p>

## 5.0 Planning Assessment

The question to be determined in this Section 5 declaration is whether ‘to demolish existing shed and erect new shed on side of existing dwelling’ is development and is exempt development’.

To assess whether these works are development and exempt development and for the purposes of clarity the development proposal will be assessed separately i.e in two parts, a) the demolition of existing shed and b) the erection of a new shed on side of existing dwelling.

### a) The demolition of existing shed.

The question to be determined in this Section 5 referral is whether ‘the demolition of existing shed’ is or is not development. Having considered the definition of both “works” and “development” outlined above, I would deem that to ‘the demolition of existing shed’ constitute works and is therefore development.

To determine whether ‘the demolition of existing shed’ is exempt development consideration was given to Class 50 Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended). The floor area of the garage is less than 40 sqm and it does not abut on another building in separate ownership. Having considered all of the information presented I am satisfied that the proposed demolition falls within the remit of class 50 outlined above as it does satisfy the conditions and limitations set out in column 2.

### b) The erection of a new shed on side of existing dwelling.

Generally speaking garden sheds located with the curtilage of a dwelling can be considered in the context of Class 3 Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended) however, this development proposal has a planning history which must be considered during the assessment of this Section V application.

Planning permission was refused on this site PD 23/60182 ‘to retain a shed located to the side of an existing semi-detached dwelling’ as it was considered by RCC and ABP that the shed by reason of its design, scale, construction materials and location would impact on the visual and residential amenity of the area and set an undesirable precedent for similar types of development. The shed subject of this retention planning application had a timber finish which was out of character with the dwelling on site and existing development in the area.

The applicant was then also proposing alternations to the structure to include a render finish and painting the timber door **as part of a proposal to render** ~~so that the shed would be~~ in character with the dwelling on site. This also was not considered acceptable at the planning application stage as it was considered that given that the shed is visually prominent from the public realm, if permitted it would result in a terrace like development that would be out of character with the architectural context of ‘Millcross Crescent’ which consists of semi-detached dwellings.

This Section V application for a new shed does not deviate in terms of location, scale and design from that refused planning permission and in light of this and having regard to 4(1)h of the Planning and Development Act 2000 as amended I am satisfied that the proposed development would materially affect the external appearance of the dwelling on site so as to render the appearance inconsistent with the character of the structure or of neighbouring structures and therefore contrary to 4(1) (h) of the Planning and Development Act 2000 as amended.

### Environmental Considerations :

The development is not of a nature set out in Part 2 Schedule 5 of the Planning and Development Regulations 2001 as amended.

The site is located c 3 km away from Lough Ree SAC and SPA. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to and distance from any sensitive location, there is no real likelihood of significant effects on European sites arising from the proposed development and not of a nature set out in Article 9 (1)(a) of the Planning and Development Regulations 2001 as amended.

## Conclusion

Having regard to the above, I am satisfied that the general question raised in this referral can be determined as follows:

- 1) *'The demolition of existing shed'* is development and is exempted development.
- 2) *'The erection of a new shed on side of existing dwelling'* is development and is not exempted development.

## 5.0 Recommendation

WHEREAS a question has arisen as ***'to demolish existing shed and erect new shed on side of existing dwelling'***  
**2 Millcross Crescent, Bellanamullia, Co Roscommon is development and is exempted development:**

**I have considered this question, and I have had regard particularly to –**

- a) Sections 2, 3, and 4 of the Planning and Development Acts 2000 (as amended);
- b) Article 9 of the Planning and Development Regulations 2001 (as amended).
- c) Class 50, Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended)
- d) Class 3 Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended)
- e) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended);
- f) The planning history on site.

**AND WHEREAS I have concluded that**

- 1) *'The demolition of existing shed'* is development and is exempted development.
- 2) *'The erection of a new shed on side of existing dwelling'* is development and is not exempted development.



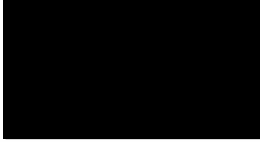
Signed: \_\_\_\_\_ Date: 13<sup>th</sup> November 2024  
Paula Connaughton  
South Roscommon Area Planner.



