

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 21 April 2008
TIME: 9.30 am
VENUE: Council Chamber, 189 Queen Street, Richmond

PRESENT: **Hearings Committee**
Cr M J Higgins, Chairperson
Cr S J Borlase
Cr T B King

IN ATTENDANCE: **Tasman District Council**
Mr J Butler - Principal Resource Consents Adviser
Mr D Ley - Development Engineer
Ms J Shaw – Consents Planner
Mr D R Lewis – Environmental Health Officer
Mr B D Moore – Administration Officer

1. IRELAND DEVELOPMENTS LIMITED, EDWARD STREET, RICHMOND - APPLICATION RM071190

1.1 Proposal

To remove two existing dwellings and establish and operate a community activity, namely a privately owned, Government licensed education and childcare facility within a newly constructed purpose built building. The centre will cater for up to 65 children, 25 children aged less than two years and 40 children aged between two and five years. The facility will be open from 7.00 am to 6.00 pm Monday to Friday but closed on public holidays. The centre will be staffed by up to 12 full time equivalent staff.

The proposal provides for twelve on-site car parks adjacent to the south western boundary of the sites (hereinafter referred to as the "site").

The property is located at 34 and 36 Edward Street Richmond. The legal description of the land is Lot 1 DP 11540 and DP 2080 described in Certificates of Title NL11B/333 and NL68/263 respectively.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs Borlase / King
EP08/04/01

THAT the public be excluded from the following parts of the proceedings of this meeting, namely:

Ireland Developments Limited

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for passing this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Ireland Developments Limited	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**Moved Crs Higgins / Borlase
EP08/04/02**

**THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.
CARRIED**

2. IRELAND DEVELOPMENTS LIMITED, EDWARD STREET, RICHMOND - APPLICATION RM071190

**Moved Crs Higgins / Borlase
EP08/04/03**

**THAT pursuant to Section 104B of the Resource Management Act, the Committee consent to Ireland Developments Limited subject to conditions as detailed in the following report and decision.
CARRIED**

Report and Decision of the Tasman District Council through its Hearings Committee

Meeting held in the Tasman Room, Richmond

on 21 April 2008, commencing at 9.30 am

A Hearings Committee (“the Committee”) of the Tasman District Council (“the Council”) was convened to hear the application lodged by **Ireland Developments Limited** (“the Applicant”), to establish and operate a privately owned Government licensed education and childcare facility at 34-36 Edward Street, Richmond. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM071190.

- PRESENT:** **Hearings Committee**
Cr M Higgins, Chairperson
Cr S Borlase
Cr T King
- APPLICANT:** Mr N A McFadden (Counsel)
Mr B Hill (General Manager of Company)
Mr R Edwards (Traffic Engineer)
Dr J Trevathan (Noise Consultant)
Mr D Harford (Planning Consultant)
- CONSENT AUTHORITY:** **Tasman District Council**
Mrs J Shaw (Planning Reporting Officer)
Mr D Ley (Development Engineer)
Mr D Lewis (Co-ordinator Regulatory Services)
- SUBMITTERS:** Mr M and Ms T Bouterey
Mr C Clark (in writing only)
- IN ATTENDANCE:** Mr J Butler, Principal Resource Consents Adviser - Assisting
the Committee
Mr B Moore - Committee Secretary

1. DESCRIPTION OF THE PROPOSED ACTIVITY

This application is to remove two existing dwellings at 34 and 36 Edward Street, Richmond, and establish and operate a community activity, namely a privately owned, Government licensed education and childcare facility within a newly constructed purpose built building. The centre will cater for up to 65 children, 25 children aged less than two years and 40 children aged between two and five years. The facility will be open from 7.00 am to 6.00 pm Monday to Friday but closed on public holidays. The centre will be staffed by up to 12 full time equivalent staff.

The proposal provides for fourteen on-site car parks adjacent to the south western boundary of the sites (hereinafter referred to as "the site").

The site has a combined area of 1,919 square metres and contains an existing dwelling on each of the two separate titles. The dwellings are currently used for residential purposes. Both properties have established gardens and lawns with vehicular access gained from William and Edward Streets respectively.

The surrounding land use is predominantly residential with properties ranging in area from 491 square metres to 1,139 square metres. Pedestrian access from the northern side of William Street opposite the subject site serves Henley School, Waimea Intermediate School and Waimea College, and is located approximately 75 metres from the Edward and William Streets intersection.

The same access also includes vehicular access to Henley School. Children attending Henley Kindergarten would generally use an access from Gilbert Street. A pedestrian crossing is installed across William Street to the immediate west of the subject site. This crossing is manned by a school patrol for Henley School users during the before and after school periods.

This area is an older established part of Richmond that has accommodated kindergarten, primary, intermediate and college facilities, within the residential community since the late 1950s, without the need for physical boundaries between each facility although Henley Kindergarten is fenced for child safety reasons.

The Applicant is a development company which develops childcare centres. Once commissioned, the facilities are transferred to ABC Development Learning Centres, which operates 1,084 centres in Australasia, of which 116 are in New Zealand.

2. PROPOSED TASMAN RESOURCE MANAGEMENT PLAN (“PTRMP”) ZONING, AREAS AND RULE(S) AFFECTED

According to the PTRMP the following apply to the subject property:

Zoning: Residential
Area(s): nil

The proposed activity does not comply with a number of permitted activity rules of the PTRMP (as set out below) and is deemed to be a non-complying activity in accordance with Rule 17.1.5AA of the PTRMP.

