

REPORT BY THE CHAIRPERSON OF THE  
FENDALTON/WAIMAIRI COMMUNITY BOARD



PART A - MATTERS REQUIRING A COUNCIL DECISION

7. FLETCHER CONSTRUCTION'S HUB EXTENSION IDRIS RESERVE

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Unit Manager Asset and Network Planning
Author:	Eric Banks – Parks and Waterways Planner

PURPOSE OF REPORT

1. To enable the Council to consider an application made under the Canterbury Earthquake (Reserves Legislation) Order No. 2 2011 ("the Order") for an extension of The Fletcher Construction Company Limited (Fletchers) earthquake repair hub at Idris Reserve.

EXECUTIVE SUMMARY

2. The Council, through the powers vested to the Chief Executive Officer, granted Fletchers 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 Fletchers 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 Fletchers 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**).

**7 Cont'd**

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 Fletchers following the cessation of Fletchers 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 Fletchers and is collecting \$150 per week rental.
12. The Council will be charging a bare ground rental to Fletchers 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, the Council has required Fletchers 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 the Council authorisation under the Order, Fletchers 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.

**7 Cont'd**

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 Fletchers 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 Fletchers, 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.

**7 Cont'd**

**STAFF RECOMMENDATION**

It is recommended that, pursuant to clause 5(b)(ix) of the Canterbury Earthquake (Reserves Legislation) Order 2011, the Council:

- (a) 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) 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) Approves for the charging of a bare ground rental to Fletchers 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) Alters the warrant 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.

**BOARD'S RECOMMENDATION**

That the Council adopt the staff recommendation.



3 June 2011

**THE FLETCHER CONSTRUCTION COMPANY LIMITED**

**AUTHORISATION PURSUANT TO CANTERBURY EARTHQUAKE (RESERVES LEGISLATION) ORDER 2011**

**IDRIS RESERVE**

In accordance with clause 4(b) of the Canterbury Earthquake (Reserves Legislation) Order 2011 (**Order**), the Christchurch City Council (**Council**) authorises The Fletcher Construction Company Limited to exercise the powers of the Council under the Order to use the Fendalton Scout Hall and adjacent land located at Idris Reserve (**Reserve**) as more particularly described in the attached Schedule (**Site**) for the purposes of establishing and operating a work site office to manage repairs related to damage from the Canterbury Earthquake in and around Fendalton (including a temporary carpark) as referred to in clause 5(b)(ix) of the Order.

The above authorisation may only be exercised in accordance with the following terms and conditions.

**1. TERM**

- 1.1 This authorisation will commence on 22 February 2011 (**Commencement Date**) and end no later than 31 March 2011 (**Term**).
- 1.2 Fletchers acknowledges that the Order expires on 31 March 2012. Therefore, at the present time, the Council is not able to grant an authorisation under the Order that extends beyond that date.
- 1.3 Despite clauses 1.1 and 1.2, if the Order is extended past 31 March 2012, by enabling legislation or otherwise, the Council agrees to extend the Term for a period expiring on the earlier of:
  - 1.3.1 The date on which the Council determines (acting reasonably) that a work site office to manage repairs related to damage from the Canterbury Earthquake in and around Fendalton area is no longer necessary; or
  - 1.3.2 31 March 2014.

**2. CONSENTS AND PERMITS**

- 2.1 Fletchers must, in its management and use of the Site, comply with the Resource Management Act 1991, including the requirements of any relevant Orders in Council.
- 2.2 Fletchers must:
  - 2.2.1 Provide notice under clause 7(3) of the Order, to any person or body whose rights or obligations in respect of the Site may be affected or overridden by Fletchers use of the Site for operation

of a work site office. To avoid doubt, it is acknowledged that Fletchers has already:

- (a) notified and made arrangements with SCOUTS New Zealand, the current lessee of the Fendalton Scout Hall that forms part of the Site, for use of the Scout Hall, including payment of rent and relocation and storage of the Scout's chattels to a container located on the balance of the Reserve; and
- (b) visited neighbours with properties adjoining the Site and advised them of the temporary occupation of the Site for the operation of a work site office.

**2.2.2** Obtain and comply with any consents, permits, licences, or authorisations required to operate a work site office on the Site, including (without limitation) consents or permits under the Building Act 2004 as modified by any approved Orders in Council; and

**2.2.3** Comply with fire, emergency and evacuation obligations and occupational health and safety obligations related to the operation of a work site office on the Site.

**2.3** In addition to the SCOUTS lease of the Scout Hall on the Site, referred to in clause 2.2.1, Fletchers acknowledges that an 11 kV substation owned by Orion New Zealand Limited (**Existing User**) is located on the balance of the Reserve. Fletchers agrees to use its best endeavours to ensure that Fletchers and persons for whom Fletchers is responsible do not interfere with the Existing User or the exercise of its rights.

**2.4** Subject to compliance with its regulatory obligations, the Council (in its capacity as administering body of the Site under the Reserves Act 1977) will provide reasonable assistance to Fletchers to enable it to comply with this clause.

### **3. HEALTH AND SAFETY**

**3.1** Fletchers must comply at all times with the requirements and provisions of the Health and Safety in Employment Act 1992 (**HSEA**) and any applicable codes of practice and best practice guidelines applicable to the terms of this Authorisation.

**3.2** Fletchers is responsible for developing and implementing an occupational health and safety plan for the use of the Site for operation of a work site office on the Site and for ensuring that the Site is compliant with the HSEA.

**3.3** Fletchers must maintain an accident register at all times and will record all accidents to Fletchers employees and contractors, or other visitors to the Site.

**3.4** The Council, or any person authorised by the Council, may require an independent audit of Fletchers operations from time to time (at Fletchers cost) to verify Fletchers has adequate safety management systems in place, and for compliance with those systems and any safety

requirements of this Authorisation. Fletchers will co-operate in providing the Council with any relevant information.

#### 4. APPOINTMENT AND FUNCTION OF REPRESENTATIVES

- 4.1 The Council and Fletchers must each identify one or more individuals within its organisation (**Representatives**) who will, during the Term:
- 4.1.1 have authority to issue and receive communications from the other party regarding this authorisation and the use of Site for operation of a work site office;
  - 4.1.2 manage and administer that party's rights and obligations under this authorisation; and
  - 4.1.3 work collaboratively to raise any issues or concerns at the earliest reasonable opportunity.
- 4.2 The Representatives will meet at such times as, and when reasonably requested by any of the Representatives.
- 4.3 Decisions of any substance agreed between the parties must (at the Council's discretion) be formally agreed in writing by the Council, with a copy of the Council's decision to be sent to Fletchers.

#### 5. INSURANCE

- 5.1 Fletchers is responsible for any insurance of Fletchers improvements, fixtures, fittings or materials located on the Site.
- 5.2 Fletchers must take out a public liability insurance policy in the joint names of the Council and Fletchers for their respective rights and interests. The amount of cover under that policy must not be less than \$5,000,000.00. The policy must include liability for:
- 5.2.1 The use of the Site for operation of a work site office; and
  - 5.2.2 All fixtures, fittings, chattels and equipment affixed to, located in or installed at the Site; and
  - 5.2.3 Losses, including consequential losses, damages and costs arising directly or indirectly from any one or more of the following:
    - (a) Any fire, explosion or other hazard emanating from the Site;
    - (b) The use or operation of the Site for a works site office; and
    - (c) Any act or default of Fletchers or of any person for whom Fletchers is responsible.

**6. INDEMNITY**

- 6.1** During the Term, Fletchers agrees to occupy and use the Site at Fletchers risk and releases the Council and its employees and agents to the fullest extent permitted by law from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property on the Site.
- 6.2** During the Term, Fletchers will keep the Council indemnified against all claims, actions, losses or expenses of any nature which the Council may suffer or incur or for which the Council may become liable in respect of or arising out of or in connection with:
- 6.2.1** The neglect or careless use or misuse by Fletchers of any person for whom Fletchers is responsible, of the Site any of the Utilities on the Site or arising out of any faulty fixture or fitting of Fletchers or any person for whom Fletchers is responsible;
  - 6.2.2** Any accident or damage to property or persons arising from any occurrence on the Site by reason of any act or omission of Fletchers or any person for whom Fletchers is responsible; or
  - 6.2.3** Any liability incurred by Fletchers, in respect of a breach by Fletchers on the Site of any provisions of any legislation, including by way of example, but not limited to, the Resource Management Act 1991, the Building Act 2004, Local Government Act 2002, Reserves Act 1977 or the Health and Safety in Employment Act 1992.

**7. NO LEASE**

- 7.1** Fletchers acknowledges Fletchers rights under this authorisation do not create a lease or an interest in land relating to the Site or otherwise confer on Fletchers or any person for whom Fletchers is responsible any rights of exclusive possession of the Site.

**8. COUNCIL CAPACITY**

- 8.1** The Council has signed this Authorisation in a non-regulatory capacity, relating to its powers under the Order only. This Authorisation does not bind the Council in its regulatory capacity or purport to grant any consents required from the Council in its regulatory capacity.
- 8.2** Fletchers is responsible for obtaining any regulatory consents required to use the Site for operation of a work site office.



**SPECIAL CONDITIONS****9. USE OF SITE**

- 9.1** Fletchers may use the Site only for the purpose of establishing and operating a work site office to manage repairs related to damage from the Canterbury Earthquake in and around Fendalton (including a temporary carpark) and for no other purpose.
- 9.2** Fletchers must act in a safe and responsible manner while on the Site and:
- 9.2.1** Must ensure that as little damage or disturbance as possible is caused to the Site and the balance of the Reserve;
  - 9.2.2** Must not excavate or otherwise disturb the surface of the Site, other than to lay down a temporary car park to a standard agreed with the Council;
  - 9.2.3** Must maintain the surface of the Site, including the temporary car park, in good, clean order, repair and condition, and in particular must ensure that any pot holes that develop in the surface of the car park are immediately repaired and any disturbance to the surface of the Site is repaired or restored without delay;
  - 9.2.4** Must ensure that all underground utility services (including electricity, water, telephone, drainage, stormwater and sewage) located on the Site are not damaged or interfered with in any way;
  - 9.2.5** Must not disturb or cause a nuisance to neighbours, the Council or other Existing Users of the balance of the Reserve;
  - 9.2.6** Must not, in any way, hinder or prevent the Council or the general public from obtaining access to the balance of the Reserve;
  - 9.2.7** Must not disturb or damage any trees or shrubs (both above ground or to root systems); and
  - 9.2.8** Must regularly remove all rubbish from the Site and maintain the Site in a clean and tidy condition to the satisfaction of the Council.
- 9.3** Fletchers is responsible for the capital cost of any necessary sealing and maintenance of the temporary car park to ensure that it is suitable for car parking purposes.

**9.3.1**     Fletchers may use the Site in accordance with the limits set out in the *Christchurch City Construction Standards parts 1 to 7 (Standards)*. If Fletchers wishes to depart from the Standards in any way, it must make an application to the Council's Representative for approval to do so. The Council reserves the right to grant or refuse approval to any such application, or to impose conditions.

**9.4**       In addition to the requirements of clause 9.3, Fletchers use of the Site is subject to compliance with:

**9.4.1**     The Council's reasonable directions relating to security of the Site and the safety and security of the public; and

**9.4.2**     The terms of this Authorisation.

**9.5**       The Council may, if it considers it appropriate, require Fletchers to fence the Reserve to keep vehicles off the Reserve at times when the temporary work site office is closed, in which case Fletchers will provide its own lock and key to obtain vehicle access to the Reserve. Any lock must be removed from the Site at the expiry of this Authorisation (or any extended grant of rights to use the Site granted to Fletchers) .

## **10.       FLETCHERS REINSTATEMENT OBLIGATIONS**

**10.1**       Upon the expiry of the Authorisation (or any extended grant of rights to use the Site granted to Fletchers), Fletchers must:

**10.1.1**     Repair any damage caused to the Site by Fletchers and its employees and contractors;

**10.1.2**     Repair damage to grassed areas and fully reinstate the temporary car park site by removal of the driveway and carpark construction materials, and replacement of good quality soil, before sowing, in grass species as nominated by the Council, the area being repaired, to the Council's satisfaction; and

**10.1.3**     As far as practicable, reinstate the Site to a condition equivalent to that existing before the use of the Site by Fletchers, to the satisfaction of the Council's Transport and Greenspace Manager, or his nominee;

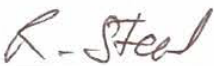
**10.2**       The Council may, at its discretion, elect to retain all or any of the infrastructure that Fletchers constructs on the Site under this Authorisation. If the Council wishes to retain any infrastructure in accordance with this clause, it must provide written notice to Fletchers not less than one month before the expiry of the Authorisation (or any extended grant of rights to use the Site granted to Fletchers), stating which part or parts of the temporary infrastructure it wishes to retain. No compensation will be payable by the Council for any temporary infrastructure that it wishes to retain under this clause.

Please confirm Fletchers acceptance of this authorisation and the above terms and conditions by signing and returning a copy of this authorisation.

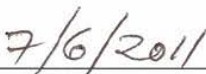
Yours faithfully

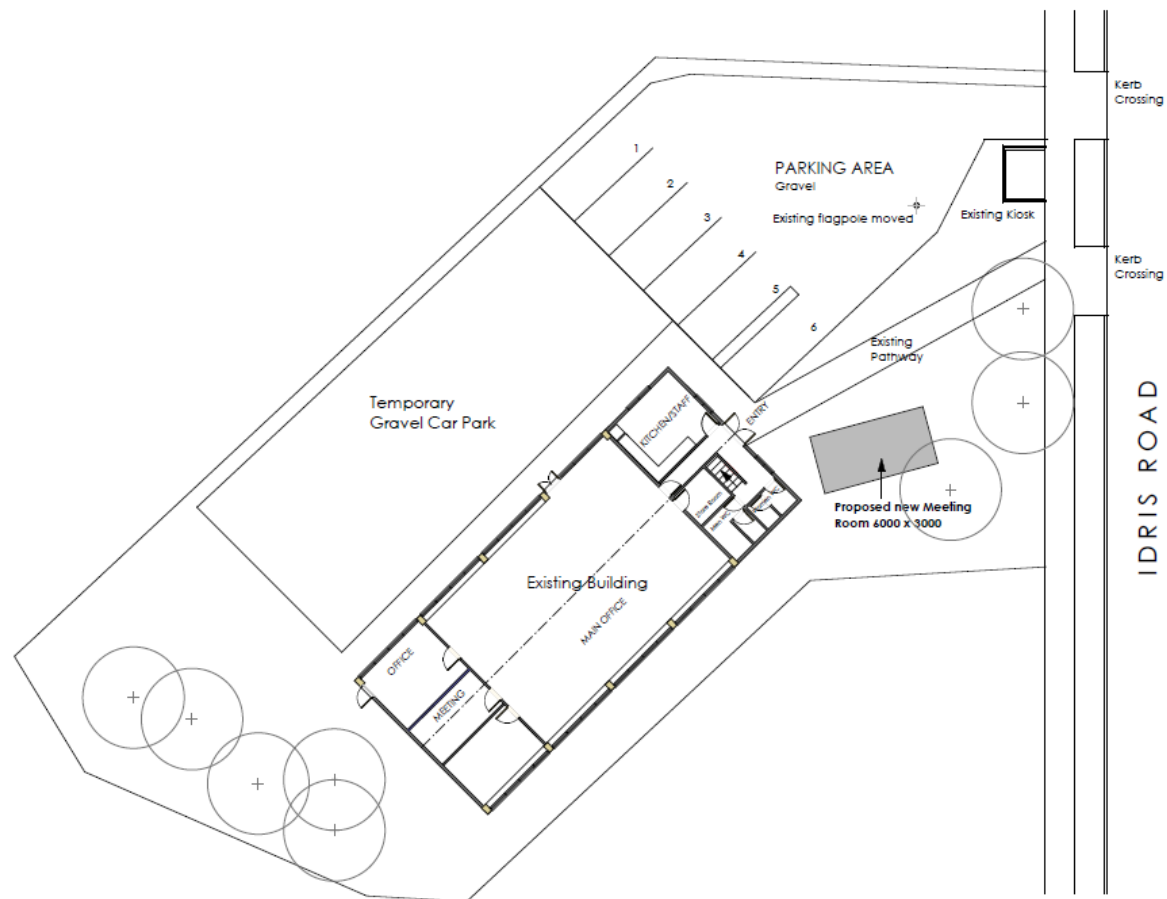
  
Tony Marryatt  
Chief Executive

I confirm on behalf of The Fletcher Construction Company Limited that Fletchers understands and accepts the terms of this Authorisation.

  
Name

  
Signature

  
Date



**Plan View**  
Fendalton Hub - Site

Scale 1: 200 at A3



Legal Description: Lot 2 DP 83543

Street address: 5 Idris Road, Fendalton,  
Christchurch

08.03.12