Comhairle Contae  
Ros Comáin  
Roscommon  
County Council



Aneta & Marek Stasiuk,



Date: 17<sup>th</sup> September 2024  
Planning Reference: DED 763

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.  
Development: Permission to demolish existing shed and erect new shed on side of existing dwelling under the Planning & Development Act (Exempt Development) Regulations 2018 at 2 Millcross Crescent, Bellanamullia, Co. Roscommon.

\*\*\*\*\*

A Chara,

I wish to acknowledge receipt of your application which was received on the 13<sup>th</sup> September 2024, for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development along with the appropriate fee in the sum of €80.00, Receipt No. **L01/0/230575** dated 17<sup>th</sup> September 2024, receipt enclosed herewith.

Please note that due to current resourcing issues, the processing of the Declaration of Exempted Developments has been curtailed at present and applicants will experience delays in the processing of same. We are currently reviewing internal work programmes with a view to resuming normal services as soon as possible, however we cannot provide a timeframe at present.

**Note:** Please note your Planning Reference No. is **DED 763**.  
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Alan O'Connell  
Senior Executive Planner,  
Planning Department.

cc agent via email: Darek Tar  
[darek.tar.design@outlook.ie](mailto:darek.tar.design@outlook.ie)

Roscommon County Council  
Aras an Chontae  
Roscommon  
08066 37100

17/09/2024 08:17:05

Receipt No. : L01/0/230575

ANETA & MAREK STASIUK  
C/O DAREK TAR DESIGN  
5 DARLEY COURT  
STONEBATTER, DUBLIN 7  
EXEMPTED DEVELOPMENT

PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 763	

Total :	80.00 EUR
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Tendered	
Cheque	80.00
500002	

Change :	0.00
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Issued By : Louis Carroll  
From : Central Cash Office



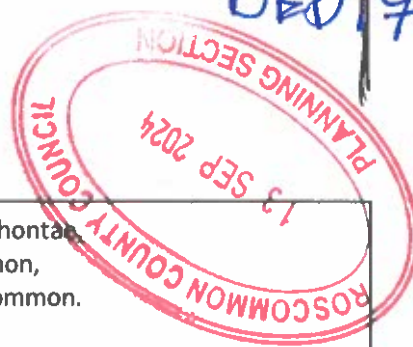


Comhairle Contae  
Ros Comáin  
Roscommon  
County Council

Áras an Chontae,  
Roscommon,  
Co. Roscommon.

Phone: (090) 6637100

Email: [planning@roscommoncoco.ie](mailto:planning@roscommoncoco.ie)



## **Roscommon County Council**

### **Application for a Declaration under Section 5 of the**

### **Planning & Development Act 2000 (as amended), regarding Exempted Development**

Name of Applicant(s)	Aneta & Marek Stasiuk
Name of Agent	Darek Tar
Nature of Proposed Works	<p>Demolition of existing shed and erect new shed on the side of exiting dwelling. Proposed development will meet all conditions limitation outlined in Class 3 of part 1 of 2 schedule 2 (exempted development general)</p> <p>1. No such structure shall be constructed, erected or placed forward of the front wall of a house. 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres. 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres. 4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house. 5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched</p>

	roof, 4 metres or, in any other case, 3 metres. 6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.
Location & Address of Subject Property to include, Eircode (where applicable), Townland & O.S No.	2 Millcross Crescent, Bellanamullia Co. Roscommon N37 Y242  ITM 599294,741890 Map series 3034 (D)
Floor Area: a) Existing Structure b) Proposed Structure	a) <u>112m<sup>2</sup></u> b) <u>16m<sup>2</sup></u>
Height above ground level:	2,9m
Total area of private open space remaining after completion of this development	No alterations 150m <sup>2</sup>
Roofing Material (Slates, Tiles, other) (Specify)	Flat roof, roofing membrane IKO or similar



## Roscommon County Council

### Application for a Declaration under Section 5 of the

Proposed external walling (plaster, stonework, brick or other finish, giving colour)	Render to match existing dwelling Colour to match existing of dwelling
Is proposed works located at front/rear/side of existing house.	Side
Has an application been made previously for this site	Yes
If yes give ref. number (include full details of existing extension, if any)	2360182
Existing use of land or structure	Side passage to rear of dwelling
Proposed use of land or structure	Storage garden shed
Distance of proposed building line from edge of roadway	10.2 m2
Does the proposed development involve the provision of a piped water supply	NO
Does the proposed development involve the provision of sanitary facilities	NO
Schedule of drawings attached	2023-MAS-S5-001 SITE LOCATION MAP 2023-MAS-S5-002 SITE LAYOUT PLAN 2023-MAS-S5-003 DEMOLITION PLAN 2023-MAS-S5-004 ELEVATIONS 2023-MAS-S5-005 GROUND FLOOR PLAN AND SECTION

