

[REDACTED]

Planning Department,
Dublin City Council,
Civic Offices,
Wood Quay,
Dublin 8.

[REDACTED]

Date: 31/03/2025
JN DF 23048

Dear Sir or Madam,

**RE: SUBMISSION IN RELATION TO THE RESIDENTIAL ZONED LAND TAX (RZLT)
MAP ON BEHALF OF [REDACTED] IN RELATION TO A SITE AT 61 AND
62 FITZWILLIAM LANE, DUBLIN 2**

DCC PARCEL REF: DCC000061943

INTRODUCTION

We, [REDACTED] have prepared this submission on behalf of our client, [REDACTED] in relation to the inclusion of lands at 61 and 62 Fitzwilliam Lane, Dublin 2 (Parcel Ref: DCC000061943) on the Residential Zoned Land Tax (RZLT) maps, which are in the ownership of our client. We request that the zoning of the lands are changed from Zone Z1 'Sustainable Residential Neighbourhood' to Z6 'Employment / Enterprise'; and, notwithstanding this request, are also removed from the RZLT Draft Map for 2026. The provision for rezoning is contained in Section 114(b) of the Finance Act 2024, which amends section 653I of the Taxes Consolidation Act 1997.

This submission is made in accordance with Section 653I (1)(a):

- “653I. (1) A person, who is the owner of such lands, may make a submission in writing—***
- (a) before 1 January 2023, to a local authority on a draft map published in accordance with section 653C, or***
 - (b) before 1 June 2023, to a local authority on a supplemental map published in accordance with section 653F, or, requesting a change to the zoning of the lands included in the draft map or supplemental map, as the case may be.”***
 - (c) ...***
 - (d) during the period beginning on 1 February 2025 and ending on 1 April 2025, to a local authority on a revised map for the year 2025 published in accordance with section 653M(1),***

Managing Director: P. Turley. Executive Directors: R. Kunz | S. Blair | B. Cregan | L. Wymer | K. Kerrigan
Senior Associate Directors: M. Nolan | B. Coughlan | I. Livingstone. Associate Director: T. Devlin
John Spain Associates Ltd. trading as John Spain Associates

Registered Address: 39 Fitzwilliam Place, Dublin 2 | Directors: A. Murphy | J. Brennan
CRO No. 396306 | VAT No. IE 6416306U

As set out in the recently published Section 28 guidelines 'Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity' (December 2024), Planning authorities must have regard to requests to amend zoning objectives relating to land included on the annual final map for 2025 received further to Section 653I of the Taxes Consolidation Act 1997 (as amended).

61/62 Fitzwilliam Lane forms part of a landholding which includes [REDACTED]. The portion of the site subject to this submission comprises a mews development. [REDACTED], having been converted from office to residential use under DCC Reg. Ref. 2830/14. The mews building forms part of the property at [REDACTED] having been converted to [REDACTED]. The office itself in the mews building has the benefit of planning permission DCC Reg Ref. 0343/91 and its use for same is now long established over 30+ years. **The Ground floor is presently let to [REDACTED]**

Fitzwilliam Lane has a large number of long established businesses operating successfully and appropriately (see Appendix 3 for photo survey).

On this basis it is incorrect to include the property in the list of properties to be charged RZLT simply because of a Z1 land-use zoning for the lane. When taken as a whole, over 50% of the property is already in residential use. The rear office is a permitted and long established use, it is presently occupied and commercial rates are payable. The intent of the RZLT act was clearly not intended to include properties of this nature. Existing residential properties are not subject to the tax, therefore the property should be removed entirely from the RZLT Map given the residential use in the overall property. It would be inappropriate to assess the rear of the property in isolation.

We can confirm that the [REDACTED] on the Z1 lands is currently [REDACTED] and is in commercial use, in which a trade or profession is being carried on, that is liable to commercial rates.