The application does not comply with the Residential Zone Permitted Activity Rules in the following respects:

Rule 17.1.2(da): The proposal involves a community activity where vehicle movements to and from the community activity exceed 30 per day on any one day;

Rule 17.1.2(l): The noise standards may be exceeded at the southwest (car park) boundary;

Rule 17.1.4(m): The southwest wall of the main building adjoining the car park exceeds 15 metres in length by 0.18 metres and along the northern western boundary by 0.5 metres without providing a 2.5 metre offset. In addition, the 2 metre high acoustic fencing proposed along part of the property boundary is also deemed a building, and it exceeds 15 metres in length;

Rule 17.1.4(r): Both the proposed equipment shed on the northwest boundary and the poles supporting the shade sails are setback up to 0.9 metres instead of 4.5 metres sited from the legal road boundaries. The 2 metre high acoustic fence (deemed to be a building) also encroaches into the permitted internal 1.5 metre and 3.0 metre setbacks;

Rule 17.1.5(a): The building has a site coverage of 38.6%. This is created by the shade sails that are required to be included when assessing site coverage;

Rule 17.1.7A: The “community activity” does not comply with the conditions for a permitted activity. (See Rule 17.1.2(da) above);

Rule 16.1.2(a): The proposal includes two signs having a total area of 2.62 square metres. This exceeds the permitted one sign having a maximum size of 0.5 square metres in a Residential Zone. The proposed signs consist of a free standing, 1.62 square metre sign and a 1.0 square metre sign attached above the entrance of the main building;

Rule 16.1.2(i): The vertical height of the secondary message lettering on the sign(s) will be less than the 150 millimetres permitted criteria by up to 50 millimetres;

Rule 16.2.2(f): The proposed crossing width of 6.6 metres exceeds that permitted by 0.6 metres;

Rule 16.2E: The stall width of the two parking spaces provided for people with disabilities is 2.4 metres instead of 3.6 metres.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was notified on 2 February 2008 pursuant to Section 93 of the Act. A total of 14 submissions were received. The following is a summary of the written submissions received and the main issues raised:

Submissions in Support (one)

Submission No.	Submitter	Reasons	Decision sought
11	Rick Ivory	Good location to other schools. Removal of existing truck will create additional parking spaces	Approve Does not wish to be heard.

Submissions in Opposition (twelve)

Submission No.	Submitter	Reasons	Decision sought
1	Marthe Jarrett	Insufficient parking All parks currently in use when schools are open.	Decline Does not wish to be heard.
3	Kenneth and Roseanne Armstrong	Traffic congestion in surrounding streets, i.e. beyond Edward Street.	Decline Does not wish to be heard.
4	Connie Winsloe	Parking congestion at school arrival and departure times. Access difficulties to properties due to current parking. Effects of traffic flow on William Street and Salisbury Road intersection is considered dangerous.	Decline Does not wish to be heard.
5	Rona Hart	Current traffic volume and parking congestion before and after school. Large removal truck currently parked in area exacerbates parking problem. Cars currently park across driveway and	Decline Does not wish to be heard.

Submission No.	Submitter	Reasons	Decision sought
		briefly on yellow lines.	
6	S Novara and M Moffitt	Additional parking demand adjacent to Henley School creates vehicle access hazard for residents. Increased flow of traffic in a residential area will make entering and exiting driveways dangerous and impossible.	Decline Does not wish to be heard.
7	L and B Moffitt and R Hamilton	Additional parking demand Increased flow of traffic in a residential area will make entering and exiting driveways dangerous and impossible. Sight distance will be very limited for vehicles exiting the access from the facility.	Decline Does not wish to be heard
8	Patricia Hill	Insufficient car parks provided on site Current limited parking in Edward Street Large number of properties currently exiting onto Edward Street. Increase of pedestrians (due also to growth of adjacent schools) and vehicles will cause congestion and inconvenience.	Decline Wishes to be heard
9	Matthew and Tania Bouterey	Area already overcrowded with educational facilities Current parking problems on Edward Street exacerbated by large truck parked causing danger. Insufficient parking provided on site will cause traffic hazard Proposal not enhancing community spirit and will adversely affect the residential amenity and character of Edward Street. Noise created by the activity. Affects resale of property Request double glazing of house and compensation for loss of real estate sales.	Decline Wishes to be heard
10	Grace Martin	Traffic effects and questions the need for an additional school in the area	Decline Does not wish to be heard
12	Thelma Levy	Additional traffic on William Street will adversely affect traffic safety and hinder emergency vehicles using street on an almost daily basis. "Stop" sign required at corner of William and Edward Streets. Traffic congestion and current difficulty exiting from owner's property. Discharge of stormwater into existing overloaded system.	Decline Does not wish to be heard
13	Clark Education and Training Ltd (Chris Clark)	Increase in noise and traffic levels of a noisy commercial operation better suited to a commercial/industrial area. Compromises safety of users and	Decline Wishes to be heard

Submission No.	Submitter	Reasons	Decision sought
		residents of Edward Street. Planting along boundaries will exacerbate sight distance when exiting the access. Adversely affect the residential amenity and character of the neighbourhood.	
14	Joan Haughey	Increased traffic congestion in William Street/Salisbury Road will also affect access to owner's property. Continual Noise - Fencing inadequate to block noise, and building and fence will compromise sunlight to part of owner's dwelling. Adversely affect quality of life. Reduction to value of property. Requests (i) fencing with a more permanent soundproofing material and an alternative to allow sunshine to penetrate owner's property. (ii) timeframe on construction period. (iii) involvement with noise protocol with building contractors.	Decline Wishes to be heard

Neutral Submission (one)

Submission No.	Submitter	Reasons	Decision sought
2	James and Dorothy Isdale	Use of access (driveway) may attract skateboarders at evenings and become a recreational area Requests that a gate to the parking area be provided to be secured after hours.	Neutral Does not wish to be heard.

4. PROCEDURAL MATTERS

A written statement was tabled by Clark Education and Training Ltd in lieu of a verbal presentation as Mr Clark was unable to be present at the hearing. The Chair accepted the written statement and it was read by the Committee (not aloud).

There were no other relevant procedural matters.

5. EVIDENCE HEARD

The Committee heard evidence from the Applicant, expert witnesses, submitters, and the Council's reporting officers. The following is a summary of the evidence heard at the hearing.

5.1 Applicant's Evidence

Mr McFadden

Mr McFadden outlined the proposal and explained that early childhood education has become a growth industry and how there is a strong demand in the Richmond area. He also confirmed that it is considered to be a "*community activity*" as it is defined under the PTRMP and confirmed the activity's status as a non-complying activity due to the site coverage.

Mr McFadden also stressed the importance of the permitted baseline test in this case with regard to what could be built on this site and the kind of noise that could be emitted as of right in this zone.

