An Coimisiún Pleanála

Inspector's Report ACP322821-25

Question	Whether an extension to the rear of a dwelling is or is not exempted development.
Location	8 Clonmore, Kilteragh, Dooradoyle, Limerick.
Declaration	
Planning Authority	Limerick City and County Council.
Planning Authority Reference.	EC/107/25
Applicant for Declaration	Mubin Merchant
Planning Authority Decision	Is not exempted development.
Referral	First Party
Referred by	Mubin Merchant
Owner Occupier	Mubin Merchant
Observer(s)	None.
Date of Site Inspection	4th September 2024.
Inspector	Derek Daly.

1.0 Site Location and Description

1.1. The proposed site is located in an established residential area in the southwestern suburbs of Limerick City. On the site is a two storied dwelling which is an end of terrace of four similar dwellings. Clonmore residential estate is formed by a similar pattern of 15 dwelling houses.

1.2. The appeal site has a garden to the front and rear and also has a side access affording access to the rear garden. To the rear east of the site is open space.

1.3. There is currently no extension to the original dwelling.

2.0 The Question

2.1. The question before the Board relates to whether an extension to the rear of a dwelling is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

3.1.1. Limerick City and County Council issued a declaration dated 28th May 2025 (Ref: EC/107/25) that the extension to the rear at 8 Clonmore, Kilteragh, Dooradoyle, Limerick does not come within the scope of exempted development under Class 1 Part 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended use and the said proposal as described is development, and is not exempt development.

3.2. Planning Authority Reports

3.2.1. Planning Report of the 27th May 2025 refers to the zoning of the site, to a referral to An Coimisiún Pleanála RL2506, the legislative provisions considered relevant to the declaration and an assessment of the proposals in the context of these provisions lin particular Schedule 2, Part 1: Exempted Development; Development within the curtilage of a house; Class 1. The report focuses on Class 1 condition and limitation 5 and the issue of not reducing the area of private open space to the rear of the house to less than 25m^2 and there is reference in the inspector's report of RL2506

that the "rear of the house is confined to the area beyond the rear wall of the main house" and the report refers to the area to the rear retained as open space is 4.3m^2 and the remainder of retained open space will be to the side and the said works are development and not exempted development.

4.0 Planning History

4.1. The planning report refers to a referral in relation to the question.

RL2506 Whether a single storey rear extension with a projection of 1.95 metres to the side beyond the gable of the house is or is not exempted development.

4.2. The referrer has in a submission made reference to

An Coimisiún Pleanála reference 301363 / Planning Authority Reference: D/228/18

Whether the proposed single storey extension to the rear of existing dwelling is or is not development or exempted development where it was concluded that

(a) The development is connected to the house and is an extension.

(b) The extension does not include above ground habitable space and is a single storey extension.

(c) The floor area of the extension does not exceed 40 square metres or reduce the area of garden remaining to less than 25 square metres.

(d) The height of the extension does not exceed the height of the rear wall of the main house.

(e) The glazed panel closest to the rear wall of the main house, and which is less than one metre from the shared boundary, is neither capable of being opened nor does it allow people to see through.

(f) All windows are over one metre from the shared boundary. (g) The extension, therefore, comes within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and all Conditions and Limitations attached to this Class.

is development and is exempted development.

4.3. Other relevant referral cases.

An Coimisiún Pleanála reference: RL04.3399 / Planning Authority Reference: R394/15. Whether the construction of a single storey extension to the rear of existing dwelling is or is not development or exempted development where it was decided it is development and is exempted development.

5.0 Policy Context

5.1. Local Planning Policy

The relevant statutory plan is the Limerick Development Plan 2022–2028.

The site is within an area zoned Existing Development and the use on the site complies with the zoning.

There are no conservation or other specific objectives related to the site.

5.2. Natural Heritage Designations

None relevant. The site is not within a Natura Site or directly connected with a Natura Site.

6.0 The Referral

6.1. **Referrer's Case**

6.1.1. In summary the referrer indicates;

- The declaration of the planning authority has incorrectly interpreted the exemption criteria as applied to extensions under Schedule 2 Part 1 Class 1.
- The planning authority has only calculated private open space directly behind the house.
- The accepted practice is to include all space behind the back wall of the house and includes any space to the side protruding beyond the gable but also behind the line of the back wall.
- Reference is made to a notional site layout submitted in support of the applicant's contention and also a drawing of the proposed extension which contends that there is a core area of 26m^2 remaining behind the line of main

wall of the dwelling but if other areas are included to the rear of the proposed extension the open space remaining behind the house is closer to 40m2.

