

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**4 AUGUST 2008** **GOVERNANCE AND COMPLIANCE**

<b>A7</b>	<b>PROPOSED LEASE AGREEMENT TO MELBOURNE WATER CORPORATION - USE OF FENNELLS RESERVE, MELBOURNE MAIN SEWER REPLACEMENT PROJECT</b>
<b>LOCATION/ADDRESS:</b>	<b>FENNELLS RESERVE - CROWN ALLOTMENT 2, SECTION 41, INGLES, EVANS AND BOUNDARY STREETS, PORT MELBOURNE</b>
<b>RESPONSIBLE EXECUTIVE DIRECTOR:</b>	<b>SALLY CALDER, EXECUTIVE DIRECTOR ORGANISATION SYSTEMS AND SUPPORT</b>
<b>AUTHOR:</b>	<b>JEANENE SIMMONS, SENIOR PROPERTY ADVISOR</b>
<b>FILE NO.:</b>	<b>20/01/73</b>
<b>ATTACHMENTS:</b>	<b>1. SITE PLAN – MELBOURNE MAIN SEWER REPLACEMENT PROJECT PLAN</b> <b>2. AERIAL PHOTOGRAPH – FENNELLS RESERVE</b> <b>3. FENNELLS RESERVE SHAFT - INDICATIVE WORK SITE VIEW</b> <b>4. LANDSCAPE PLAN – POST CONSTRUCTION</b>

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**1. EXECUTIVE SUMMARY**

- 1.1. Council is the appointed Committee of Management under the provisions of the Crown Land (Reserves) Act 1978 for Fennell Reserve at Ingles Street, Port Melbourne. Fennell Reserve encompasses an area of 3,642 square metres and is currently used as a public recreational facility.
- 1.2. Melbourne Water Corporation is responsible for delivering the State Government endorsed Melbourne Main Sewer Replacement Project. This initiative involves the replacement of the existing 100 year old, 2.2 kilometre sewer which runs from near the Charles Grimes Bridge on the Yarra River through South Melbourne and Port Melbourne.
- 1.3. To deliver the above project, Melbourne Water Corporation requires access to Fennell Reserve for a period of up to 7 years to construct a shaft and tunnel to the sewer line. The site will also be used for equipment storage during the works period.

- 1.4. At an Ordinary Meeting of Council on 23 June 2008, Council resolved 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 Fennell Reserve to Melbourne Water Corporation.
- 1.5. A public notice was subsequently published in the Port Phillip Leader on 1 July 2008 and the Emerald Hill Weekly on 2 July 2008. No submissions or enquiries were received in relation to the proposed lease agreement.
- 1.6. This report recommends that Council finalise the statutory procedures and grant a lease to Melbourne Water Corporation under Section 17D of the Crown Land (Reserves) Act 1978 for use of Fennell Reserve for a period of up to 7 years.

## **2. BACKGROUND AND CONTEXT**

- 2.1. On 14 June 2007, the State Government announced approval for the replacement of the Melbourne Main Sewer. The works will allow Melbourne Water Corporation to adequately cater for Melbourne's projected population growth.
- 2.2. The new sewer will be 2.4 kilometres long, 1.5m to 1.8m in diameter and 10 to 15 metres deep. It will include 6 key shafts at the following locations to connect into the existing sewerage system: Swallow Street Shaft, Fennell Street Shaft, Johnson Street Shaft, South Wharf Shaft, North Wharf Shaft and Wurundjeri Way Shaft.
- 2.3. Extensive community consultation activities were undertaken by Melbourne Water Corporation in mid 2007. The current 2008 community engagement program for the project includes the provision of information sessions, newsletters, a website ([www.melbournewater.com/melbournemain](http://www.melbournewater.com/melbournemain)) and a 1800 toll free community line for general enquiries.
- 2.4. Construction is scheduled to commence in mid 2008 and continue for approximately three to four years.
- 2.5. The new sewer will connect into the old sewer system at the Swallow Street site. During the works period the intersection of Byrne and Ross Streets will be blocked. A 2 way temporary crossover point on the median strip between Swallow and Byrne Streets will be constructed to all residents and visitors access in and out of Swallow Street.
- 2.6. Approval from the Minister for Environment and Climate Change is required for the grant and purpose of the proposed lease to Melbourne Water Corporation. The necessary Minister Order was signed and published in the Victorian Government Gazette on 17 July 2008. As Fennell Reserve was set aside as an "ornamental plantation" under Section 4(1)(w) of the Crown Land (Reserves) Act 1978, the Order must be tabled in both houses of Parliament for five consecutive days (with the approval coming into effect one day after the last sitting day). It is anticipated that the Order will proceed through Parliament in late August 2008.

- 2.7. Although Melbourne Water Corporation falls within the definition of a 'public body' for the purposes of the Act (which generally negates the need for Council to advertise an intention to lease), advice from Maddocks Lawyers indicated that Council could use its discretion to advertise the proposed lease and invite submissions. Following Council's resolution on 23 June 2008 to commence the statutory procedures, public notices were published in the Port Phillip Leader and the Emerald Hill Weekly on the 1 and 2<sup>nd</sup> of July 2008. No submissions or enquiries were received by the closing date of 16 July 2008.