#### Planning & Development Act 2000 (as amended), regarding Exempted Development

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Note:** This application must be accompanied by: -

- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Detailed specification of development proposed



NOTES:  
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2. ALL DIMENSIONS TO BE CHECKED ON SITE.  
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## Planning Pack Map



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CENTRE  
COORDINATES:  
ITM 599294.741890

PUBLISHED:  
02/10/2023

MAP SERIES:  
1:5,000  
1:2,500

ORDER NO.:  
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MAP SHEETS:  
3034  
3034-D

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LEGEND:  
[www.osi.ie](http://www.osi.ie); search 'Large Scale Legend'

### LEGEND:

— SITE BOUNDARY OUTLINED  
IN RED

## SITE LOCATION MAP scale 1:1000 @ A3

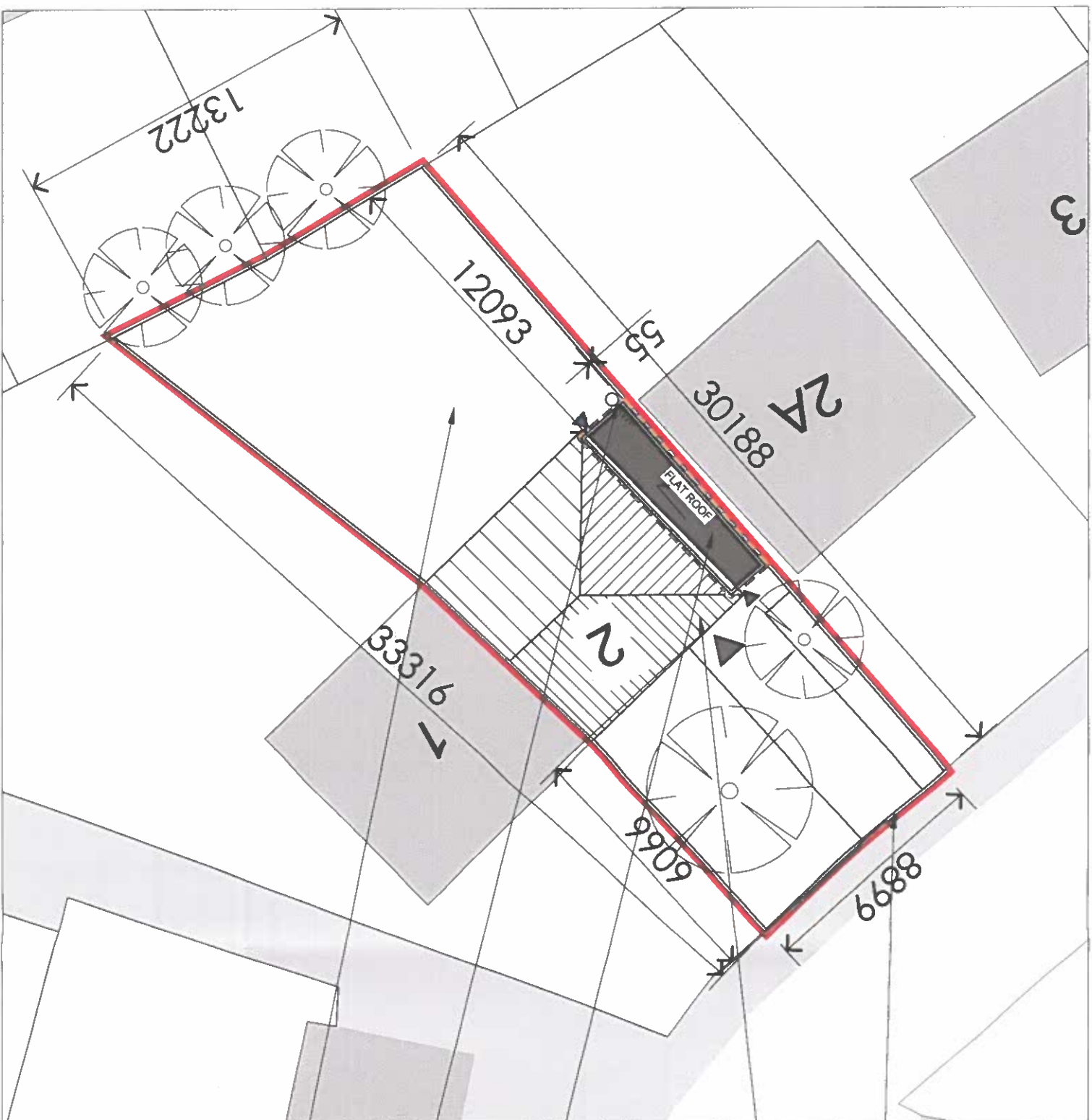
DAREK TAR MRIAI  
ARCHITECT

5 Darley Court, Palatine Square, off Arbour Hill, Stoneybatter, Dublin 7, IE  
email: darek.tar.ie@gmail.com

SECTION 5		
Rev.	Description	Date

Client:	Aneta & Marek Stasiuk	Scale:	1:1000 @ A3	Plotted:	2023
Project:	GARDEN SHED at SIDE of 2 Millcross Crescent, Bellenamutlia, Co. Roscommon N37 Y242	Drawn By:	DT	Date:	2023
Title:	SITE LOCATION MAP	Checked By:	DT	Date:	2023
		Issue:	SECTION 5	Revision:	
		Drawing No.	2023-MAS-S5-001		





SITE PLAN scale 1:200 @ A3

NOTES:  
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DAREK TAR MRIAI  
ARCHITECT

5 Dorley Court, Palatine Square, off Arbour Hill, Stoneybatter, Dublin 7, IE  
email: darek.tar.ie@gmail.com

SITE AREA APPROX. 330 m<sup>2</sup>  
0.033 ha  
EXISTING DWELLING APPROX. 112m<sup>2</sup>  
GROUND FLOOR AREA OF ANY EXISTING STRUCTURE  
81m<sup>2</sup>



EXISTING SITE ENTRANCE /  
DRIVEWAY

EXISTING SEMIDETACHED DWELLING

PROPOSED SINGLE STOREY GARDEN SHED WITH FLAT  
ROOF AND FALL TO REAR  
SUBJECT OF SECTION 5 APPLICATION

RWP AND RAIN WATER HARVESTING TANK

PRIVATE OPEN SPACE

NOTE:  
NO ALTERATIONS TO DRAINAGE OF EXISTING DWELLING  
NO ALTERATIONS TO EXISTING SITE BOUNDARY

LEGEND:



SUBJECT OF SECTION 5 APPLICATION

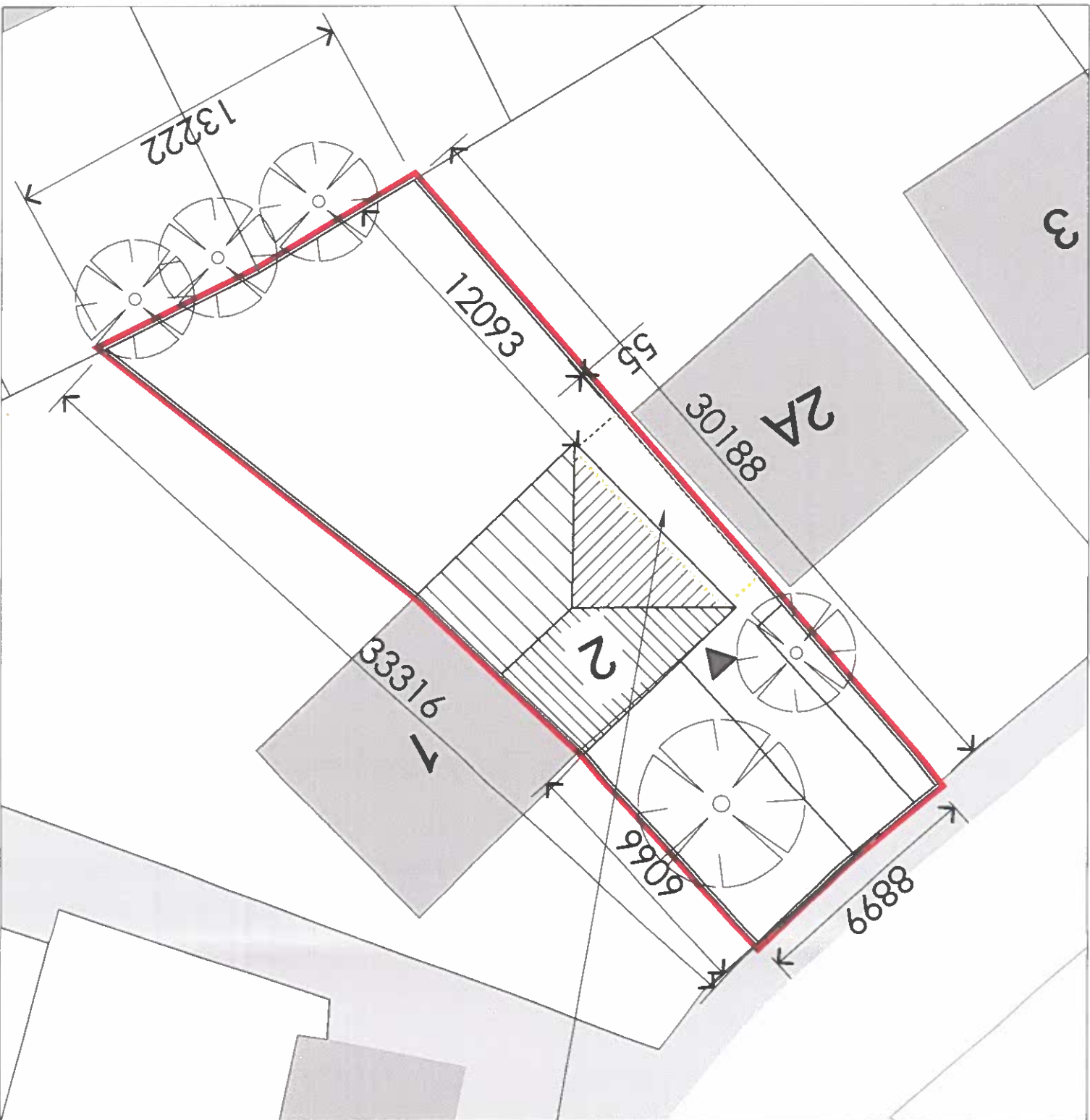


PLANNING	
Issue	Rev
Description	Date

Client		Scale	Project
Aneta & Marek Stasiuk		1:200 @ A3	2023
Project		Drawn By:	Date
GARDEN SHED AT SIDE		DT	2023
OF 2 Milkross Crescent, Ballynamulla,		Checked By:	Date
Co. Roscommon N57 V242		DT	2023
Issue		Issue	Revision
PLANNING			
Title		Drawing No.	
SITE PLAN		2023-MAS-SS-002	