Finally, Mr McFadden presented a set of proposed conditions, amended from those recommended by Mrs Shaw and Mr Ley in their respective staff reports.

Mr Hill

Mr Hill introduced himself and his company, Ireland Developments Limited, and their relationship with the future operators of the day care centre, ABC Development Learning Centres.

Mr Hill explained the importance of locating such facilities in locations such as the proposed, with access to main roading networks and close to commercial areas or schools and other community facilities.

He also elaborated on the nature of the service that would be supplied at this facility.

Mr Edwards

Mr Edwards introduced himself as a Traffic Engineering Consultant and outlined his qualifications.

He presented detailed child care centre traffic data which had been verified through a number of methods. He explained that Edward and William Streets are collector roads and have low existing car numbers; particularly Edward Street. He stated that, while the proposal will certainly increase the number of cars using the road (by approximately 200 vehicle movements per day), the increase will not cause any more than minor traffic effects due to the existing quiet nature of the roads.

Mr Edwards stated that the application has been amended to include 14 carparks on site (instead of the 12 originally applied for) and that his preference would be for only one of the carparks to be identified as for the disabled.

Mr Edwards noted some errors in the PTRMP and stated that the correct sight distance should, in either direction from the vehicle crossing, be 40 metres (rather than the 105 metres stated in the PTRMP).

Mr Edwards then commented on the effects of traffic on the residential amenity. He stated his opinion that while vehicle movements are under 200 per day and as the operation will be outside the hours of darkness he does not expect any adverse effect on residential amenity.

Mr Ley (Council's Development Engineer) had in his staff report recommended that a condition of consent be imposed that required a signed "safety protocol" between the childcare facility and its clients be entered into. The safety protocol was discussed by Mr Edwards and it was agreed that this was not a resource management issue.

Mr Edwards was also asked by Cr Borlase whether he considered low impact stormwater design (LID) solutions to be useful here instead of a carparking tarmac. Mr Edwards stated that he was a fan of LID but stated that this was not an appropriate location for permeable paving solutions due to the volume of turning traffic in this parking area.

Dr Trevathan

Dr Trevathan introduced himself as an Acoustic Engineer and his qualifications. He stated is understanding that the permitted residential noise limits in the PTRMP are incorrect and that the L_{max} of 70dBA should apply to night time rather than the day time. This was accepted by the Committee.

Dr Trevathan produced evidence to show that, with mitigation measures, the PTRMP noise standards will not be exceeded either by any one source of noise, or by the cumulative effects of noise sources. On this basis he stated his professional expectation that the effects from noise from this application will be minor.

The mitigation measures proposed include the construction of an acoustic fence around part of the site and the design of the site to reduce the creation of noise emissions. He also presents a draft noise management plan as part of his evidence.

After presenting his evidence there was some discussion about the ability of people to measure noise emissions to their properties and the nature of the noise from the proposed facility. Dr Trevathan agreed that it was problematic for people to try to measure noise themselves. He also stated that the facility's noise environment is not like a primary school (characterised by short bursts of loud child noise) which is what people often have in their minds.

Mr Harford

Mr Harford presented himself as a Town Planning Consultant and his qualifications. He stated his agreement with the findings of the Council's reporting officer, Mrs Shaw.

Mr Harford discussed the permitted baseline comparison, the positive effects of the proposal and the potential adverse effects. He reaffirmed the expert findings that the residential amenity and character effects, the visual amenity effects and the traffic effects will be no more than minor. He also discussed the proposal with regard to the various objectives and policies and concluded that the proposal is consistent.

5.2 Submitter's Evidence

Mr and Ms Bouterey

Introduced themselves as restaurateurs and that they work long hours and need to sleep during the day.

They stated their concern about road safety with children playing and kids on their way to school past the proposed entrance way.

They also stated that they didn't believe that the proposed building will fit into what is quite an old part of town with predominantly wooden villas. They also stated that it is too big a facility to be in a residential area.

The Boutereys describe the elevation of their house and that their bedroom is on the side of the house that faces the proposed facility. The elevation of their deck and bedroom means that much of the noise may go over the acoustic fence and affect their privacy. This noise is considered their major concern with the development.

The Boutereys stated that they went to the pre-hearing meeting and were offered double glazing in the three windows that face the development. They did not take up this offer as they do not know whether the work will be able to be done on sash windows. However, they stated they would be satisfied with double glazing or hush glass on one side of the house if the appearance of the sash windows does not need to be changed.

There was a discussion with Dr Trevathan about the effect of the proposal on the Boutereys. Dr Trevathan stated that the tin fence that is between the Boutereys and the proposed development will have little noise reducing effect. He stated that the distance will reduce noise to some degree (i.e. reduction of 6 dB with doubling of distance).

Clark Education and Training Ltd ("Clark")

A written statement was tabled from this submitter who was not able to be present at the hearing. The statement was accepted by the Chair.

The Clark submission stated that there was a high level of non-compliance with the plan, concerns about road safety and noise concerns. He stated he was offered the costs for a fence around his property but declined this offer as he still wanted to be able to submit on the development.

5.3 Council's Reporting Officers' Report and Evidence

Mr Lewis

Mr Lewis stated that the proposal will, without doubt, increase noise levels in the immediate area. However, he stated that the neighbourhood is currently very quiet and therefore the Applicant has "room to move" before it approaches the noise limits specified in the PTRMP. Therefore, the facility may be seen to be causing adverse effects but may, in fact, remain within the permitted noise limits.

He believed that, as the development will comply with the permitted noise limits, the effects will be no more than minor.

Mr Ley

Mr Ley agreed with the comments of Mr Edwards but considered that the road improvements sought should be provided directly by the Applicant.

Mr Ley also stated that while LID solutions may not be suitable the Applicant should consider installing rain garden to reintroduce stormwater to the aquifer rather than connecting it to the Council's stormwater network.

Mrs Shaw

Mrs Shaw reaffirmed her belief that the effects of the development are no more than minor and that the "gateway tests" of Section 104D of the Act are met.

She recommended that a condition limiting the use of the building to its primary purpose would be useful to reduce the possibility of night time noise. She also confirmed that she agreed with Mr Ley that the Edward Street upgrades were necessary as a result of the development and that the Applicant should, therefore, directly finance the upgrade.

