

## 8. FLETCHER'S HUB EXTENSION IDRIS RESERVE



<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8608
<b>Officer responsible:</b>	Unit Manager Asset and Network Planning
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### PURPOSE OF REPORT

1. To enable the Fendalton/Waimairi Community Board to consider an application made under the Canterbury Earthquake (Reserves Legislation) Order No 2 2011 ("the Order") for an extension of the Fletcher's Earthquake Repair Hub at Idris Reserve and, after considering the application, to make a recommendation to Council.

### EXECUTIVE SUMMARY

2. The Council, through the powers vested to the Chief Executive Officer, granted Fletcher's a warrant of occupation pursuant to the Canterbury Earthquake (Reserves Legislation) Order 2011 to occupy the Fendalton Scouts building in Idris Reserve, on Idris Road, which is leased to Scouting New Zealand. The warrant is shown at **Attachment 1**. This is for the purpose of an administration office from which to administer the undertaking of repairs to earthquake damaged private dwellings in the adjacent residential area. This repair work is being undertaken after full assessments have been completed by the Earthquake Commission (EQC).
3. The warrant of occupation was signed on 7 June 2011 and initially due to expire with the expiry of the Order on 31 March 2012. The Order has now been extended to expire in 2016. The Warrant provides for Fletcher's occupation of the reserve and Scouting building until such time as the Council decides earthquake related repair work in the area covered by this hub is completed to the extent the hub is no longer required, or until 31 March 2014, whichever is the sooner.
4. Currently there is no scout group operating from this hall, although the building has been regularly used by Scouts for events and activities. Scouting New Zealand has been able to relocate any activities to another nearby hall and is happy with the arrangement to lease its building to Fletcher's on a temporary basis.
5. At present there are 16 staff working out of this building. At the time the initial application was made, discussions were held with Council staff about the need in the future to increase the size of the office to accommodate more staff. This being required to administer the increase in the number of repairs, resulting from a greater number of assessments of earthquake damage to properties being completed by EQC.
6. The Council has received an application to extend the site from the original application and site one portacom adjacent to the present building, as shown in the plans included in the application (refer **Attachment 2**). This portacom measuring 6 x 3 metres is required to accommodate the moving of the customer meeting room from the existing building to enable more staff to be accommodated within the scouts building. This portacom will be located between the scouts building and the road.
7. The site of this portacom was previously occupied by a brick clad MED substation. This substation was badly damaged in the December and February earthquakes and has since been removed. There is another smaller electricity kiosk on the site adjacent to the road (refer **Attachment 3**).
8. The plans of the proposed temporary extension to the hub will be attached to the current "Warrant of Occupation" (refer **Attachment 1**), the warrant itself being altered to accommodate the temporary portacom being placed on the site.
9. The reserve is a Local Purpose Community Buildings Reserve vested in the Council under the Reserves Act 1977. The legal description is Lot 2 DP 83543 being of 1321 square metres in area being held in CT CB48A/596.
10. Staff believe the siting of a 6 x 3 metre portacom will have little impact on the park itself, next to none in the long term. Any damage to the grassed or sealed areas of the park will be made good by Fletcher's following the cessation of Fletcher's Warrant of Occupation agreement, including the gravel car park which can be restored to its original condition.

## **FINANCIAL IMPLICATIONS**

11. Scouting New Zealand owns the building which is being leased to Fletcher's and is collecting \$150 per week rental.
12. The Council will be charging a bare ground rental to Fletcher's Earthquake Recovery for their occupation of the park land on which their additional temporary building is to be placed, this being delegated to the Corporate Support Manager and staff to manage.

### **Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

13. There are no budgetary implications associated with the proposed hub extension.

## **LEGAL CONSIDERATIONS**

14. In response to the circumstances arising from the 22 February 2011 earthquake, the Government enacted the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011, (the Order), pursuant to the Canterbury Earthquake Response and Recovery Act 2010 to enable reserves to be used for certain purposes which would not normally be permissible under the Reserves Act 1977, or other similar legislation, and thereby to avoid unnecessary delays in responding to circumstances arising from the earthquake.
15. The Order enables some temporary solutions to issues caused by the earthquakes to be accommodated on park and reserve land. The Order expires on 18 April 2016, this being the expiry date of the empowering legislation under which the Order has been made. The Order does not allow the use of parks and reserves for earthquake related purposes after its expiry date, unless the use would normally comply with uses allowed under the relevant legislation that the park and reserve is held under, and a permanent occupation right in accordance with that legislation has been granted, before the expiry of the Order.
16. The Council has the power under the Order to acquire the use of the building for earthquake repair purposes subject to complying with section 7 (Rights and Obligations of Third Parties Subject to Council Powers) of the Order. Clause 5(b)(ix) of the Order provides that the Council, or any person authorised in writing by the Council, or the Council's Chief Executive, may use a reserve or erect a structure on a reserve for works site offices.
17. The Order also provides that when the Council authorises any such use of a reserve that it does not need to comply with any relevant management plan or the usual Reserves Act processes. However, under the warrant, Council has required Fletcher's to take all reasonable steps to protect the integrity of the reserve and to ensure that the reserve is reinstated at the end of the use as closely as practicable to its prior condition as required by section 6(2) (a) and (b) of the Order. Refer to warrant attached in **Attachment 1**.
18. In addition to Council authorisation under the Order, Fletcher's will also need to obtain all necessary resource and building consents required (if any) under the Building Act 2004 and the Resource Management Act 1991 or any Orders applicable to these acts made under the Canterbury Earthquake Response and Recovery Act 2010 for the proposed use. Approval under the Reserves Legislation Order does not constitute consent under those Acts.
19. The reason approval for the site offices is being sort under the Order is because occupations of park and reserve land for the purpose of temporary site offices for administration of repairs on other land is not allowed under the Reserves Act 1977.

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

20. Yes, as above.

## **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

21. Yes – earthquake recovery.

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

22. As above.

**ALIGNMENT WITH STRATEGIES**

23. Not applicable.

**Do the recommendations align with the Council's strategies?**

24. Not applicable.

**CONSULTATION FULFILMENT**

25. Clause 6 of the Order expressly provides that the Council may act under the Order without complying with the Reserves Act 1977 (including any provision relating to public notification or the hearing of objections).
26. Clause 7 of the Order requires the Council to give notification to parties who have an easement, lease, licence, covenant or other legal right over the area of reserve to be temporarily occupied under the Order. Officers are making contact with Scouting New Zealand and Orion who have legal interests in the park to make them aware of the permission being granted to Fletcher's to extend their occupation of the site as is required by clause 7 of the Order.
27. In addition, the Canterbury Earthquake (Local Government Act 2002) Order 2010 exempts the Council from compliance with some of the decision-making processes set out in the Local Government Act 2002. These include the requirement that the Council considers community views and preferences.
28. The exemptions can be relied upon in this case because it is necessary for the purpose of ensuring that Christchurch, the Council, and its communities respond to and recover from the impacts of the Canterbury Earthquakes.
29. The park is normally open to the public to use when not being utilised by scouts. Because of the small size of the park and the coverage of it by Fletcher's, the site is not able to be used by the public during their occupation. Staff do not see this being a problem in this case because of the small amount of use by the public of the site to be occupied by the temporary portacom or the park as a whole. There are no public facilities located on the reserve apart from a relatively small lawn area. There is a much more frequented local park (Daresbury) within 300 metres.

**STAFF RECOMMENDATION**

It is recommended that, pursuant to clause 5(b)(ix) of the Canterbury Earthquake (Reserves Legislation) Order 2011, the Fendalton/Waimairi Community Board recommend to the Council that:

- (a) It authorises the siting of a temporary building within Idris Reserve for use by Fletcher Construction Company Limited as is approximately shown on the application plan attached to this report (refer **Attachment 2**).
- (b) It agrees that the period for which the authority referred to in paragraph (a) of this recommendation shall apply is that period commencing on the date of this authority until the 31 March 2014 or until a date the Council shall determine the hub is no longer required, whichever is the sooner, as set out in the current warrant.
- (c) It approves for the charging of a bare ground rental to Fletcher's Earthquake Recovery for their occupation of the park land on which their additional temporary building is placed, this being delegated to the Corporate Support Manager and staff to manage.
- (d) The warrant be altered to reflect the additional portacom being placed upon the site, and the plan of the site on which is shown the position of the new portacom be appended to the existing warrant.