EXISTING GARDEN SHED TO BE DEMOLISHED



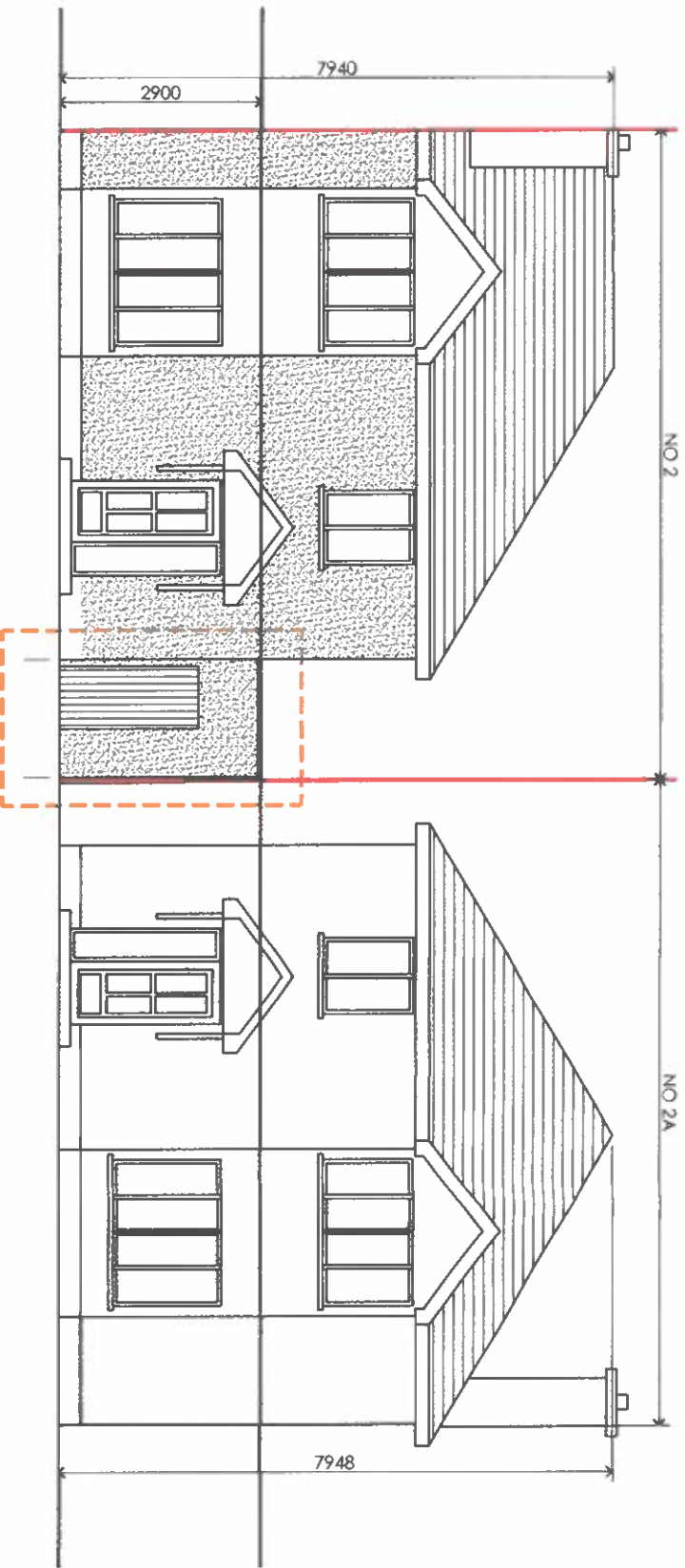
SITE PLAN scale 1:200 @ A3

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**DAREK TAR MRIAI**  
**ARCHITECT**  
5 Darley Court, Palatine Square, off Arbour Hill, Stoneycroft, Dublin 7, IE  
email: darek.tar.mriai@gmail.com

SECTION 5	