Overall she considered that the adverse effects would be no more than minor and recommended approval of the application.

5.4 Applicant's Right of Reply

Mr McFadden stated that the safety protocol should be included in the consent document as an advice note, rather than as a condition which would have no resource management basis and would require compliance from third parties.

In respect to noise he stated that the Applicant will comply with the permitted noise levels for the Residential Zone as they are entitled to do. He also stated that it is *ultra vires* for the Committee to require double glazing of a third party's house. Further, he stated that Section 16 of the Act provides sufficient protection against unreasonable noise.

With regard to recommended conditions he stated that the Edward Street upgrades are not necessary and that it is overkill and unrealistic to restrict any after-hours access to the building. He agreed, however, with a condition prohibiting the letting of the building.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Will the noise emissions from the vehicles using the parking area and the operation of the relatively large childcare facilities cause a more than significant adverse effect?
- b) Will traffic density and safety be significantly compromised, and what level of road improvements are appropriate as a result of this application? This relates, in particular, to:
 - (i) the provision of signs and markings on Edward Street;
 - (ii) the width of the proposed vehicle crossing;
 - (iii) the suitability of having up to 200 vehicle movements per day over the proposed vehicle crossing; and/or

- (iv) the increase in traffic on Edward and William Streets.
- c) Will the parking area provided be suitable with respect to the number of parks provided and the identification of some as disabled car parks?
- d) Will the proposal result in a significant adverse effect on the residential character and amenity of the area? It was contended by some submitters that Edward Street, in particular, is characterised by older wooden buildings and “villas” and that the proposed development is out of place with the residential character.
- e) Will the large building with a building coverage in exceedence of that permitted by the PTRMP adversely affect the residential character and amenity of the area?

7. MAIN FINDINGS OF FACT

The Committee considers that the following are the main facts relating to this application:

- a) The Committee accepted the evidence presented by Dr Trevathan and Mr McFadden which was that, taking into account the noise mitigation measures proposed, the permitted noise levels set out in the PTRMP would not be exceeded beyond the boundaries of the Applicant’s property.
- b)
 - (i) The proposed development will contribute a significant increase in traffic to the Edward-William Street intersection and that it is therefore appropriate that “Give Way” markings, signs and no stopping lines at this intersection are provided at the Applicant’s cost and in addition to the Development Contribution required to be paid to the Council.
 - (ii) The appropriate width of the vehicle crossing is 6.6 metres. All parties agreed upon this at the hearing.
 - (iii) The Committee is satisfied that the development will not significantly adversely affect road safety to any users of Edward Street.
 - (iv) The Committee accepted the evidence presented by Mr Edwards that the increase in traffic caused by the development (approximately 100 visits or 200 vehicle movements per day) would not create more than minor effects on traffic density in either Edward or William Streets, particularly due to the relatively light levels of traffic currently experienced on these collector roads.
- c) Based on the amendments to the design of the parking area provided by the Applicant during the course of the hearing, the Committee is satisfied that the total number of parks provided is sufficient, that no loading area is required, that turning in and out of all parks will be practicable, and that only one disabled car park need be marked as such.

- d) After conducting a site visit the Committee is satisfied that the design and brick finish of the proposed building will not be out of keeping with the residential character of the immediate area. While there are a number of older villa style buildings in the area, there are also a wide range of other external finishes and designs which suggests that the proposed building will not look out of place.
- e) The Committee is satisfied that the site coverage area exceedance, due to the presence of the shade sails, will not cause residential amenity to be adversely affected. Fencing, vegetative screening and the provision of specimen trees will suitably mitigate any adverse effects of the large building.

8. RELEVANT STATUTORY PROVISIONS

8.1 Policy Statements and Plan Provisions

In considering this application, the Committee has had regard to the matters outlined in Section 104 and 104D of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

- c) Tasman Regional Policy Statement (TRPS);
- d) the Transitional Regional Plan (TRP); and
- e) the Proposed Tasman Resource Management Plan (PTRMP).

8.2 Part II Matters

In considering this application, the Committee has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act, as well as the overall purpose of the Act as presented in Section 5.

9. DECISION

Pursuant to Section 104B of the Act, the Committee **GRANTS** consent subject to conditions.

10. REASONS FOR THE DECISION

1. Section 104D of the Act sets out the two “gateway” tests for a non-complying activity. At least one of these gateways must be satisfied to allow the Committee to consider whether the consent should be granted or refused pursuant to Section 104B. The activities must either be consistent with the objectives and policies of the PTRMP or any adverse effects must be minor. In this case the Committee is satisfied that both of the gateway tests are satisfied and that the Committee can consider granting the application under Section 104B of the Act.
2. The Committee considers that the noise mitigation proposed by the Applicant, as well as the nature of the noise likely to be generated, will mean that the adverse effects of noise from the activity will be minor. The Committee is also reassured by the statement and commitment from Mr McFadden that the permitted noise levels as specified in Rule 17.1.2 of the PTRMP will not be exceeded.

The Committee is clear that it is the permitted standards in the PTRMP which form the basis of what any party can do in the Residential Zone. In other words, they form the permitted baseline for the noise that can be created. The fact that the Edward Street neighbourhood is currently very quiet (and possibly well below the stated noise limits) may, unfortunately, exaggerate any perceived increase in noise. The Committee notes that all parties purchasing property or living in – in this case – the residential zone should be aware of what can be done as of right.

3. The Committee does not believe that adverse effects on road safety, parking convenience or traffic volume will be more than minor. While the Committee found that the increase in traffic will be significant, it is from a low current volume. The increase will, therefore, not increase total traffic volume to the point where there are more than minor adverse effects.

However, as a consequence, the Committee considers that the increase in traffic is sufficient to warrant some minor upgrades of the Edward Street and William Street intersection at the Applicant's expense.

The Committee is also satisfied that the traffic management and parking on-site will not cause traffic spill-over on to the street in more than a very minor way.

Overall, with regard to traffic management, the Committee is satisfied that Objective 11.1.0 of the PTRMP and the relevant subsequent policies (Policies 11.1.1, 11.1.2, 11.1.2B, 11.1.3, 11.1.4 and 11.1.7) will not be compromised in this location.

