

**28. TEMPORARY STADIUM AT RUGBY LEAGUE PARK**

<b>General Manager responsible:</b>	General Manager Community Services Group, DDI 941-8607
<b>Officer responsible:</b>	Unit Manager Recreation and Sport 941 8303
<b>Author:</b>	Derek Roozen, Parks and Waterways Planner 941 8798

**PURPOSE OF REPORT**

1. To update the Council on developments since the Council last considered this matter on 8 September 2011 and to obtain Council approval:
  - (a) To accept the surrender of the Canterbury Rugby Football League Incorporated ("CRFL") lease of Rugby League Park for a temporary period.
  - (b) For the development and use of Rugby League Park as a temporary stadium, for the period that the lease surrender by CRFL applies, to the Ministry of Economic Development ("MED") (or the legal entity created to own and operate the temporary stadium) pursuant to the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011.

**EXECUTIVE SUMMARY**

2. Rugby League Park is a Council owned facility. CRFL leases the Park from the Council, the term of which, if all rights of renewal are exercised, extends to 31 August 2037.
3. Rugby League Park comprises two fee simple titles held and managed by the Council, totalling 4.9274 hectares in area, these being listed in the table below.

<b>Legal Description</b>	<b>Certificate of Title</b>	<b>Area (hectares)</b>
Lot 1 DP 320558	81495	4.0789
Lot 2 DP 320558	81496	0.8485

There is no statutory reserve status over these titles of land. That is, they are not reserves under the Reserves Act 1977. See **Attachment A** for a location plan.

4. The premises leased to CRFL are shown on the plan in **Attachment B**. This is the land comprising Lot 1 DP 320558 together with the No.1 and No.2 Grandstands, offices, ancillary buildings and playing pitches situated on that land.
5. On 8 September 2011 the Council decided to support the development of a temporary stadium on Rugby League Park. The Council resolved to:
  - (a) Authorise the Canterbury Rugby Football Union Incorporated ("CRFU") to use the land known as Rugby League Park currently leased to CRFL for the development of a temporary stadium.
  - (b) Subject to CRFL agreeing to enter the Deed of Variation referred to in resolution (e) below, grant consent for CRFL to sublease its leased premises to CRFU for a sublease term expiring no later than 30 August 2017.
  - (c) Subject to CRFL agreeing to enter the Deed of Variation referred to in resolution (e) below, consent to the existing grandstands at Rugby League Park being demolished, subject to all necessary regulatory consents being obtained.
  - (d) Have Council staff seek to maximise the amount of the insurance proceeds received by the Council in respect of the existing grandstands, but acknowledging that it will be necessary to demolish the grandstands before a full and final settlement is reached with the Council's insurer.

28 Cont'd

- (e) Enter into a Deed of Variation of the lease to CRFL to record the agreed demolition of the existing grandstands, to limit the Council's liability to CRFL under the lease to rebuild the grandstands to the extent of the insurance proceeds (if any) received by the Council and to increase the term of the lease to compensate CRFL for the period of the lease term lost to the sublease.
  - (f) Require that the insurance proceeds from Rugby League Park be used specifically for facilities at Rugby League Park at the conclusion of the sublease.
  - (g) Subject to CRFL and CRFU agreeing on the terms of the sublease, meet the costs (to a maximum amount of \$1,000,000 plus GST) of:
    - (i) removal of existing turf at Rugby League Park and replacement with new turf;
    - (ii) removal of existing lights at Rugby League Park and replacement with new lights;
    - (iii) relocation of AMI Stadium assets to Rugby League Park;
    - (iv) the design of the temporary stadium.
  - (h) Note that CRFU be responsible for all resource and building consents required for the establishment of the temporary stadium (other than demolition of the existing grandstands).
  - (i) Note that CRFU meet the cost of establishing the temporary stadium, and all on-going running costs.
  - (j) Require CRFU to publicly recognise the Council's contribution to the temporary stadium project by providing signage at the stadium and associated marketing;
  - (k) Request that CRFU include Vbase in any tender process for the supply of catering and other services at the temporary stadium.
  - (l) Delegate to the General Manager Community Services the power to negotiate and enter into on behalf of the Council such legal documentation required on such terms and conditions as he shall consider necessary to implement the terms of this resolution.
  - (m) If CRFU is unable to proceed with the Rugby League Park option, to contribute financially, to a maximum of \$1,000,000 excluding GST, for the lighting, design and facility upgrade of the existing stadium at Rugby Park to an approximate capacity of 18,600; and to delegate to the General Manager Community Services the power to negotiate and enter into on behalf of the Council such legal documentation required on such terms and conditions as he shall consider necessary.
6. Subsequent to the Council's resolution on 8 September 2011, CRFU have been unable to secure funds to build, own and operate a temporary stadium in the manner envisaged in the Council's resolution summarised in paragraph 5 of this report above. CRFU approached the government for assistance through the MED. The government has committed to underwrite the \$20 million cost of building the temporary stadium and to form a legal entity to own and operate the temporary stadium. This means CRFU will not own or operate the temporary stadium. The Council's contribution to the temporary stadium remains the same as specified in the Council's resolution on 8 September 2011.
7. In order to give effect to the Council's resolution on 8 September 2011 and to facilitate the development of a temporary stadium it is proposed that:
- CRFL surrender its lease for Rugby League Park to the Council for the period the Park is used for a temporary stadium, to a maximum period expiring no later than 18 April 2016. CRFL has agreed in principle to proceed in this way
  - The Council gives approval under the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011 for the use as a temporary stadium by the MED (or the legal entity created to own and operate the temporary stadium), for a period equivalent to the period the CRFL lease is surrendered.

**28 Cont'd**

- The lease of Rugby League Park is reinstated to CRFL when the use of Rugby League Park for a temporary stadium ceases.
- CRFL has a period added to its lease term upon reinstatement of the lease, equivalent to the period to which the lease was surrendered to facilitate the temporary stadium.

**FINANCIAL IMPLICATIONS**

8. There are no additional costs to the Council over and above the amount approved by the Council on 8 September 2011.

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

9. No. The surrender of the CRFL lease will result in the loss of rental income of approximately \$20,000 over the surrender period. Any rental income received from the MED (or other entity) will off-set this, but it is expected that the rent charged to the MED (or other entity) will be nominal.

**LEGAL CONSIDERATIONS**

10. The Council entered into a lease dated 4 February 2005 for Rugby League Park with CRFL for a term of five years from 1 September 2002 with five rights of renewal of five years each and a sixth right of renewal of five years less one day. The lease was renewed in 2007 and is due to be renewed again on 1 September 2012. If all renewals are exercised by CRFL the lease term will finally expire on 31 August 2037.
11. To facilitate the use of Rugby League Park for the temporary stadium it will be necessary for CRFL to surrender its lease for the period required for the temporary stadium. This will be recorded by deed that states CRFL's lease will cease for a temporary period. When that temporary period ceases, CRFL's lease will automatically continue as before for the remainder of the term. That deed will also record the extension of the final term of the lease, or alternatively a right of renewal, for a further period equal to the period it is used for the temporary stadium.
12. Due to the requirement to demolish the existing grandstands to accommodate the temporary stadium, the deed referred to in paragraph 12 of this report above will need to limit the Council's liability under the lease to CRFL to rebuilding the existing grandstands to the extent of the insurance proceeds received by the Council. This requirement was referred to in the Council's resolution of 8 September 2011 (as summarised in paragraph 5(e) of this report above) and continues to be required.
13. CRFL have also suggested, as a condition of surrendering its lease on a temporary basis, that provision be made for CRFL to use the temporary stadium occasionally on a free or concessionary basis. The terms of any such arrangement with CRFL have yet to be finalised, however the terms of that arrangement will be recorded in any Deed of Surrender entered into with CRFL and in the occupation agreement to the MED (or other entity).
14. In response to the circumstances arising from the 22 February 2011 earthquake, the Government made the Canterbury Earthquake (Reserves Legislation) Order 2011 to enable reserves to be used for certain purposes that would not ordinarily be permissible under the enactment under which the reserve is held or that applies to the reserve. The Canterbury Earthquake (Reserves Legislation) Order 2011 was revoked and replaced by the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011 ("Order") with effect from 10 November 2011.
15. Clause 5(c) of the Order provides that the Council, or any person authorised by the Council in writing, may use a reserve or erect a structure on a reserve for any purpose 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.

**28 Cont'd**

16. Whilst Rugby League Park land is not a 'reserve' under the Reserves Act 1977, it is a 'reserve' for the purposes of the Order. Therefore, the Order is able to be applied to any approval for the use of this land, the need for which has come about as a consequence of the earthquake.
17. The Order expires on 18 April 2016 (which is the expiry date of the empowering legislation under which the Order has been made). Unless the Order is extended beyond 18 April 2016 it will not be possible for the Council to authorise the use of Rugby League Park by the MED (or the operating entity) for the temporary stadium beyond this date. Any use beyond that date would need to be authorised using the 'business as usual' processes available under the Local Government Act 2002.
18. The Order provides that when the Council authorises such use of a reserve, or the erection of any structure on a reserve, it does not need to comply with any relevant management plan or any enactment under which the reserve is held or that applies to the reserve. However, the Council is required to take all reasonable steps to protect the integrity of the reserve and to ensure that the reserve is reinstated as closely as practicable at the end of the use or when the structure is removed to its original condition.
19. The resolution of the Council on 8 September 2011 authorised CRFL to sublease its leased premises at Rugby League Park to CRFU for the development of a temporary stadium. It was the view of Council officers, notwithstanding that the Order would be able to be used, that this was the best arrangement due to there being an existing occupation agreement instrument (lease to CRFL), it being one agreeable to all parties involved, that both the lessee and sub-lessee undertook similar activities and would both benefit from the temporary stadium, and public consultation would not be required.
20. The view of Council officers is that the current proposal should be approved by the Council under the Order by virtue of the fact that the need for the temporary stadium at Rugby League Park has arisen as a consequence of the earthquake. Due to the new arrangements proposed by the Government through the MED the previous sub-lease proposal is no longer appropriate.
21. The use of the Order would also obviate the need to undertake prior public consultation under section 138 of the Local Government Act 2002 in respect of the grant to the MED (or other entity) of the right to use, or lease, Rugby League Park to 18 April 2016.
22. In addition to Council authorisation under the Order, the MED (or other entity) will also need to obtain all necessary resource and building consents required.
23. If the Council approves the proposed occupation under the Order then a formal written occupation agreement in the form of a "warrant of occupation" or lease will be entered into by the MED (or other entity). The agreement will contain the provisions that would ordinarily be included in a lease to protect the Council's position.

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

24. Yes, see above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

25. Yes, the provision of sport and recreational facilities and the hosting of major events are in the Recreation and Leisure Activity Management Plan, Activity 7.0: Recreation and Sport Services.

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

26. Yes; page 108 of volume 1 of the 2009-19 LTCCP, the hosting of major events.

**ALIGNMENT WITH STRATEGIES**

27. Yes; the provision, accessibility and funding of sporting facilities under goals 1,2,5 and 6 of the Council's Physical Recreation and Sport Strategy 2002.

**28 Cont'd**

**CONSULTATION FULFILMENT**

28. Clause 6 of the Order expressly provides that the Council may act under the Order without complying with any enactment under which the reserve is held or that applies to the reserve (including any provision relating to public notification or the hearing of objections).
29. 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. The Council has actively engaged in discussion and negotiation with CRFL concerning this proposal, and agreement in principle has been reached along the lines specified in this report.
30. 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.
31. 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.

**STAFF RECOMMENDATION**

It is recommended that the Council resolves as follows:

- (a) To accept the surrender of the existing Canterbury Rugby Football League Incorporated lease of Rugby League Park for the period commencing on the date the land is required for the temporary stadium and ending no later than 18 April 2016 (acknowledging that the lease will automatically be reinstated at the end of that period), and to agree that the term of the lease be extended by a period equal to the period surrendered by Canterbury Rugby Football League to facilitate the temporary stadium.
- (b) To approve, pursuant to clause 5(c) of the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011, the development and use of Rugby League Park as a temporary stadium by the Ministry of Economic Development (or the legal entity created to own and operate the temporary stadium) for the same period the Canterbury Rugby Football League Incorporated lease is surrendered as detailed in paragraph (a) of this resolution.
- (c) To delegate to the General Manager Community Services the power to negotiate and enter into on behalf of the Council such legal documentation required on such terms and conditions as he shall consider necessary to implement the terms of this resolution (and the Council's resolution of 8 September 2011 as shall continue to apply).