Rev	Date

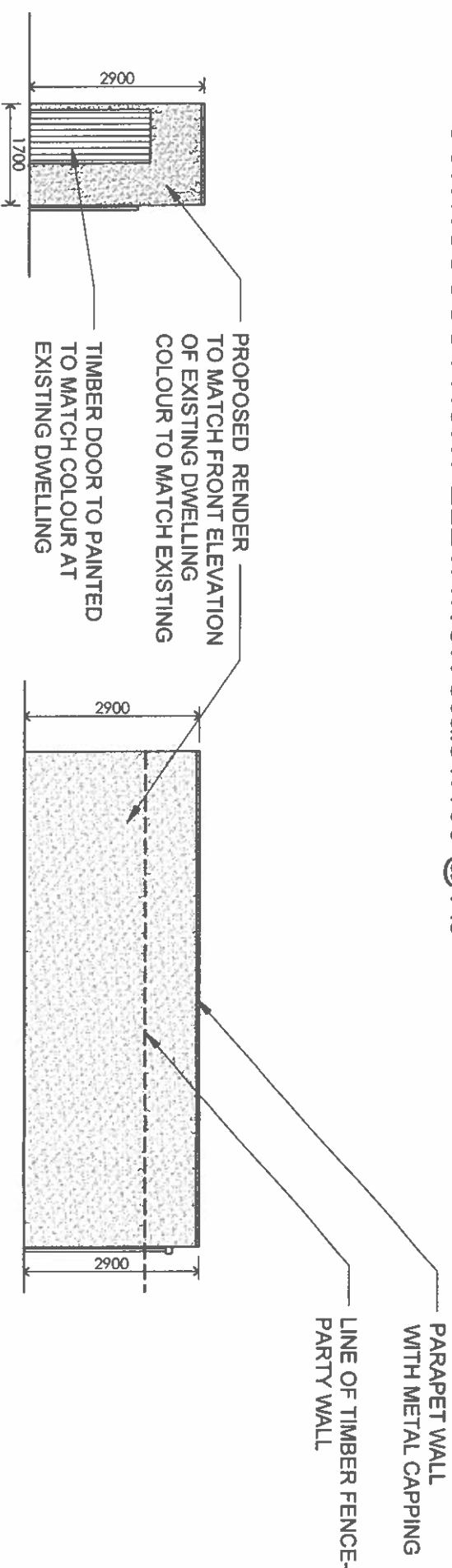
Client		Scale	Project
Aneta & Marek Stasiuk		1:200 @ A3	GARDEN SHED AT SIDE OF PROPERTY
Project		Owner By	Date
GARDEN SHED AT SIDE OF PROPERTY		2023	2023
Co. Roscommon N37 1242		Checked By	Date
SECTION 5		2023	2023
Title		Drawing No.	2023-MAS-S5-003
DEMOLITION PLAN			