4. The Committee considers this to be a suitable location for a community activity of this type as it is defined in the PTRMP. Also, it will not adversely affect the residential amenity and character due to the high level of vegetative screening and the specimen trees. Further, the Committee considers that none of the other minor breaches of the plan rules will singly or together contribute to a loss of residential amenity. Therefore, the Committee is satisfied that Policy 16.7.19K of the PTRMP, relating to community activities in the Residential Zone, is met, and that the other objectives and policies (Objectives 5.1.0, 5.2.0, 5.3A.0, 6.1A.0; and Policies 5.1.1, 5.2.1, 5.2.4, 5.2.8, 5.2.10, 5.3A.2 and 6.1A.1) are also met.
5. Overall, it is considered that the benefits and ideal location of this facility outweigh any adverse effects and that the proposal is consistent with the purpose and principles of the Act.

11. COMMENTARY ON CONDITIONS OF CONSENT

Condition 7 varies from the permitted noise levels in the Residential Zone as specified in the PTRMP. This discrepancy is due to an error in the figures in the PTRMP. The figures specified in Condition 7 are correct.

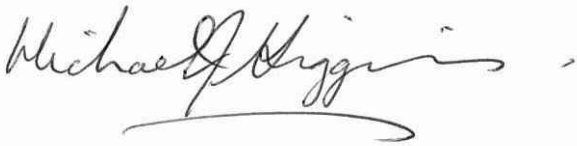
Condition 3 allows some flexibility in the use of the facility, especially for preparation and cleaning of the facility before and after childcare hours, respectively. However, the condition prevents the use of the facility for other community purposes which may potentially be noisy.

No condition is able to be placed on the consent requiring a glazing retrofit of the house owned by the Boutereys at 32 Edward Street as any such condition involving a third party is not supported by recognised good practice or case law and may frustrate the exercise of the consent. It is considered that negotiations between the Applicant and the Boutereys are the best way to address any ongoing concerns the Boutereys have. It is also considered that Section 16 of the Act provides suitable protection in this situation.

12. LAPSING OF CONSENT(S)

Pursuant to Section 125(1) of the Act, resource consents, by default, lapse in five years unless they are given effect to it before then.

Issued this 14th day of May 2008



Cr Michael Higgins
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM071190

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants resource consent to:

Ireland Developments Limited
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT: To establish and operate a privately owned Government licensed education and childcare facility.

LOCATION DETAILS:

Address of property:	34-36 Edward Street, Richmond
Legal description:	Lot 1 DP 11540 and Pt Sec 65 Waimea East District
Certificate of title:	NL11B/333, NL68/263
Valuation number:	1960089000, 1960089200

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

CONDITIONS

General

1. The establishment and operation of the early childcare education facility (“the facility”) shall, unless otherwise provided for in the conditions of the consent, be undertaken in accordance with the documentation submitted with the application.

2. The maximum number of children on site at any one time shall be 65, with no more than 25 children aged under two years and no more than 40 children aged between two and five years.
3. The facility shall open no earlier than 7.00 am and close no later than 6.00 pm Monday to Friday excluding public holidays. In addition, the facility shall not be let or be used outside these hours for any purpose that is not part of the day to day running of the facility.

Advice Note

The day to day running of the facility includes activities such as setting up for the day, clearing up at the end of the day, cleaning of the facility, after hours administration and evening staff meetings.

Building Setback

4. No part of the equipment storage building or pole structures supporting the shade sails shall be sited closer than 0.9 metres from either the Edward Street or William Street legal road boundaries.

Building Coverage

5. The overall coverage of all buildings constructed on the site, including the shade sails, shall not exceed 38.6 per cent of the total area of both allotments.

Advice Note:

Lot 1 DP 11540 and Pt Sec 65 Waimea East District (“Pt Sec 65”) comprising a total area of 1,919 square metres should be held together pursuant to Section 75 of the Building Act 2004.

Walls

6. The length of the south-west wall of the main building shall not exceed 15.18 metres and the north-western wall elevation shall not exceed 15.4 metres.

Noise

7. Noise generated by the facility, measured at or within the boundary of any site, other than the site from which the noise is generated, or at or with the notional boundary of a dwelling within any other zone, does not exceed:

	Day	Night
L ₁₀	55 dBA	40 dBA
L _{max}		70dBA

Note Day = 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays).

Where compliance monitoring is undertaken in respect of this condition, noise shall be measured and assessed in accordance with the provisions of NZS 6801:1991, Measurement of Sound and NZS 6802:1991, Assessment of Environmental Sound.

8. The Consent Holder shall provide a noise management plan that addresses the steps to be taken to mitigate noise emissions from the activity on the site to the Council's Coordinator Compliance Monitoring prior to any demolition or construction work occurring on-site. This plan shall include, but not be limited to, specific measures relating to the provision of noise attenuation fences as required by Condition 9 (and the timing of their construction), the provision of artificial grass for playground areas, measures to be taken to attenuate noise from plant associated with the building and measures to minimise noise during the demolition and construction phase of the development of the facility.
9. As shown on Plan A dated 19 November 2007 (attached), the Consent Holder shall construct:
 - a) A 2.0 metre high acoustic fence along the south-western and south-eastern boundaries of Pt Sec 65. The fence shall be constructed using a "board and batten" system with a minimum overlap of 25 millimetres and a sleeper rail connecting the base of the palings to the ground. The fence shall be constructed so that it is continuous and is without any gaps or cracks. The fence shall have a surface mass of at least 8.0 kilograms per square metre.
 - b) A 1.8 metre high acoustic fence along the north-eastern boundary of Pt Sec 65 and the south-eastern boundary of Lot 1 DP 11540. The acoustic fence shall be constructed out of "Hebel".
 - c) A 1.8 metre high residential fence along the remaining external boundaries. Allowance for height reduction at the access to the property (western corner) shall be provided as shown on Plan A.

Advice Note

It is understood that the Consent Holder also intends to extend the short length of acoustic fence where it abuts 41A William Street along to the owner's woodshed to provide visual continuity.