This submission is accompanied by the following documentation:

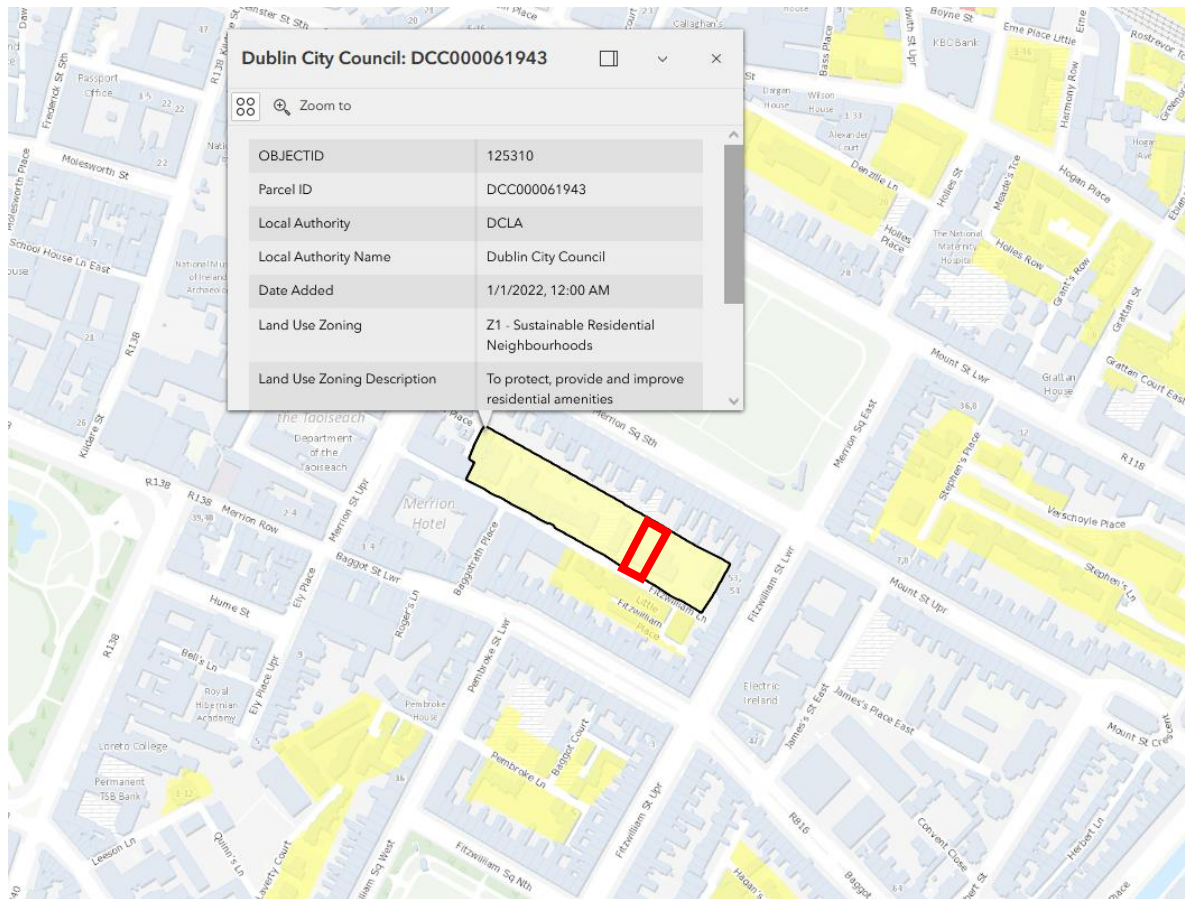
- Appendix 1: Site Location Map
- Appendix 2: Proof of Payment of DCC Rates
- Appendix 3: Other Commercial and non-residential uses on Fitzwilliam Lane

This submission sets out the planning and development context of the site, the considerations under the Taxes Consolidation Act 1997 that apply to the site, and requests that the site should be both removed from the RZLT map and rezoned to Z6 'Employment / Enterprise' by DCC.

SITE LOCATION AND CONTEXT

This submission relates to 61 and 62 Fitzwilliam Lane identified on DCC zoning map E. The mews building [REDACTED] which was converted to [REDACTED].

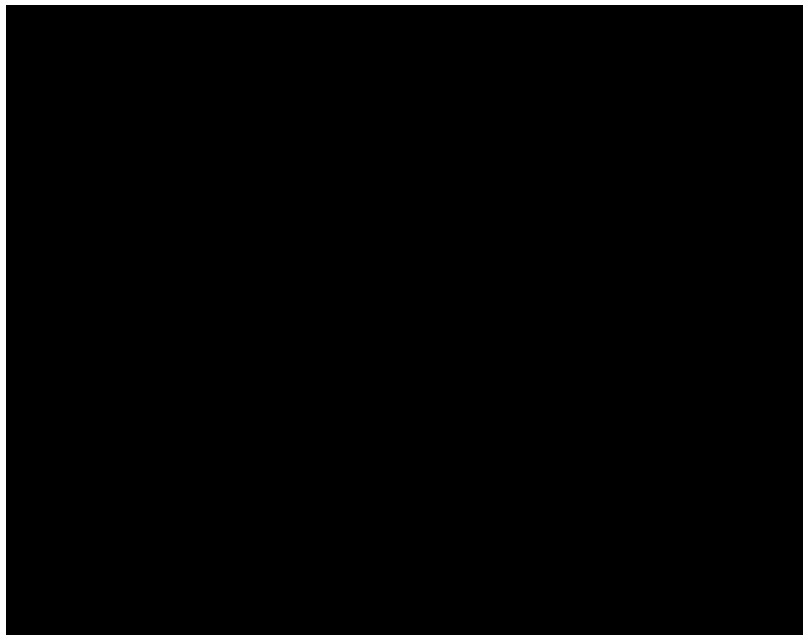
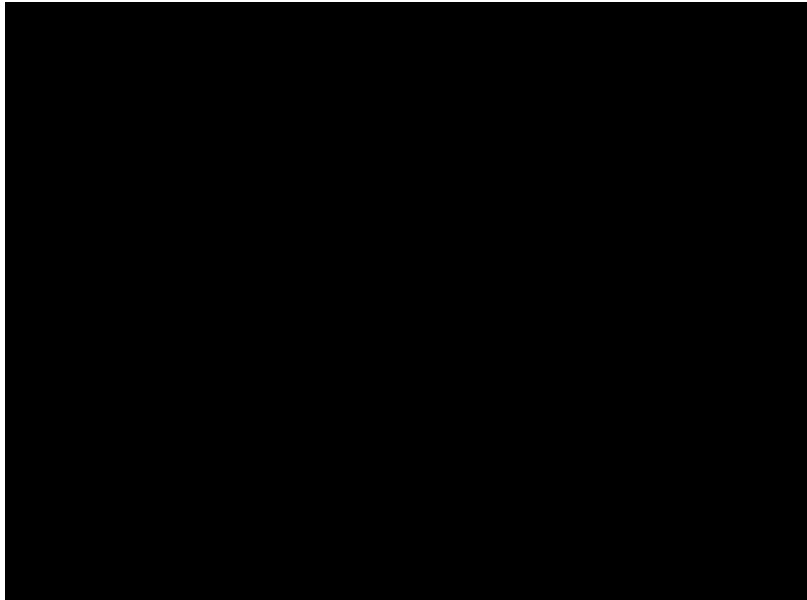
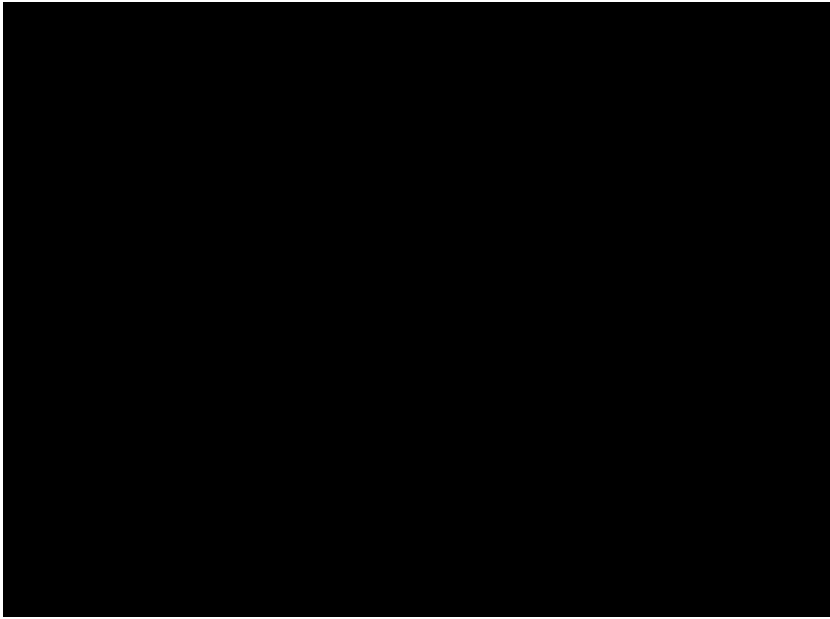
Fitzwilliam Lane itself is occupied by commercial uses including small businesses such as offices, a pub, medical practice, and embassy administration. Finnegan Menton have carried out a photo survey of Fitzwilliam Lane, noting the number of commercial and non-residential uses on Fitzwilliam Lane. (Appendix 3)