- Reference is made to a referral ABP301363-18 in support of the appeal.
- The planning authority refer to RL2506 in their report but the applicant does not understand what bearing this case has on the subject Section 5.

6.2. **Planning Authority Response**

6.2.1. No response was received specific to matters raised in the referrer's submission to An Coimisiún.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 2(1) – Interpretation

"development" has the meaning assigned to it by section 3 and 'develop' shall be construed accordingly.

"exempted development" has the meaning specified in section 4;

"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

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

Section 3(1) – Development

In this Act, 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,

7.2. Planning and Development Regulations, 2001

7.2.1. "Article 6 (1) –

Subject to article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1.

7.2.2. Article 9 (1) –

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 (relevant excerpts referenced)

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

(iii) Endanger public safety by reason of a traffic hazard or obstruction to road users.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

7.2.3. **Schedule 2, Part 1: Exempted Development**

Development within the curtilage of a house

Part 1 (Classes 1 – 8) of Schedule 2 describes classes of development situated within the curtilage of a house which are exempted development, provided that such development complies with the conditions and limitations expressed at Column 2 for each class.

Class 1 (which is the relevant class in this case) refers to: -

"The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house"

The relevant conditions and limitations are:

Condition 1 (a) – Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

Condition 4(a) relates to the height of the extension, which shall not exceed the height of the rear wall of the house.

Condition 5 – The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25square metres.

Other limitations do not apply as the development as referred development is single storied, the site has not been the subject of a previous extension to the original dwelling and the roof of the extension would not based on documentation submitted be used as a balcony or roof garden.

8.0 Assessment

8.1. The purpose of this referral is not to determine the acceptability or otherwise of the development referred to in the question but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

8.1.1. The primary issue in relation to the question relates to the issue of whether the works proposed to construct an extension to the rear of the dwelling constitutes exempted development and within the scope of exempted development as provided for in the Planning and Development Regulations 2001 as amended and in particular the provisions as stated in Schedule 2, Part 1: Exempted Development; development within the curtilage of a house; Class 1.

8.1.2. There is no evidence presented in relation to any unauthorised use.

8.2. Documentation

8.2.1. The referrer submitted documentation to the planning authority including a site location map and a drawing indicating a floor plan and site layout plan and elevations of the development.

8.2.2. Further documentation was submitted in the referral to An Coimisiún Pleanála including a notional site layout and the floor plan and site layout plan submitted to the planning authority. I am satisfied that the referral can be determined based on the information on file and this report. It is noted that the development referred to has

not occurred and the question related to interpretation of Schedule 2, Part 1: Exempted Development; development within the curtilage of a house; Class 1 of the Planning and Development Regulations.

8.3. Relevant Decisions of An Coimisiún Pleanála.

8.3.1. I have reviewed the previous decisions relating to similar questions and the decisions referred to in submissions.

8.3.2. In relation to RL2506 referred to by the Planning authority as to whether a single storey rear extension with a projection of 1.95 metres to the side beyond the gable of the house is or is not exempted development it was decided that the development is not exempted development as the extension would not come within the scope of the exemption provided in Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, because it is positioned partly to the side, projecting beyond the side wall of the house by a distance of 1.95 metres. The current referral does not provide for a projecting beyond the side wall of the house and is located to the rear of the house.

8.1. In relation to An Coimisiún Pleanála reference 301363 / Planning Authority Reference: D/228/18 as to whether the proposed single storey extension to the rear of existing dwelling is or is not development or exempted development where it was concluded that the extension, therefore, comes within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and all Conditions and Limitations attached to this Class and is development and is exempted development.

8.2. Is or is not development.

8.2.1. The permitted use of the structure as a dwelling is not in dispute based on the planning history of the site.

8.2.2. The question as put forward by the referrer does not dispute that the construction of an extension to the dwelling to the rear of a dwelling house constitutes development within the statutory provisions of the Planning and Development Act 2000 as amended but contends that it would constitute exempted development. Having examined the documentation submitted the development as referred to in the question constitutes development.

8.3. Is or is not exempted development

8.3.1. Schedule 2, Part 1: Exempted Development of the Planning and Development Regulations 2001 as amended which relates to development within the curtilage of a house in Class 1 provides for the extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

8.3.2. There are 7 conditions and limitations specified in relation to the extension of a house. In relation to the current site based on the documentation submitted;

Condition no.1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

This condition does not apply as the house has not been extended previously, the floor area of the extension as proposed is less than 40 square metres and is single storied.

Condition no. 2 does not apply as the house has not been extended previously

Condition no. 3 does not apply as there is no above ground floor extension.

Condition no. 4 does not apply as the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

Condition no. 5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

This condition and limitation is the subject of this referral and is addressed in section 8.4.

Condition no.6 does not apply as any window proposed at ground level in any such extension is in excess of 1 metre from the boundary it faces and the proposal is single storied and the dwelling is not detached.

Condition no. 7 does not apply as the documentation does not indicate a balcony or roof garden

8.4. The matter to consider is condition and limitation 5 which the planning authority in their declaration considers would reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

8.4.1. Initially it is important to state that the current dwelling has no extension which projects beyond the existing rear wall/building line of the dwelling and the rear garden area extends from the rear building line to the rear boundary fence across the full width of the site.

8.4.2. The wording of condition no 5 does permit any such extension to the rear of the house and requires that any such extension shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

8.4.3. The proposal as indicated on the drawings and documentation will provide an area of private open space, reserved exclusively for the use of the occupants of the house, of in excess of 25 square metres.

8.4.4. Based on the documentation submitted the construction or erection of any such extension to the rear of the house does not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

8.4.5. The wording of condition no.5 does not expressly state that the reserved 25 square metres of open space must be to the rear of the extension or an extended area of the dwelling and it can I consider be interpreted that reference to the rear of the house is based on the original and in this case current rear building line of the house, and that the present area of open space to be retained is greater than 25 square metres of open space. It is noted in this regard that in the inspector's report of RL2506 that the "rear of the house is confined to the area beyond the rear wall of the main house" which can be interpreted I consider to the original rear wall of the house

and is currently the rear wall of the house as no extension in floor area to the original house has occurred.

8.4.6. The manner of how 25 square metres is reserved exclusively for the use of the occupants of the house and the area retained as open space will largely be determined by site specific circumstances and the area and configuration of the rear area of open space. Private open space of dwellings is calculated on the areas reserved for this purpose and are not always one plot or exclusive to the rear of a building line.

8.4.7. I consider that in retaining in excess of 25 square metres of open space to the rear of the original and current rear building line of the dwelling the condition and limitation outlined in condition and limitation no. 5 is met.

9.0 EIA Screening

9.1. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside.

10.0 AA Screening

10.1. I have considered the proposal which is relation to the construction of an extension to the rear of an existing dwelling house in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located on an established residential site and within an established residential area.

10.2. The proposed development comprises in effect a relatively minor development for the construction of an extension of less than 40m^2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows; the nature of the development, the distance to designated sites and the absence of pathway to these sites.

10.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects and likely significant effects are excluded

and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

11.0 Recommendation

11.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether an extension to the rear of a dwelling is or is not exempted development: AND

WHEREAS Mubin Merchant requested a declaration on this question from Limerick City and County Council and the Council issued a declaration on the 28th day of May 2025 stating that the matter was development and was not exempted development: AND WHEREAS Mubin Merchant referred this declaration for review to An Coimisiún Pleanála on the 16th June 2025: AND

WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to

(a) Section 2(1) of the Planning and Development Act, 2000, as amended,

(b) Section 3 of the Planning and Development Act, 2000,

(c) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,

(d) Part 1 of the Schedule 2 to the Planning and Development Regulations, 2001, as amended,

(e) the planning history of the site,

(f) existing buildings on the site,

(g) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) the extension to the rear of a dwelling constitutes development as defined under section 3(1) of the Planning and Development Act 2000 (as amended),

(b) The development is connected to the house and is an extension.

(c) The extension does not include above ground habitable space and is a single storey extension.

(d) The floor area of the extension does not exceed 40 square metres or reduce the area of garden remaining to less than 25 square metres.

(e) The height of the extension does not exceed the height of the rear wall of the main house.

(f) The extension therefore comes within the scope of Schedule 2 Part 1 Class 1 and all conditions and limitations.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act (as amended), hereby decides that the extension to the rear of a dwelling

is development and is exempted development

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Derek Daly
Planning Inspector

26th September 2025

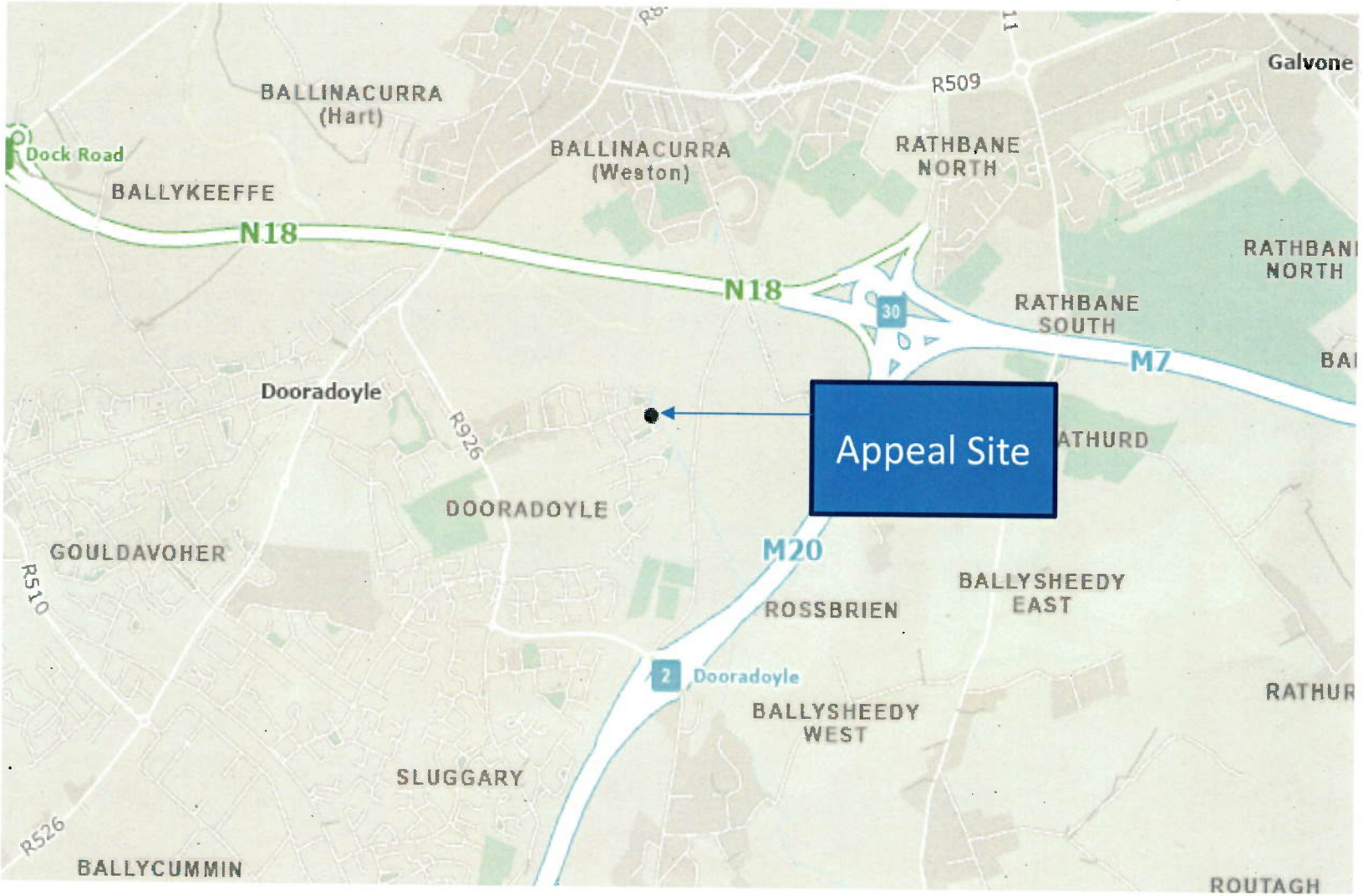
Form 1 - EIA Pre-Screening

Case Reference	323097-25
Proposed Development Summary	Construction of extension to rear of dwelling
Development Address	8 Clonmore, Kilteragh, Dooradoyle, Limerick.
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	☐, it is a 'Project'. X **No**, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ it is a Class specified **in Part 1.**	
☐	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
x **No**, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. **No Screening required.**	
No, the proposed development is of a Class and meets/exceed the threshold.	
Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2)**	