Access, Parking and Road Marking

10. A minimum of 14 car parks shall be provided for the facility and the car parks shall be laid out in accordance with those shown on Plan A dated 19 November 2007 (attached).

Advice Note

This consent makes no requirement for six of the carparks to be labelled "staff only". Any such marking shall be at the discretion of the Consent Holder. Also, Plan A only requires that one car park be marked as a disabled car park.

11. The car parks, manoeuvring areas and access shall be formed to a permanent, all-weather asphaltic concrete (hot mix) or concrete surface and clearly marked on the ground prior to the day care facility activities commencing on site.
12. The parking area so that all stormwater running off the impermeable surface flows to a specially designed and constructed rain-garden which will allow the water to infiltrate the substrate and return to the groundwater aquifer. It is also recommended that the roof runoff water from the facility is captured and stored for use on-site and

any overflow is also directed to the rain-garden or an alternative underground soakage system.

13. A new access crossing shall be formed and the existing accesses shall be closed off prior to the facility activities commencing. The new access shall have a maximum width of 6.6 metres measured at the legal road boundary and shall be located at the location shown on Plan A attached to this consent. The Consent Holder shall reinstate the footpaths adjacent to both Edward and William Streets as part of the works. All costs and works shall be met by the Consent Holder and completed prior to the facility commencing operation on the site.

Advice Note:

The Consent Holder will also need to apply to the Council's Engineering Department for a Vehicle Access Crossing Permit for the above works to commence.

14. The Consent Holder shall arrange for the following upgrading of road markings on Edward Street to be undertaken. The upgrades are also shown on Plan B dated 21 April 2008 (attached). The facility shall not commence operation until these items have been completed:
 - a) Painted "Give Way" markings and associated signage to be installed on the Edward Street leg of the intersection; and
 - b) "No Stopping" lines on both sides of the road to be placed around the curved section of the Edward Street and William Street intersection.

All costs and works shall be met by the Consent Holder and completed prior to the facility commencing operation on the site.

Road Signage and Corner Snipe

15. Two "children" warning signs shall be erected on Edward Street, one on either side of the facility, prior to the facility activity commencing.

Advice Note:

The Consent Holder will need to consult and get additional approvals from the Council's Engineering Department in relation to the process of erecting the road signage.

16. The proposed fencing and associated planting at the corner of William and Edward Streets shall be set back to form a corner snipe measured from the apex for 2.0 metres in each direction. The Consent Holder shall provide planting within the triangle created by the corner snipe that shall not exceed 0.5 metres in height at maturity, so that visibility can be maintained. The location of the corner snipe is shown on Plan A dated 19 November 2007 (attached).

Advice Note:

Planting within the triangle is to be included in the landscape plan required by Condition 20 below.

Servicing

17. All redundant water, wastewater and stormwater connections shall be sealed off at the main and the existing connection upgraded or replaced with new connections.
18. Power and telephone shall be connected to the facility via an underground service.
19. All conditions numbered 13 to 17 inclusive shall comply with Tasman District Council Engineering Standards and Policies 2008.

Landscaping

20. The Consent Holder shall submit a landscape planting plan and maintenance schedule for approval by the Council's Coordinator Compliance Monitoring. Subsequent implementation shall be in accordance with the planting details described in the approved plan. The landscape planting shall be maintained and any plants that die shall be replaced during each planting season.
21. Amenity planting 0.9 metres wide shall be provided along the Edward Street and William Street frontages as indicated on the Plan A attached to this consent. Planting shall consist of species "Pittosporum Mountain Green" that at maturity are no less than 2.0 metres in height and spaced no more than 1.5 metres apart.
22. There shall be no planting along the Edward Street road boundary over 0.5 metres in height within 14.4 metres from the western corner of the property long the north-western boundary. The purpose of this planting restriction is to retain visibility around the vehicle entrance to the site.
23. All planting shall be implemented by 1 May 2009 and shall be maintained on an ongoing basis.

Signage

24. The free-standing double-sided sign shall not exceed 1.62 square metres in area and the sign mounted on the gable end of the building shall not exceed 1.0 square metre in area.
25. The lettering height on both signs referred to in Condition 24 shall not be less than 100 millimetres.

Gate

26. The Consent Holder shall install a gate at the entrance to the car park adjacent to Edward Street that shall be secured at all times when the facility is closed.

Financial Contributions

27. The Consent Holder shall, no later than the time of uplifting the building consent for the building, pay a financial contribution to the Council. The amount of the financial contribution shall be assessed as a percentage of the value of the building consent component in accordance with the following table:

Financial Contribution – Building	
Component	Contribution
Building Consent (\$0 to \$50,000 value)	0%
Building Consent (\$50,001 to \$200,000 value)	0.5%
Building Consent (above \$200,001 value)	0.25%
Notes: <ol style="list-style-type: none"> 1. The financial contribution is GST inclusive. 2. The building consent value is GST exclusive. 3. The contribution due on a building should be identified separately from other contributions set for any resource consent for an activity that includes buildings. 4. The financial contribution shall be determined by taking the total estimated value of the work required for a building consent and applying each component identified in the table to that value and the contribution is the sum of the components. 	

Advice Note

The Consent Holder is liable to pay a development contribution in accordance with the Development Contributions Policy found in the Long Term Council Community Plan (LTCCP). The amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid.

Council will not issue a Code Compliance Certificate until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

Review

28. Pursuant to Section 128 of the Act, the Council may review any conditions of the consent within the month of May each year for any of the following purposes:
- a) to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) to deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and are such that it is necessary to apply more appropriate conditions; or
 - c) to assess the appropriateness of imposed compliance standards, monitoring regimes and monitoring frequencies and to alter these accordingly; or
 - (d) to review the noise limits specified in Condition 7 of this consent should these be deemed to be inappropriate; or
 - e) to review the appropriateness of the access and parking requirements specified in Conditions 10 to 13 inclusive of this consent.

