

10. PORRITT PARK - KERRS REACH ROWING CLUBS –TEMPORARY STORAGE SHEDS



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| General Manager responsible: | General Manager City Environment Group, DDI 941-8608 |
| Officer responsible: | Unit Manager, Transport and Greenspace |
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PURPOSE OF REPORT

1. To obtain Council approval for the temporary location of buildings, associated sanitary facilities and security fencing to provide for the immediate to medium term storage needs of the Avon Rowing Club at Kerrs Reach, Porritt Park, pursuant to the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011.
2. To delegate to staff the authority to approve the temporary location of such structures, fencing and sanitary facilities within the present leased areas of The Canterbury/Union Rowing Clubs and Christ’s College to meet their immediate to medium term storage needs.

EXECUTIVE SUMMARY

3. Substantial damage has occurred to the rowing amenities on Kerrs Reach, Porritt Park during the 2010 and 2011 earthquakes. Avon, Christ’s College and the Leander (Cantebury/Union Rowing Clubs) were destroyed with the Avon and Christ’s College buildings having been demolished and the sites cleared. The Leander building, also severely damaged, has subsequently been burnt out with a shell now remaining on site. The Canterbury Rowing Association boatshed while also suffering significant damage is still being used while repairs are assessed. In addition to the built facilities there has been severe damage to the surrounding land and infrastructure with no sewerage on site. The condition and use status of Arawa Canoe Club building is unclear at the moment.
4. Rowing activities have now recommenced on the Avon River at Kerrs Reach. The Avon Rowing Club has submitted plans and details to the Council, applying for landowner approval to temporary site storage sheds, toilet facilities and office accommodation at their Kerrs Reach site. The intended temporary occupation extends beyond the club’s present leased area (refer **attachment 1**). The structures and amenities proposed are intended as a solution to meet rowing’s urgent need in the short to medium term to address the current delivery of the sport.
5. Avon Rowing Club proposed development includes two total span sheds (30 metres by 12 metres), an office block (salvaged from Clubrooms), two portacom toilet blocks (six metres by three metres) surrounded by a security fence (refer **attachment 2**). The total occupation inside this compound including the existing tin shed that is to be repaired, comprises an area of approximately 2,418 metres squared and while going over the existing lease boundary will make river access for the public available at all times. Their existing lease is a perpetually renewable lease which takes in an area of approximately 2,609 metres squared. Initially all internal areas within the compound would be finished with shingle and in time paved with asphalt.
6. Ordinarily the application by Avon Rowing would be considered as a grant of a new lease. As the intended temporary occupation takes in land outside their current lease boundary, a public consultation process as required by Section 138 of the Local Government Act 2002 would be necessary. This process could possibly add a further two months to the timeframe to obtain a decision. To give the re-establishment programme the club has set to have temporary facilities in place and functioning before the commencement of the 2012 training season a good chance of succeeding, landlord approval will be required in May 2012. Avon Rowing Club already hold approval under the Resource Management Act 1991 for temporary accommodation of the activity pursuant to the Canterbury Earthquake (Resource Management Act (Permitted Activities Order)) 2011. This order expires on 18 April 2016 and occupation on the site by this temporary accommodation permit will need to cease on or before that date unless a resource consent has been applied for and obtained.

7. Similar intentions to provide for temporary storage space for rowing boats and other plant/equipment with associated amenities are held by the Canterbury and Union Rowing Clubs and Christ's College. At the time of writing this report, the plans of these clubs had not been firmed up in sufficient detail to report but it is understood that in both situations their temporary occupations will be contained within the existing lease boundaries. It is intended to deal with the applications from these clubs under lease transactions, but in order to provide a decision in a timely manner a staff delegation is being sought from the Council. The Canterbury and Union Rowing Clubs' lease will expire on 30 September 2012 with no right of renewal. Christ's College has a lease until 30 March 2038. The Arawa Canoe Club (which has a perpetually renewable lease) has not given any indication at this stage of its intentions for their site.
8. Porritt Park and Kerrs Reach is situated in the Government's Green Zone, N/A – Urban Non residential. This means the park has not been assigned a Technical Category, and thus can follow the normal consenting process. It has yet to be established what the long term future of Porritt Park and Kerrs Reach will hold and the temporary occupation period will allow time for the rowing clubs to explore long term options which may or may not involve the Reach for delivery of the sport while providing a training base in the interim.
9. The Avon Rowing Club membership makes up about 58 per cent of the Kerrs Reach users with 11 schools and tertiary institutions aligned to this club. The club in partnership with the Canterbury Rowing Association, resource plant and facilities for the operation of the Southern High Performance Centre catering for up to an additional 40 athletes. The current membership has dropped significantly to around 243 competitive athletes due mainly to resources being hit hard and school users having difficulty getting to and from rowing and having to train and compete further afield post earthquake. The club is confident that these numbers will increase dramatically once a base is re-established and training gets underway.