CONTIGUOUS FRONT ELEVATION scale 1:100 @ A3

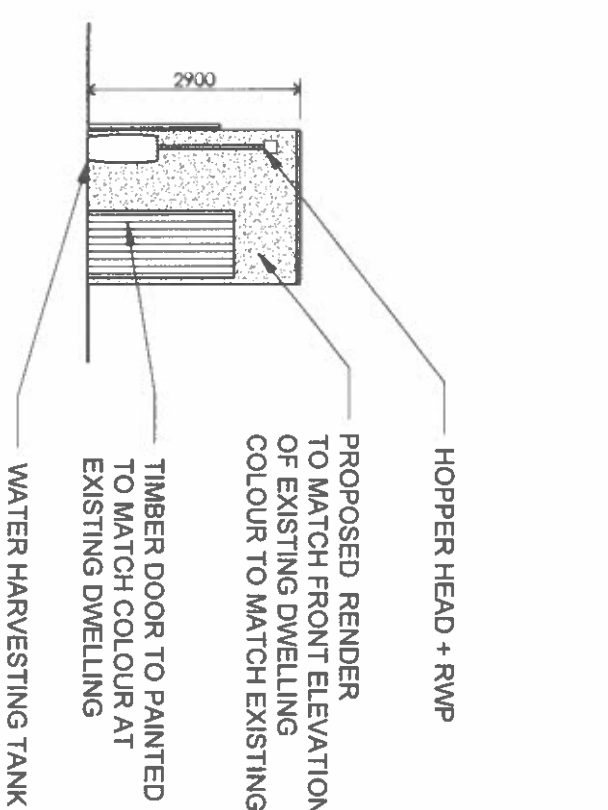
SUBJECT OF SECTION 5 APPLICATION

LEGEND:  
SUBJECT OF SECTION 5 APPLICATION



FRONT ELEVATION scale 1:100 @ A3

SIDE ELEVATION scale 1:100 @ A3



REAR ELEVATION scale 1:100 @ A3

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DAREK TAR MRIAI  
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5 Darley Court, Palatine Square, off Arbour Hill, Stoneybatter, Dublin 7, IE  
email: darek.tar.ie@gmail.com

Rev.	Description	Date
1	SECTION 5	

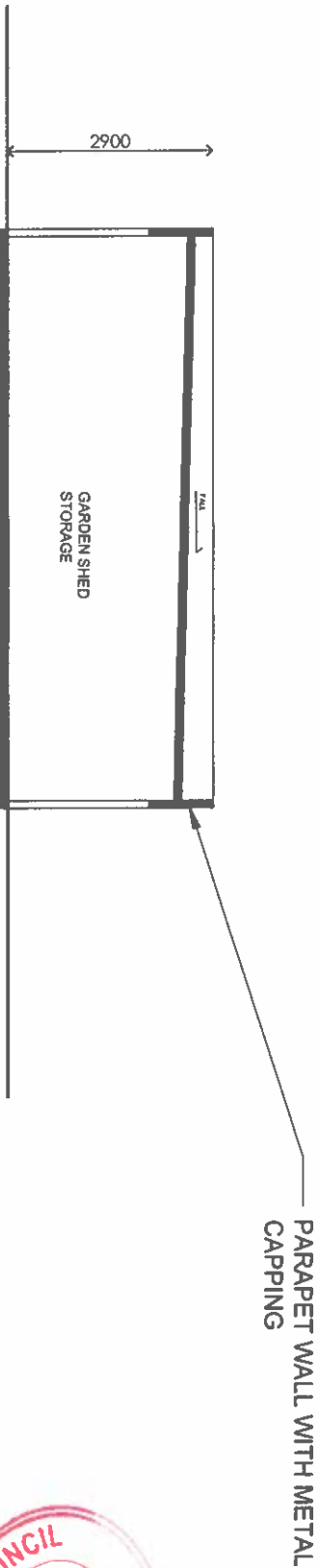
Client:	Aneta & Marek Stasiuk		
Project:	GARDEN SHED AT SIDE OF EXISTING DWELLING at 2 Millicross Crescent, Co. Roscommon N57 Y242		
	Drawn By:	Scale:	1:100 @ A3
	DT	2023	
	Checked By:	Date:	
	DT	2023	
	Issue:	Revision:	
	SECTION 5		
Title:	ELEVATIONS		Drawing No.
	2023-MAS-SS-004		