ADVICE NOTES

1. The Consent Holder shall meet the requirements of the Council with respect to all Building Bylaws, Regulations and Acts.
2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 1. comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
 2. be allowed by the Resource Management Act; or
 3. be authorised by a separate resource consent.
3. Access by the Council officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
4. Monitoring of this resource consent may be required under Section 35 and 36 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover the additional amount from the Consent Holder. Monitoring costs are able to be minimised by consistently complying with the resource consent conditions.
5. Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (e.g., shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Historic Places Act 1993 to cease the works immediately until, or unless, authority is obtained from the New Zealand Historic Places Trust under Section 14 of the Historic Places Act 1993.

Issued this 14th day of May 2008

A handwritten signature in black ink, appearing to read "Michael Higgins", with a long horizontal flourish underneath.

Cr Michael Higgins
Chair of Hearings Committee

Plan A
RM071190 – Ireland Developments Ltd

RESOURCE CONSENT PLANS
Plan A - RM071190

LEGAL DESCRIPTION

LOT 1 DP	11540	1003 M ²
LOT 0 DP	2080	916 M ²

LOCAL AUTHORITY TASMAN DISTRICT COUNCIL

SITE

SITE AREA	=	1919 M ²
ALLOWABLE COVER:	33%	= 633 M ²

BUILDINGS

BUILDING AREA	=	521 M ²
VERANDA/ENTRY AREA	=	87.8 M ²
EQUIP. STORAGE AREA	=	19.5 M ²
TOTAL COVERED AREA	=	628.3 M ²
PERCENTAGE COVER	=	32.7 %

PROPOSAL

NO. OF CHILDREN	=	65
NO. OF ACTIVITY AREAS	=	4

STAFF

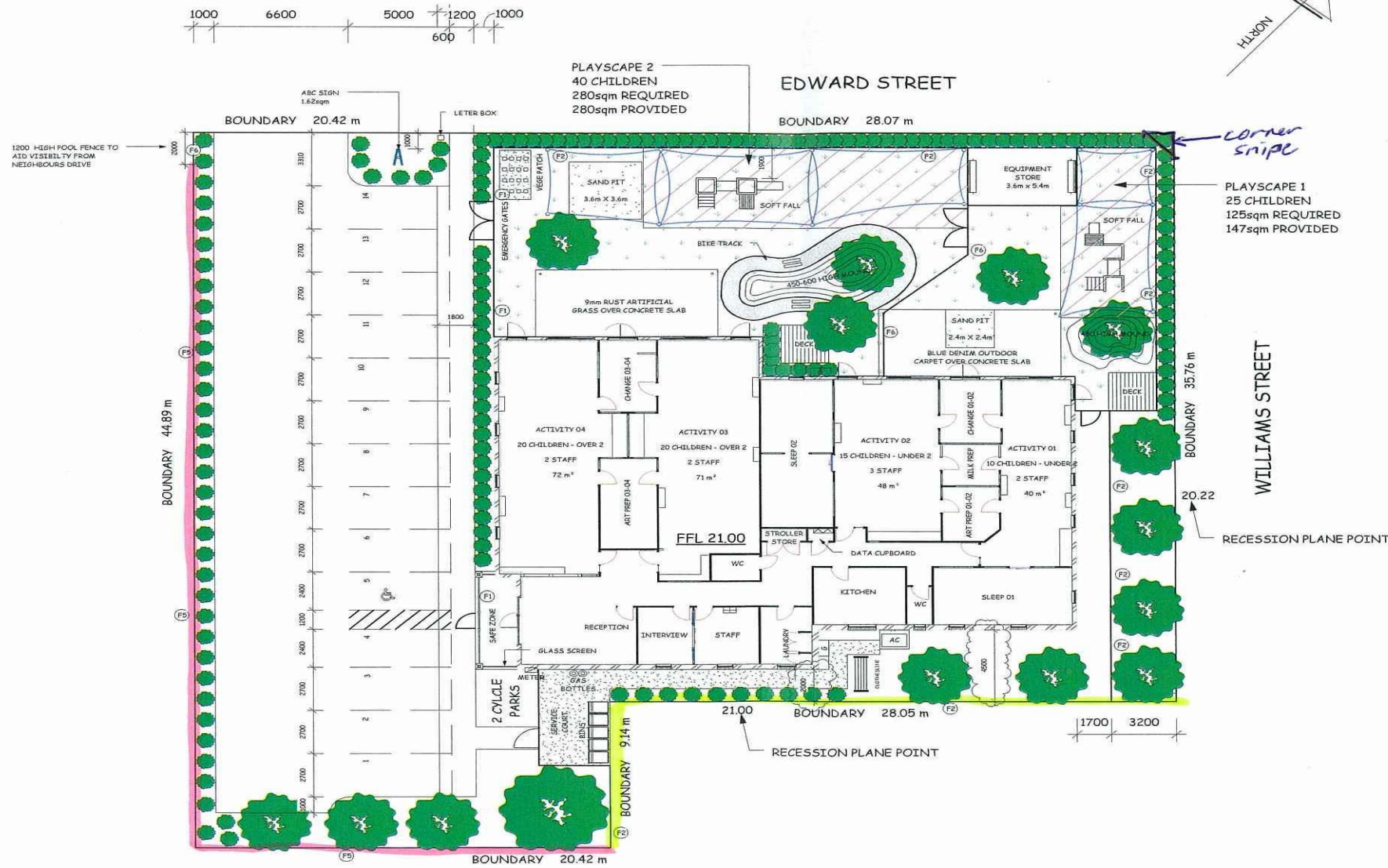
NO. OF STAFF	=	12
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CAR PARKING

CARPARKS REQUIRED	=	12
CARPARKS PROVIDED	=	14

PLAYSCAPE

REQUIRED - 5sqm/CHILD	=	325 M ²
PROVIDED	=	427 M ²



NOTE:
REFER TO SHEET E2 FOR FENCE & SIGN DETAILS & SHEET E3 & E4 FOR EQUIPMENT SHED DETAILS

PLANTING SCHEDULE PROVIDED BY LANDSCAPE DESIGNER

KEY:

- SHADE SAIL TOTAL SHADE SAIL AREA = 113sqm
- DRAMATIC PLAY / READING DECK
- SOFT FALL
- 900 WIDE CONCRETE CYCLE TRACK
- LOW GRASSES ONLY FOR VEHICLE KERB OVERHANG
- GREEN ARTIFICIAL GRASS
- ALL PATHWAYS AND ACCESS ROUTES TO BE BROOM FINISH CONCRETE TO PROVIDE NON SLIP SURFACE
- SHRUBS
- TREES