Extract RZLT Map with location of subject site highlighted in red (Source: Department of Housing, Local Government and Heritage).

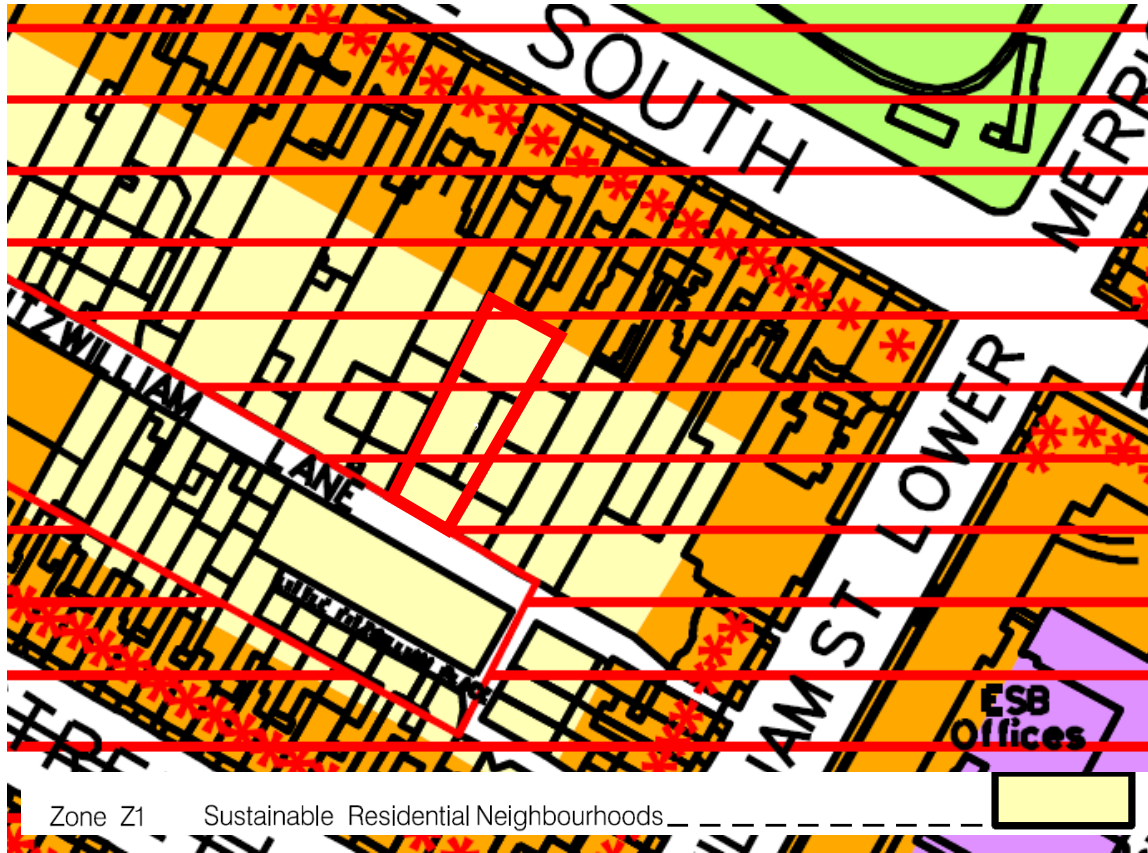
The existing building on the site [REDACTED] development that has been in commercial use for 30 years and is currently [REDACTED] as shown in the following photographs:





The subject site is zoned Z1 'Sustainable Residential Neighbourhoods', the stated objective for which is "To protect, provide and improve residential amenities."

Office is an 'Open for Consideration' land use. No. 62 Merrion Square has a Z8 zoning objective.



Extract DCC Zoning Map E with location of lands within landholding on RZLT map in green and additional land within the overall property in blue.

Whilst the lands have a Z1 'Sustainable Residential Neighbourhoods' zoning objective, the office use of the existing premises is long established, authorised and is occupied by commercial businesses subject to rates.

The building has been in occupation as offices for c. 30 years and the office use has continued since our client acquired the building in 2013. Office use is the permitted use of ground and first floor under DCC Reg. Ref. 0343/91. The ground floor is presently let to

RZLT REZONING

The Finance Act 2024 provides an opportunity for a rezoning request to be submitted to the relevant Local Authority in respect of land which appears on the revised map for 2025 published on 31 January 2025. The guidelines issued by the Department Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity Guidelines for Planning Authorities (December 2024) introduce policies and objectives to this effect.

Policy and Objective 1(a) states:

“Subject to Policy and Objective 1(b), it is a policy and objective of these Guidelines, that where an owner of land which is:-

- subject to an existing bona fide economic activity other than to serve the purposes of residential development;*
- zoned for the purposes of residential development in a development plan or local area plan;*

submits a request to a local authority under Section 653I of the Taxes Consolidation Act 1997 (as amended) seeking an alternative zoning of their land, stating that they wish the economic activity to continue for the duration of the life of the development plan, such a request should be facilitated by the planning authority under the provisions of Section 13 of the Planning and Development Act 2000 (as amended).”

Planning authorities must have regard to in their consideration of requests to amend zoning objectives relating to land included on the annual final map for 2025, received further to Section 653I of the Taxes Consolidation Act 1997 (as amended).

The Guidelines state that notwithstanding the provisions of the Development Plans Guidelines for Planning Authorities, (Section 6), it is recognised that there may be specific circumstances where lands currently subject to ‘an existing bona fide economic activity’ are zoned for the purposes of providing residential development, however the owner of the land in question does not wish to develop the land for that purpose. As discussed above, the premises is presently let to active businesses.

The economic use has benefitted from investment, provides employment in the local area and is part of a balanced approach to ensuring a variety of uses in support of sustainable communities. It is intended that this economic use will continue for at least the duration of the Development Plan, and that the front building [REDACTED] will continue in residential use.

Therefore having regard to the existing bone fide use on site we request the zoning is changed to Z6 ‘enterprise and employment’ to reflect this use.

