

2. TULETT PARK - PROPOSED TEMPORARY EASEMENT

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| General Manager responsible: | General Manager, City Environment Group, DDI 941-8608 |
| Officer responsible: | Unit Manager, Asset & Network Planning |
| Authors: | Derek Roozen, Parks and Waterways Planner |

PURPOSE OF REPORT

1. To obtain approval from the Shirley/Papanui Community Board, under delegated authority from the Council, to the granting of an easement over part of Tulett Park pursuant to section 48(1)(a) of the Reserves Act 1977 (Act) for a temporary underground telecommunication cable, and section 48(1)(d) of the Act for a temporary underground electricity cable to service the adjacent Fletchers Earthquake Recovery Bishopdale Hub (Hub 13), this work being required to be completed urgently to ensure the Hub is up and running as planned.

EXECUTIVE SUMMARY

2. Fletcher Construction - Earthquake Recovery (Fletcher EQR) is the Project Management Company engaged by the Earthquake Commission (EQC) to project manage all residential repairs to earthquake damaged properties between \$10,000 and \$100,000 plus GST. Fletcher EQR operates out of Hub offices sited in the communities affected by the earthquakes, from where property repair work is coordinated. Further Hubs are required in areas where there is a greater density of claims, with new locations determined as more information is gathered regarding residential dwelling damage as a result of EQC's rapid assessment programme. A new Hub is being built on land owned by the Papanui Working Men's Club Inc which is located adjacent to Tulett Park in Casebrook. The Hub will be called the Bishopdale Hub and is being built behind the main Papanui Club building at 302 Sawyers Arms Road, between the bowling club and the carpark. Up to 40 staff will be working from here managing repairs to properties in the Shirley/Papanui North region. See **Attachment A** for a plan showing the location of the Hub.
3. Fletchers EQR have been granted all regulatory consents necessary to enable the temporary development to proceed, and building on the site has commenced. Some services will need to be connected to services located in Glasnevin Drive across Tulett Park, these being electricity and telecommunications. There is no viable option to connect these services to those existing on the Papanui Working Men's Club land. Stormwater from the site is proposed to be discharged into the Tulett Park Drain, which runs alongside the boundary between Tulett Park and the Papanui Working Men's Club land. Connections to water and wastewater will be made to existing services on the Papanui Working Men's Club land.
4. To enable these services to cross Tulett Park, a recreation reserve vested in the Christchurch City Council subject to the Reserves Act 1977, an easement is required to be put in place pursuant to Reserves Act requirements. The Shirley/Papanui Community Board has the powers of the Council delegated to it to grant an easement under the Reserves Act. Although Fletchers EQR has obtained the necessary consents under the Resource Management and Building Acts and earthquake Orders in Council for the Hub site itself, they did not realise the necessity of gaining elected member permission for the granting of an easement for the proposed services crossing Tulett Park, which is now being urgently sought, Council officers not having the delegated authority from the Council to do so. This approval is necessary to ensure the earthquake repair in this part of the city is not unnecessarily held up. Any delays will be detrimental to remedial works commencing in this area.

5. Tulett Park is a sports park, of eight hectares in area, with the original main body of the Park at the Park's northern end accommodating a six hectare playing field area for cricket and football. The rest of the Park has been developed more recently, part of which is an amenity accessway extending from Claridges Road nearly all the way to Sawyers Arms Road. The part of this accessway strip adjoining Glasnevin Drive is raised above the road and slopes down to it. The Tulett Park Drain defines the western margin of this accessway strip along which a sealed pathway meanders. The proposed services easement crosses the southern half of this strip. **Attachment B** is a plan on which is shown an approximate alignment of the proposed easement in relation to Tulett Park and the Bishopdale Hub. **Attachment C** has photos of the site.
6. Tulett Park comprises six parcels of land. The proposed easement crosses Lot 141 DP 78380, contained within Certificate of Title 45A/131 and being of 6,038 square metres in area.
7. There is no operative management plan for Tulett Park.
8. The proposed services to be laid in the easement are electrical and telecommunication services, which will be placed in conduits 600 millimetres below the ground. Where the conduits cross the Tulett Park Drain they will be either thrust and drilled beneath the drain to a depth of at least 500 millimetres from the drain invert to the top of the conduit; or alternatively the trench excavated across the drain, the conduits laid down, a concrete cap placed on top and the drain reinstated; or by whatever other means or technique approved by the Council's Senior Contract Manager Land Drainage.
9. Officers consider the proposed temporary installation of the services in Tulett Park will have a negligible impact upon the Park environment and its use, this impact being greatest during construction. The integrity of Tulett Park and the Tulett Park Drain will be protected with the services run underground and, in the case of the Tulett Park Drain, under the drain and constructed strictly according to requirements as specified by the Council's Senior Contract Manager Land Drainage; all parts of the Park affected by the construction being reinstated to the condition prior to the development to the satisfaction of the Transport and Greenspace Manager or his nominee. The easement will only be required temporarily during the period that the Hub is located upon the site. The Council reserves the right to require Fletcher EQR to remove all the services upon the closing of the Hub and to fully reinstate the Park at Fletcher EQR's cost.

FINANCIAL IMPLICATIONS

10. The cost of the proposed development, including the reinstatement of the Park surface, drain, pathway, amenities and facilities, is to be met fully by Fletcher EQR.

Do the Recommendations of this Report Align with 2009-19 LTP budgets?

11. No.

LEGAL CONSIDERATIONS

12. Ordinarily, at this time of recovery after the 22 February 2011 earthquake, the Council would approve the application, pursuant to clause 5(c) of the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011, which states that the temporary use of, or erection of a structure on, a reserve that is administered by the Council under the Reserves Act 1977 for any purpose is allowed if the use or structure is necessary in the opinion of the Council or the chief executive of the Council to respond in a timely manner to any circumstances arising from the earthquake. In this case, however, the primary temporary occupation is to service the Hub on adjacent land, the consents for which have been obtained, and the Hub development on the adjacent site being progressed. The most rapid way of getting Council permission for the services to be laid under the Park is to use the section 48 approval method under the Reserves Act, the authority to grant the easement or not having been delegated to the Shirley/Papanui Community Board ('business as usual'). It is the view of Council officers that, due to the proposed development on Tulett Park being underground, being of a temporary nature, in support of an already

approved activity necessary to assist the earthquake recovery in this part of Christchurch, having no lasting or large impact on the Park and the public's access to and enjoyment of it, combined with the urgency to provide these services to the new Hub, that this application should be approved pursuant to the 'business as usual' provisions.

13. Approval of the proposed placement of underground services through Tulett Park would need to be formalised by way of an easement under section 48 of the Reserves Act. This easement will be granted, with the consent of the Minister of Conservation and on such conditions as the Minister thinks fit, under sections 48(1)(a) (for any public purpose) and 48(1)(d) (which covers electrical installations or works as defined in section 2 of the Electricity Act 1992) of the Act, for the underground services through Tulett Park. The area of the easement will be calculated in accordance with the Council's Development Standards, the easement width being twice the depth of the utility being laid plus the diameter of the utility.
14. Usually, a one-off compensation payment is required to be made to the Council for the privilege of placing the encumbrance (easement) on the Council's title, the amount being decided by independent valuation as per Council policy made on 27 September 2001. In this case, because the easement is temporary in nature and required to service a Hub for co-ordinating earthquake repair recovery work, officers are recommending that no one-off compensation payment is made.
15. Before any work commences upon Tulett Park it will be necessary for Fletchers EQR or its principal contractor to contact the Greenspace Northern Area Parks Contract Manager and the Senior Contract Manager Land Drainage to arrange an onsite meeting to discuss the Council's requirements for working on Tulett Park and on the Tulett Park Drain, respectively, some of which are set out below:
 - The contractor undertaking the work is to have a minimum of \$2,000,000 public liability insurance; a copy of the policy is to be brought to the meeting.
 - The site works within the Park must be fenced off at all times to prevent public access to the site, because the work is being undertaken in a public reserve.
 - No materials or equipment are to be stored under the drip line of any trees in the Park.
 - There is to be a temporary site access licence signed by the Greenspace Northern Area Parks Contract Manager, who is acting under the delegated authority of the Council, and the contractors undertaking the work to install the temporary services.
 - A bond will be required to be paid to the Christchurch City Council via the Greenspace Northern Area Parks Contract Manager before work commences upon the site. The bond, less any expenses incurred by the Council to restore the Park to its former condition, will be refunded to the contractor upon completion of the work, after the site has been inspected by the Greenspace Northern Area Parks Contract Manager.
 - There may be other on-site requirements that the Greenspace Northern Area Parks Contract Manager or Senior Contract Manager Land Drainage wish to include in the licence.

Have you considered the legal implications of the issue under consideration?

16. Yes, see above.

ALIGNMENT WITH LTP AND ACTIVITY MANAGEMENT PLANS

17. Yes – earthquake recovery.

Do the recommendations of this report support a level of service or project in the 2009-19 LTP?

18. As above.

ALIGNMENT WITH STRATEGIES

19. Not applicable.

Do the recommendations align with the Council's strategies?

20. Not applicable.

CONSULTATION FULFILMENT

21. Officers advise that public advertising under section 48 of the Reserves Act 1977 is not required in this case because the Park will not be materially altered or permanently damaged by the proposed temporary development, nor will the ability of the public to access the Park be permanently affected, and therefore the public advertising exemptions as set out in section 48(3) of the Act are satisfied.
22. There are no parties holding occupation rights for this part of Tulett Park and therefore no parties will be affected or need to be notified.

STAFF RECOMMENDATION

It is recommended that the Shirley/Papanui Community Board approve:

The granting to Fletcher Construction - Earthquake Recovery of an easement under sections 48(1)(a) and (d) of the Reserves Act 1977 over approximately 80 square metres of Tulett Park, a recreation reserve made up of Lot 141 on Deposited Plan 78380 contained within Certificate of Title 45A/131 being of 6,038 square metres in area, as shown on the plan in **Attachment B**, subject to the following conditions:

- (i) A survey plan on which the easement is shown is prepared and registered on the title, with a copy of the plan sent to the Council for lodging with the Department of Conservation, this being required as part of the process of obtaining the consent of the Minister of Conservation to the easement being granted.
- (ii) Before any work commences upon the site contact is to be made with the Greenspace Northern Area Parks Contract Manager and Senior Contract Manager Land Drainage to arrange an onsite meeting to discuss the Council's requirements for working on Tulett Park and Tulett Park Drain.
- (iii) That no one-off compensation payment is required to be made by Fletcher Construction - Earthquake Recovery (Council Policy 27 September 2001) because of the temporary nature of the easement and that it is being required for earthquake recovery work.