FINANCIAL IMPLICATIONS

10. It is understood there are no financial implications for the Council arising from the granting of permission for Avon Rowing Club to temporarily occupy the site at Kerrs Reach (see paragraph 11). The club will meet all costs associated with the establishment and operation of their temporary facilities, including all resource and building consents, and costs to reinstate the site to the satisfaction of the Greenspace Manager or their designate at the end of the occupation. The Avon Rowing Club is committed to this plan and it is understood that the Avon Rowing Club will identify financial resources to carry it through to fruition and Sport Canterbury is assisting them in this process.
11. There are issues as yet unresolved in relation to the facilitation and funding of infrastructure in particular the sewer line to service the portacom toilets and repair of the access roadway. The options/implications are currently being explored with the parties and in order that the report may proceed to meet the intended agenda, a delegation to the General Manager Corporate Services is being requested to resolve on these issues when the preferred approach by the Council is clear.
12. A ground rental will be charged for the temporary occupation of the site, consistent with the Councils' sports charging policy.

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

13. Not applicable.

LEGAL CONSIDERATIONS

14. Porritt Park including Kerrs Reach is a large recreation ground held and administered by the Council pursuant to the provisions of the Local Government Act 2002. Leases or occupation agreements for periods of more than six months in respect of parks which are not legally reserves subject to the Reserves Act 1977 are required to be consulted on in terms of Section 138 of that Act.
15. In response to the circumstances arising from the 4 September 2010 and 22 February 2011 earthquakes, the Government under the powers of the Canterbury Earthquake Recovery Act 2011 made the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011 ("the Order") to enable reserves to be used for certain purposes that would not ordinarily be permissible under the Reserves Act. For the purposes of this order a "reserve" also means land that is owned, administered, managed, controlled, or held by the Council under any enactment (other than the Reserves Act 1977) as a reserve or park or for community purposes. Porritt Park (of which Kerrs Reach is part) is held as a Recreation Ground pursuant to the provisions of the Local Government Act 2002.
16. The Order expires (unless extended) on 18 April 2016 and it is not possible for the Council to authorise the use of Porritt Park under the Order beyond that date. Unless the Order is extended, any use beyond that date would need to be authorised using the 'business as usual' processes available under the Local Government Act 2002.
17. Clause 5 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:
 - (a) a depot or any other storage facility (for example, for the storage of vehicles, demolition waste, or building or other materials) (Clause 5(b)(i))
 - (b) temporary housing or accommodation, including sanitary and other ancillary facilities Clause 5(b)(ii)
 - (c) 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 - Clause 5(c).
18. The Order provides that when the Council authorises any use of a reserve, or the erection of any structure on a reserve, it does not need to comply with any other enactment under which the reserve is held or that applies to the reserve (for example, any provision relating to public notification or the hearing of objections). 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 at the end of the use or when the structure is removed as closely as practicable to its prior condition.
19. In addition to Council authorisation under the Order, the applicant will also need to obtain all necessary resource and building consents required.
20. If the Council approves the proposed occupation under the Order then a formal written occupation agreement in the form of a warrant of occupation will be entered into by the applicant with the Council. The agreement will contain the provisions that would ordinarily be included in a lease to protect the Council's position, including an obligation on the occupier to remove its building at the end of the term and to reinstate the land.
21. The Board does not have delegated authority from Council to approve a temporary occupation right pursuant to the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011. Further, Porritt Park is of metropolitan significance having city wide impact for rowing and therefore this report is being placed before the Board to enable a recommendation to be made to the Council.

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

22. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

23. The LTCCP's strong communities strategic directions section prioritises: providing accessible and welcoming public buildings, spaces and facilities; providing parks, public buildings, and other facilities that are accessible, safe, welcoming and enjoyable to use; working with partners to reduce crime, help people avoid injury and help people feel safer; providing and supporting a range of arts, festivals and events; and protecting and promoting the heritage character and history of the city. The fulfilment of the club's ambitions by approving this application will add to the enjoyment and experience, both club members, and the general public can obtain at the park.
24. The LTCCP's healthy environment strategic directions section prioritises providing a variety of safe, accessible and welcoming local parks, open spaces and waterways; providing street landscapes and open spaces that enhance the character of the city; and protecting and enhancing significant areas of open spaces within the metropolitan area. The approval of this application and the resulting development will enhance the character of the park/open space for people's enjoyment.
25. The LTCCP's liveable city strategic directions section prioritises improving the way in which public and private spaces work together. The approval of this application will add to the private infrastructure on the park thereby improving the way it interrelates with the public park that it is situated upon and the adjacent Avon River, which in turn will add to the value of the experiences both club members and the public can have at the park.

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

26. Not applicable.

ALIGNMENT WITH STRATEGIES

27. This application is aligned with the Strengthening Communities' Strategy by contributing to increasing participation in community recreation and sport programmes and events. This application also aligns with the Strengthening Communities' Strategy by ensuring that communities have access to community facilities that meet their needs.
28. This application also supports the Christchurch Visitor Strategy by improving the facilities which are an attraction to visitors to Christchurch who come to partake in and watch the sport of rowing.
29. This application aligns with the Physical Recreation and Sport Strategy by providing a safe physical environment that encourages participation in recreation and sport and ensuring that promising and talented participants are nurtured and given the opportunity to maximise their potential.

Do the recommendations align with the Council's strategies?

30. As above.

CONSULTATION FULFILMENT

31. The Canterbury Earthquake (Local Government Act 2002) Order (No 2) 2011 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.
32. The exemptions for public consultation under the Local Government Act 2002 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.
33. 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. In this case the party to whom it is proposed to grant temporary occupation rights is the current leaseholder and the only party holding any legal right over the site.

34. It should be noted that following a decision by Council in May 2009, public consultation was carried out with no negative feedback on a proposal by the Canterbury and Union Rowing Clubs as part of a planned staged development by the Kerrs Reach users to construct a further boat storage shed within their leased area. This development did not eventuate before the September 2010 earthquake.

STAFF RECOMMENDATION

It is recommended that Board recommend that the Council resolve as follows:

- (a) Pursuant to clause 5 (b)(i) & (ii) and (c) of the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011, and having formed the opinion that such is necessary to respond in a timely manner to circumstances resulting from the earthquake of 4 September 2010, 22 February 2011 and subsequent aftershocks, that the Avon Rowing Club be authorised to use approximately 2,418 square metres being that part of Porritt Park known as Kerrs Reach as is approximately shown and labelled Kerrs Reach site and bordered yellow on the plan attached to this report as **Attachment 1** for the erection of temporary buildings (and associated office, sanitary amenities) for the purpose of storing rowing boats, and rowing plant and equipment and operating the rowing club office.
- (b) That the period for which the authority referred to in paragraph (a) of this resolution shall apply is that period commencing on the date of this resolution until the date on which the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011 shall expire (including any amended expiry date).
- (c) That the Corporate Support Manager be delegated the power to negotiate and enter into on behalf of the Council such occupancy agreement, warrant or similar document on such terms and conditions as she shall consider necessary to implement the authority referred to in paragraph (a) of this resolution (including the obligation on the occupier to remove the buildings and to reinstate the reserve once this authority has expired).
- (d) That the Corporate Support Manager (acting in consultation with the Greenspace Manager) be delegated the power in the period between the date of this resolution and the date on which the Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011 shall expire (including any amended expiry date), to act on behalf of the Council as landlord, to enter into such leasing arrangements or lease variations as she may consider necessary in respect of the existing Canterbury and Union Rowing Club and Christ's College leases at Kerrs Reach (including the authority to approve any additions or alterations to any existing structures or the erection of new temporary structures for the storage of rowing boats and or rowing plant and equipment within their existing leasehold areas).
- (e) That the Corporate Support Manager (acting in consultation with the Greenspace Manager) be authorised to approve such landscaping as may be deemed appropriate given the temporary nature of the proposed occupation.
- (f) That the General Manager Corporate Services be delegated authority to determine Council funding (if any) for infrastructure installation and or repair (refer paragraph 11) associated with the temporary occupation by the Rowing Clubs on Kerrs Reach.