Acoustic fence 2.0m "Board and batten"

Acoustic fence 1.8m "Hebel"

PRELIMINARY

These drawings have been prepared on the understanding that the Building Contractor has a sound knowledge of the NZ Building Code & NZS 3604-1999. The Main Contractor, Sub Contractor or Authorized Agent of the Owner or Builder shall ensure that all works comply with these Codes in addition to the requirements of the Territorial Authority. Any work undertaken outside these requirements without the prior written approval of the Designer, Engineer or the Territorial Authority hereby indemnifies the Designer or the Designer's Agent against any claim or claims of the said work. The Main Contractor, Sub Contractor or Authorized Agent of the Owner or Builder shall also ensure that all manufacturers instructions & directions in relation to the installation of the products &/or systems listed on the plans shall be strictly adhered to & shall indemnify the Designer or the Designer's Agent against any claim or claims as a result of non-compliance with these directions & instructions.

REVISIONS	DATE

ABC CHILDCARE CENTRE - 34-36 EDWARD STREET NELSON

LANDSCAPE PLAN

ABC REF No: C-5952
SHEET No: 1
DATE: 19/11/2007
DRAWN: PC
SCALE: 1 : 200

DRAWINGS FOR IRELAND GROUP LTD BY
CRONIN & CHINULA
ARCHITECTURAL DESIGN LIMITED

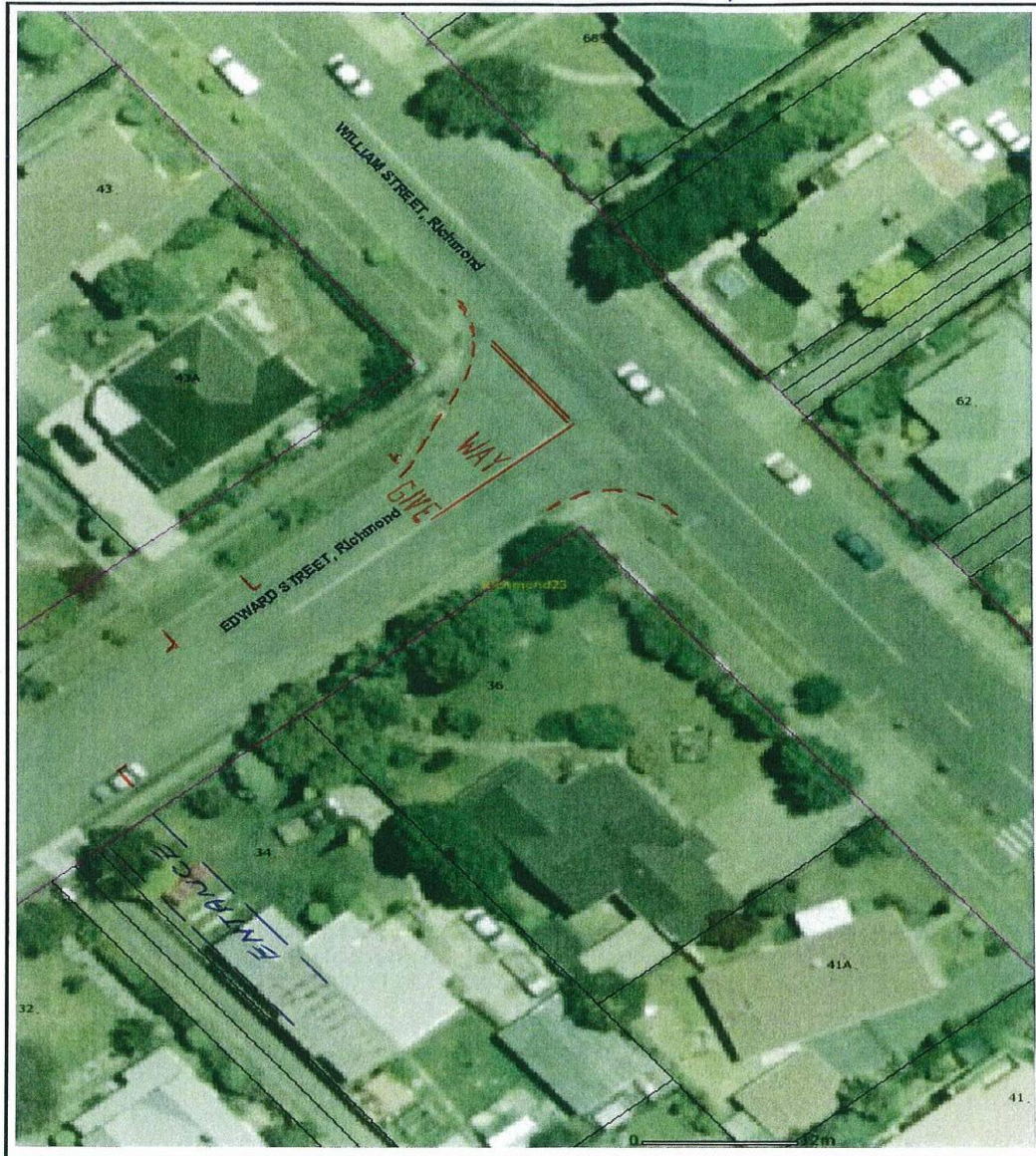
12 CONIFER PL CHRISTCHURCH PH (03) 332-2577
CELL PH 021-1809031

irelandgroup ltd
PH (03) 375 4022

FULL SCALE AT SIZE A2

DO NOT SCALE OFF THESE DRAWINGS. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE. ANY DISCREPANCIES IN THE DRAWINGS ARE TO BE REFERRED TO THE DESIGNER. THESE DRAWINGS ARE COPYRIGHT PROTECTED

Plan B - Ireland Developments Ltd.



ExploreTasmanMap

21/4/2008 DISCLAIMER:

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<http://tsrvims-9/servlet/com.esri.esrimap.Esrimap?ServiceName=ExploreTasman&Cli...> 21/04/2008

Date Confirmed:

Chair: