

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

SCHEDULE

Reserve:

Lot 2 DP83543 AREA 1321M2

Site:

REFER ATTACHED PLAN.

