

**ORDINARY MEETING OF COUNCIL
23 JUNE 2008**

SUPPLEMENTARY

A16	PROPOSED LEASE AGREEMENT TO MELBOURNE WATER CORPORATION - USE OF FENNELLS RESERVE, MELBOURNE MAIN SEWER REPLACEMENT PROJECT
LOCATION/ADDRESS:	FENNELLS RESERVE - CROWN ALLOTMENT 2, SECTION 41, INGLES, EVANS AND BOUNDARY STREETS, PORT MELBOURNE
RESPONSIBLE EXECUTIVE DIRECTOR:	SALLY CALDER, EXECUTIVE DIRECTOR ORGANISATION SYSTEMS AND SUPPORT
AUTHOR:	JEANENE SIMMONS, SENIOR PROPERTY ADVISOR
FILE NO.:	20/01/73
ATTACHMENTS:	ATTACHMENT 1 – FENNELLS RESERVE SHAFT, INDICATIVE WORK SITE VIEW ATTACHMENT 2 – LANDSCAPE PLAN, POST CONSTRUCTION

1. EXECUTIVE SUMMARY

- 1.1. This supplementary report provides additional information to Council on the proposed lease agreement to Melbourne Water Corporation for use of Fennell Reserve for a period of up to 7 years.

2. BACKGROUND AND CONTEXT

- 2.1. At its meeting on 2 June 2008, the Strategy and Policy Committee sought further advice regarding the re-instatement of Fennell Reserve, Melbourne Water Corporation's public consultation process, the Swallow Street site and planning approvals for use of Fennell Reserve.
- 2.2. Additional information has been received from Melbourne Water Corporation and the Department of Sustainability and Environment regarding project timelines and the lease approval process.

3. SUPPLEMENTARY INFORMATION

- 3.1. Clarification of Crown Allotment and Section Details – Fennell Reserve
- The correct land description for Fennell Reserve is Crown Allotment 2, Section 41, Ingles, Evans and Boundary Streets Port Melbourne. The previous report dated 2 June 2008 includes an incorrect reference to Section 44. This discrepancy stemmed from a minor typographical error in the external market valuation report.

3.2. Re-instatement of Fennell Reserve by Melbourne Water Corporation

Melbourne Water Corporation will be required to re-instate Fennell Reserve to an agreed standard at the end of the project and conditions to this effect will be included in the proposed lease. Detailed landscape plans (showing the net improvement in visual site amenity and layout) and a copy of the re-instatement agreement will be attached to the lease for assessment purposes.

At the completion of the project, the only visible components in Fennell Reserve will be two small (600mm diameter) access manhole lids and a ventilation pole (Refer to Attachment 1 – Fennell Reserve Shaft Indicative Work Site View and Attachment 2 – Landscape Plan Post Construction). No odours will be discernible from the manholes as the lids are air tight. Odours will be emitted from the ventilation pole, but as this is 10 metres high (in line with all other existing poles along the Melbourne Main Sewer) it is very unlikely that these odours will be discernible or cause concern to users of Fennell Reserve.

3.3. Public Consultation Process

Melbourne Water Corporation's consultation activities are shown below:

Date	Activity
21 June 2007	Project bulletin distributed to residents and businesses in Port Melbourne, South Melbourne and Docklands (approx 2,500 copies).
21 June 2007 - 5 July 2007	Door knocking by Context around Fennell Reserve and Swallow Street shaft site areas. (A letter was left, if no one was present at the time).
19 July 2007	Community Information Session held.
8 August 2007	Meeting held with Port Phillip Primary School.
20 August 2007	Follow up letter sent to attendees at July Community Information Session.
14 September 2007	Letter sent to all relevant State and Federal MPs summarizing response to community feedback.
12 December 2007	Phone calls made to interested residents near the Swallow Street site.
17 December 2007	Newsletter distributed to all residents and businesses along the proposed alignment route.
5 February 2008	Meeting held with Port Phillip Primary School.

Melbourne Water Corporation's next Community Information Session is scheduled for 24 June 2008 from 6.30pm to 8.00pm at the Port Phillip Specialist School, Nott Street, Port Melbourne.

3.4. Planning Approvals

Melbourne Water Corporation does not require a planning permit for use of Fennell Reserve for the purpose of a minor utility installation or for any buildings and works associated with the use.

3.5. Swallow Street Site

The new sewer will connect into to the old sewer system at the Swallow Street site. During the works period the intersection of Byrne and Ross Streets will be blocked.

In response to community feedback regarding the potential impact on traffic flow in the area, a 2 way temporary crossover point on the median strip between Swallow and Byrne Streets will be constructed to allow residents and visitors access in and out of Swallow Street. This crossover point is located between existing trees so no vegetation removal will be required.

Construction activity at this site will occur approximately 12 months after the commencement of works at Fennell Reserve.

As the proposed works at the Swallow Street site will be carried out in a portion of road reserve, a lease agreement is not required. However Melbourne Water Corporation will need to apply for a road opening permit through Fulton Hogan for this location.

3.6. Project Timeline and Penalties

The tunnel boring machine will be launched from Fennell Reserve, firstly to the south-west to Swallow Street and then north to the Yarra River.

Melbourne Water Corporation would like access to Fennell Reserve as early as possible so that it can be prepared for the storing of components and for shaft construction. These early site works (which are expected to take 10 to 11 weeks) include:

- Power line diversion;
- Hoarding erection;
- Vegetation removal;
- Top soil removal; and
- Concrete slab construction.

Sheet piling and shaft excavation will then follow. These additional activities are expected to take 28 weeks. The total estimated lead time to the end of the shaft preparation work is therefore some 38 to 39 weeks.

In the event of any delay to the commencement of works at Fennell Reserve, Melbourne Water Corporation would be liable for the contractor's downtime costs which are estimated to be in the order of \$5,000 to \$6,000 per day.

3.7. Parliamentary Scrutiny Process – Department of Sustainability and Environment (“DSE”)

Approval must be sought from the Minister for Environment and Climate Change to the grant and purpose of the proposed lease to Melbourne Water Corporation.

As Fennell Reserve was set aside as an “ornamental plantation” under Section 4(1)(w) of the Crown Land (Reserves) Act 1978, DSE has advised that the Minister for Environment will need to sign an Order which will be published in the Government Gazette and then tabled in both Houses of Parliament. The Order must be tabled for 5 consecutive days and the day after the last sitting day is the day that the approval comes into effect. DSE is currently preparing the necessary paperwork for the Order. It is anticipated that the matter will proceed through Parliament in late August 2008.

3.8. Status of Melbourne Water Corporation

Melbourne Water Corporation falls within the definition of a ‘public body’ for the purposes of the Local Government Act 1989 (the “Act”). Section 191 of the Act indicates that a proposed lease agreement to a public body is not subject to Section 190 of the Act (being a public advertisement process and the hearing of submissions on the matter).

Recent legal advice from Maddocks Lawyers confirms that notwithstanding the above, Council has the discretion to still advertise the proposed lease to Melbourne Water Corporation and invite submissions. Given the scale of the proposed project and the level of community interest, it is recommended that Council elect to do so. It is anticipated that Council's process will run concurrently with the parliamentary scrutiny process being undertaken by DSE and therefore not cause any undue delay to Melbourne Water Corporation.

4. RECOMMENDATIONS

That Council receive the supplementary report and resolve:

- 4.1. to commence the statutory procedures under Section 190 of the Local Government Act 1989 (the "Act") and publish a notice in local newspapers inviting interested persons to make a submission under section 223 of the Act for the proposed lease of the land described as Fennell Reserve to Melbourne Water Corporation.
- 4.2. to appoint its Strategy and Policy Review Committee to hear and consider any submissions made under Section 223 of the Act at its meeting to be held on 4 August 2008.