BASIS FOR REMOVAL FROM RZLT MAP

Notwithstanding the above request to rezone the lands, we submit that the site should be nonetheless removed from the RZLT map, this submission is made in accordance with Section 653D:

“653D (1) person may, not later than 1 January 2023, make a submission in writing, on a draft map published in accordance with section 653C(2), regarding—

- (a) the inclusion in, or exclusion from, the final map of a site, or*
 - (b) the date on which a site first satisfied the relevant criteria*
- by sending the submission, together with the person’s name and address, to the local authority concerned.”*

As set out below, this submission seeks that the lands in our client’s ownership are removed from the RZLT map, having regard to the specific exclusion provided under Section 653B(iii)(I) which is addressed in the following section of this submission.

In accordance with Section 653D (3), *“a map prepared by Ordnance Survey Ireland at a scale at which the site can be accurately identified”* is included with this submission (Appendix 1).

Section 653B sets out criteria for inclusion on the RZLT maps. The relevant provisions for the lands to be excluded from the map are addressed below, with specific provisions highlighted in bold:

“653B. In this Part, a reference to land which satisfies the relevant criteria is a reference to land that—

- (a) is included in a development plan, in accordance with section 10(2)(a) of the Act of 2000, or a local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned—*
 - (i) solely or primarily for residential use***
 - (ii) for a mixture of uses including residential use*
- (b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, and*
- (c) it is reasonable to consider is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains,*

but which is not land—

- (i) that is referred to in paragraph (a)(i) and, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is in use as premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provide services to residents of adjacent residential areas,***
- (ii) that is referred to in paragraph (a)(ii), unless it is reasonable to consider that the land is vacant or idle,...***

This submission seeks that lands in our client’s ownership are removed from the RZLT map as a trade or profession is being carried on, that is liable to commercial rates and the lands are not vacant or idle, having regard to the specific exclusion provided under Section 653B (c)(i) and c(ii) of the 1997 Act.

Section 653c(i), which relates to lands with a zoning objective primarily for residential use, this section states:

“that is referred to in paragraph (a)(i) and, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is in use as premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provide services to residents of adjacent residential areas,”

Existing residential properties are not subject to the RZLT. [REDACTED]

[REDACTED] The office itself has the benefit of planning permission DCC Reg Ref. 0343/91 and its use for same is now long established over 30+ years. On this basis it is incorrect to include the property in the list of properties to be charged RZLT simply because of a Z1 land-use zoning for rear of the property. When taken as a whole over 50% of the property is already in residential use.

Additionally, we note guidance provided in the ‘Residential Zoned Land Tax - Guidelines for Planning Authorities June 2022 in regard to ‘Operating Uses on Residential Zoned Lands’ states:

“With reference to land that is included in a development plan or local area plan and is zoned solely or primarily for residential use such as ‘Residential’ or ‘New Residential’, existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates. Local Authorities should seek input from their Rates Offices in this regard.”

“For clarity, existing uses such as shops, cafes and similar commercial uses which would be utilised by a residential community on a day-to-day basis and support the sustainable development of the community are considered to be exempted from scope. Use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates.”

In order for existing uses, to be excluded from the final map on lands zoned primarily for residential uses, the following four criteria (underlined below) must be satisfied. These criteria are addressed in turn.

1. Must provide a service to the existing or future residential community - The office use provides services to the community through its continued operation and the provision of employment in the area. The operation of an office provides a complementary use to the residential zoning objective and supports the sustainable development of the community by providing a mix of uses. It should be noted that [REDACTED] (it is subject to the Z8 zoning objective). Additionally, we note that it is clearly not the intent or the purpose of RZLT to capture existing long established business premises in a city centre location within its scope.
2. Must be an authorised use – Office use is the permitted use of ground and first floor under DCC Reg. Ref. 0343/91. In planning terms, at no point was the predominant permitted use of the building and site as an office changed or abandoned. The existing and permitted use has been in place for c. 30 years.
3. Must be considered a premises in use by a trade or profession – The office is in use by professionals carrying out their business operations.

