

**City of Kingston
Special Council Meeting**

Agenda

15 September 2008

Notice is given that a Special Meeting of the Kingston City Council has been scheduled for 7.00pm at 1230 Nepean Highway Cheltenham on Monday 6 October 2008.

Business will be as follows:

- 1. Apologies**
- 2. Declaration by Councillors or Officers of any interest or conflict of interest in any items on the Notice Paper, pursuant to Section 79 Local Government Act 1989.**
- 3. Reports by Officers**
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- 4. Urgent Business**
- 5. Confidential Items in Camera**

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Chiquita Reserve

Approved By: John Nevins, Chief Executive Officer

Author: Tony Rijs, General Manager Environmental Sustainability

1. Purpose

This report provides a summary of issues associated with the developer's occupation of more than 55.1% of the Chiquita reserve during construction works and seeks a direction for moving forward.

2. Background

Council has issued a permit for the construction of dwellings at 20 Levanto Street.

Once the land is subdivided council will pay the developer \$700,000 and sections of the reserve identified for open space (44.9%) will be transferred to Council.

Under the terms of a section 173 agreement the developer is required to have a construction management plan that details 44.9% of the site to be available for public use at all times. The developer is able to occupy part of the land designated for future Parkland providing vegetation is protected and an equivalent area is set aside to achieve a total of 44.9% open space.

3. Issues

The construction on site is not being staged in manner that enables 44.9% to be available for open space. The works are not being conducted in accordance with an approved Management Plan.

Long Term Implications

The project will be completed within 12 months if the developer continues with the current works strategy and Council will achieve the amount of open space as required.

Short Term Implications

The majority of the site is a construction zone and the community can only achieve limited if any recreational enjoyment from the park, even if the developer provided 44.9% of the site as open space the value of recreational enjoyment would be questionable.

The need to protect significant vegetation.

4. Options for Council

Option A - Seek compliance with the section 173 Agreement by taking enforcement action to force the developer to limit construction activities and proceed in a staged manner.

Benefits - Compliance

Potential disbenefit- Longer construction timelines, legal costs associated with ongoing enforcement action.

Option B - Adopt an approach that minimises the duration of construction and disruption for local residents and negotiate with the developer to enable the development to be fast tracked.

Benefits- Facilitates quicker construction time and less works disruption on local residents. Developer to pay for the right to occupy additional area.

Disbenefit- a perception that council is not prepared to enforce previous provisions.

Preliminary discussions with the developer indicate support for an agreement that will enable a greater area of the site to be occupied and deferral of portion of the \$700,000 purchase cost.

The developer is also preparing to pay penalties if the timelines stipulated in any agreement are not met.

5. Recommendation

That Council enter into an agreement with the developer at 20 Levanto Street, Mentone to facilitate an enhanced construction timetable.