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	**Screening Determination required (Complete Form 3)**
No X ☐	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Inspector: Derek Daly **Date: 26th September 2025**

Site Location Map



Key Map

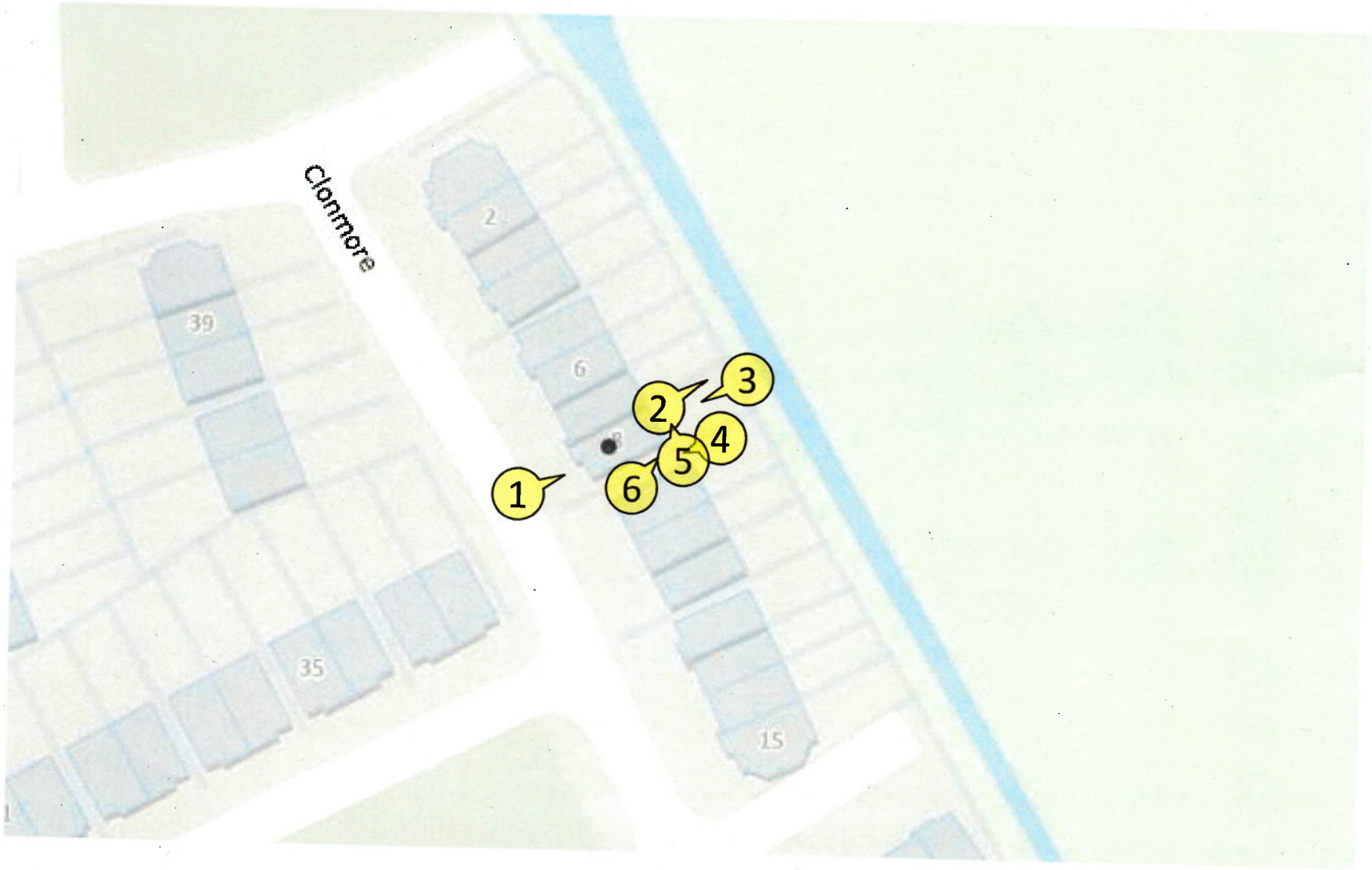


Plate 1

Plate 2

Plate 3

Plate 4

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Plate 5

Plate 6