4. Must be liable to commercial rates - The building and site is liable to commercial rates . Please see Appendix 2 for proof of payment of 1st Moiety of Rates to DCC regarding 61/62 Fitzwilliam Lane which was paid by [REDACTED] on behalf of [REDACTED] in March 2023.

In relation to 653c(ii) which states '*unless it is reasonable to consider that the land is vacant or idle*'.

The term '*vacant or idle land*' is defined in section 653A(1) of the 1997 Act as:

“vacant or idle land” means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land”

As set out above office use is the permitted use of ground and first floor under DCC Reg. Ref. 0343/91. In planning terms, at no point was the predominant permitted use of the building and site as an office changed or abandoned. The existing and permitted use has been in place for c. 30 years therefore is clearly not idle or vacant land and is currently occupied by [REDACTED]

CONCLUSIONS

Having regard to the above, it is considered that the subject site within the ownership of our client does not warrant inclusion in the map, should not be subject to RZTL and as a consequence should be re-zoned. For the reasons and considerations set out above, it is respectfully requested that DCC rezone the subject site AND remove the site from the RZLT map. We submit that it is not the intention of the RZLT to capture sites which are already developed and occupied by existing, bona fide commercial activity in a city centre location such as the one located at 61 and 62 Fitzwilliam Lane.

The commercial news building forms part of the [REDACTED] which was converted to [REDACTED]. The office itself has the benefit of planning permission DCC Reg Ref. 0343/91 and its use for same is now long established for 30+ years. Given the existing and permitted offices on the premises subject of two leases to existing occupiers, the property is not available for development of a residential scheme.

On this basis it is incorrect to include the property in the list of properties to be charged RZLT simply because of a Z1 land-use zoning for the lane. When taken as a whole over 50% of the property is already in residential use. The rear office is a permitted and long established use, it is presently occupied and commercial rates are payable. The intent of the RZLT act was clearly not intended to include properties of this nature. A significant number of properties on the Lane are similarly in bona fide commercial uses.

We trust that DCC will take the content of this submission into account. In accordance with 653I, we request that as a submission is made under subsection (1)(d), DCC shall acknowledge receipt of this submission, in writing, not later than 30 April 2025.

Yours sincerely,

[REDACTED]

Appendix 1: Site Location Map

Dublin
Baile Átha
Cliath

Archbishop
Ryan Park

MERRION SQUARE SOUTH

Car Park

Car Park

FITZWILLIAM LANE

LITTLE FITZWILLIAM PLACE

FITZWILLIAM STREET LOWER

40 metres

OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:

The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: <http://www.osi.ie>; search 'Capture Resolution'



CENTRE COORDINATES:
ITM 716585,733422

PUBLISHED: 20/12/2022 **ORDER NO.:** 50309068_1

MAP SERIES: 1:1,000 **MAP SHEETS:** 3264-11

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LEGEND:
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search 'Large Scale Legend'

Appendix 2: Proof of payment of first Moiety rates by Finnegan Menton on behalf of Dromeenagh LLC



DROMEENAGH L L C
61-62 FITZWILLIAM LANE,
DUBLIN 2.

Rates Dept

Rates Dept

*** COPY RECEIPT ***

Transaction Date: 20/02/2025 11:55:59

Operator: PO386

Machine: PN520

Account Details

CAN	Reference	Payment of	Transaction Amt	VAT Amt	Rate
20157	A07031475012573	RA - Rates	€19,852.80	€0.00	0%
per bank 19.2.25 FINNEGAN MENTON LTD					

Payment Details

MOP	Payment Ref	Payment Amt
E99 - E99		€19,852.80
Please keep this copy for your records		Total Amt Paid: €19,852.80

VAT Number: 4773215 U

Dublin City Council

Appendix 3: Other Commercial and non-residential uses on Fitzwilliam Lane



Multi-storey car park



Gather and Gather offices



The French Embassy



McGrattans Bar



Fitzwilliam Medical Centre



IMG Planning Offices.



Skytek Offices.