**3. RECOMMENDED OPTION**

- 3.1. It is proposed to grant a lease pursuant to Section 17D of the Crown Land (Reserves) Act 1978 based on the following terms and conditions:

Lessor:	City of Port Phillip.
Lessee:	Melbourne Water Corporation.
Demised Premises:	Fennell Reserve, Crown Allotment 2, Section 41, Ingles, Evans and Boundary Streets Port Melbourne.
Area:	3,642 square metres (in accordance with Attachments 1 and 2).
Term:	Four years.
Options:	Three further terms of one year each* (*contingency planning– additional terms may not be required if construction matches project schedule).
Rental:	\$54,600 per annum plus GST.
Rental Reviews:	Every three years in accordance with market principles.
Permitted Use:	Works, storage access and ancillary uses in accordance with the Melbourne Main Sewer Replacement Project.
Conditions of Tenure:	<p>The Lessee will, prior to undertaking any works on the leased area, obtain the permission of the Lessor.</p> <p>The Lessee will insure and keep insured all buildings, erections, extensions and improvements on the said land.</p> <p>The Demised Premises may be secured and locked by the Lessee during the term of the Lease.</p>

**4. SUSTAINABILITY ASSESSMENT**

Social Pillar	The lease proposal forms part of Melbourne Water Corporation's planned major infrastructure replacement program. The works will ensure that an efficient sewer system is in place to address future population growth in the CBD, Docklands and Port Melbourne.
Economic Pillar	The lease proposal seeks to obtain an appropriate financial return for the exclusive use of Crown Land. Valuation advice has been obtained from Charter Keck Cramer and the recommended rental for the industrial use of Fennell Reserve is \$54,600 per annum plus GST.
Environmental Pillar	The lease proposal will assist Melbourne Water Corporation in replacing outdated infrastructure which is at the end of its productive life.
Cultural Pillar	The lease proposal has limited cultural vitality elements.

4.1.1. 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 Attachments 3 and 4). 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 in height (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.

4.1.2. 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.

4.1.3. Project Timeline

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.

4.2. **Policy and legislative implications**

4.2.1. The lease proposal is consistent with Council's key commitment to the provision of appropriate services and built infrastructure.

4.2.2. The procedural requirements associated with Sections 190 and 223 of the Act have been met as the intention to enter into a lease agreement with Melbourne Water Corporation was advertised and no submissions were received.

4.3. **Risk implications**

4.3.1. The proposed lease addresses risk implications by formalising the relationship between Council and Melbourne Water Corporation and providing certainty about the respective rights and obligations.

4.3.2. In the event of any delay to the commencement of the 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.

4.4. **Resource implications**

4.4.1. The lease proposal to Melbourne Water Corporation has positive financial implications as a market rental will be obtained for the use of Crown Land during the works period.

**5. PARTICIPATION AND ENGAGEMENT**

**5.1. Internal**

5.1.1. The people who have been engaged with in relation to this issue are:

- David Graffen, Property Coordinator.
- Steve Scott, Placement Manager.
- Peter Birkett, Councillor Liaison Officer.
- David Elson, Project Manager Infrastructure Planning.
- Kathy Dillon, Building and Green Spaces Manager.
- Sam Hewett, Manager Asset Services.
- Paul Smith, Manager Environment and Renewal.
- Stefan Mitrik, Coordinator Traffic and Parking Management.
- Dwayne Carter, Coordinator Open Space Planning and Landscape and Urban Design.

**5.2. External**

5.2.1. The external people and/or organisations who have been engaged with in relation to this issue are:

- Doug Tipping, Property Manager, Melbourne Water Corporation.
- Wayne Malone, Group Manager, Public Land Management, Department of Sustainability and Environment.
- Doug Lane, Director, Charter Keck Cramer (valuation of proposed lease area).

**6. IMPLEMENTATION**

6.1. The recommendation of this report can be implemented by the finalisation and execution of a lease document based on the terms outlined in Section 3.1. A draft document has already been prepared in this regard by Melbourne Water Corporation.

**7. COMMUNICATION**

7.1. Melbourne Water Corporation will continue to be responsible for general community consultation and the provision of information regarding the Melbourne Main Sewer Replacement Project.

**8. RECOMMENDATION**

8.1. That the Strategy and Policy Review Committee recommend that Council resolve:

8.1.1. To finalise the statutory procedures and enter into a lease agreement with Melbourne Water Corporation on the following terms:

Demised Premises: Fennell Reserve (Crown Allotment 2, Section 41 Ingles, Evans and Boundary Streets, Port Melbourne).

Area: 3,642 square metres.

Term: 4 years.

Options: Three further terms of one year each.

Rental: \$54,600 per annum plus GST.

Rental reviews: every 3 years in accordance with market principles.

Permitted use: works, storage access and ancillary uses in accordance with the Melbourne Main Sewer Replacement Project.