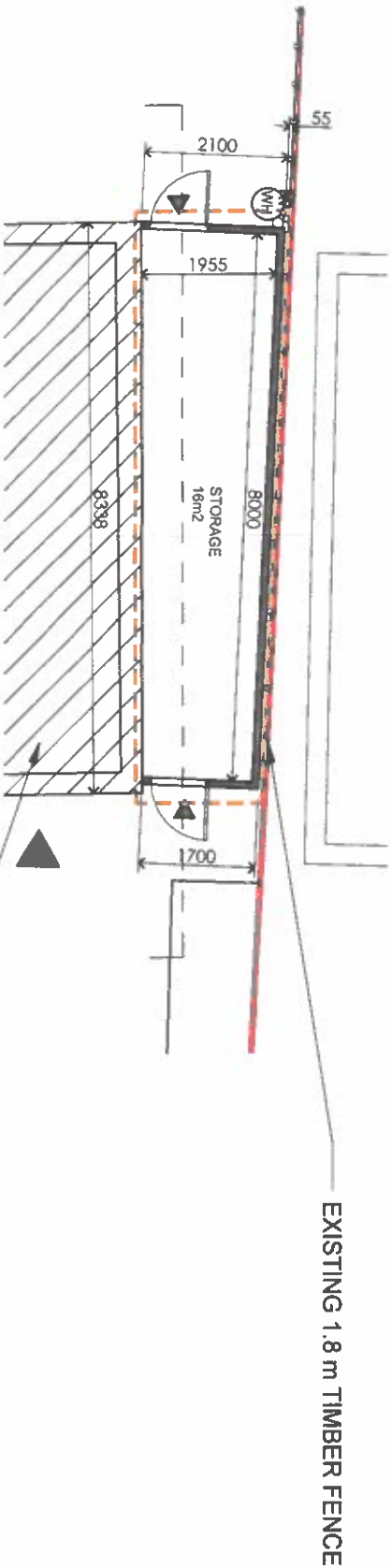
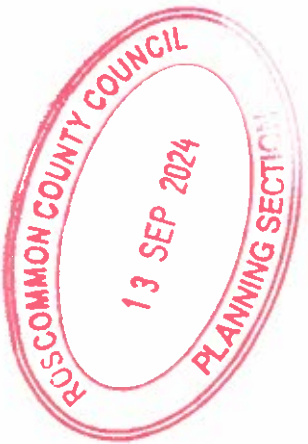
LEGEND:



SUBJECT OF SECTION 5 APPLICATION



SECTION scale1:100 @ A3



GROUND FLOOR PLAN scale1:100 @ A3

NOTES:  
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DAREK TAR MRIAI

ARCHITECT

5 Darley Court, Poldaline Square, off Arbour Hill, Stonebottle, Dublin 7, IE  
email: darek.tarie@gmail.com

SECTION 5

Rev	Description	Date

Client:

Aneta & Marek Stasiuk

Project: GARDEN SHED AT SIDE OF EXISTING DWELLING at 2 Malcores Crescent, Co. Roscommon N37 Y242

Title: GROUND FLOOR PLAN & SECTION

Scale: 1:100 @ A3

Drawn By: DT

Check By: DT

Drawing No: 2023-MAS-SS-005