

**City of Kingston
Special Council Meeting**

Minutes

15 September 2008

Notice is given that a Special Meeting of the Kingston City Council is to be held at 7.50pm at 1230 Nepean Highway Cheltenham on Monday 15 September 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**

K 134	Kingston Coastal Management Plan	Page 2
K 135	Proposed Amendments to Amenity Local Laws	Page 5
K 136	Contract No 08/64: Levanswell Road, Moorabbin Road Reconstruction – Tender Report	Page 13
K 137	Contract No 08/62: Lower Dandenong Road to Keiller Ave via Ivy Street, Parkdale Major Drainage Construction – Tender Report	Page 15
K 138	Contract No 08/41: Tree Planting & Tree Establishment Services	Page 18
4. **Urgent Business**
5. **Confidential Items in Camera**

**City of Kingston
Special Council Meeting**

Minutes

15 September 2008

Minutes of the Special Meeting of the Kingston City Council held at 1230 Nepean Highway Cheltenham, on Monday 15 September 2008 at 7.54pm.

Present: Cr Bill Nixon OAM (Mayor)
Cr Greg Alabaster
Cr Justin McKeegan
Cr Topsy Petchey
Cr Rosemary West OAM
Cr Arthur Athanasopoulos

In Attendance: John Nevins – Chief Executive Officer
Duncan Kelly – Acting General Manager Corporate Services
Tony Rijs – General Manager Environmental Sustainability
Trevor McCullough – General Manager Community Sustainability
Elaine Sowerby – General Manager, Organisational Development and Governance
Mike Petit – Manager Communications and Promotions
Caroline Kinnear – Acting Manager, Governance and Performance Planning

1. Apologies

An apology was received from Cr Ronke.

Crs Petchey/McKeegan

That the apology from Cr Ronke be received and leave of absence from this meeting be granted.

Carried

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.

Cr West declared an interest in Item K134 - Kingston Coastal Management Plan Community Consultation Responses - the nature of the interest being that she is a resident of the foreshore.

Cr Petchey declared an interest in Item K134 Kingston Coastal Management Plan Community Consultation Responses - the nature of the interest being that she is a resident of the foreshore.

K 134 Kingston Coastal Management Plan Community Consultation Responses

Approved By: Tony Rijs, General Manager Environmental Sustainability

Author: Rebecca Cohen, Foreshore Coordinator

1. Purpose

To seek Council adoption of the Kingston Coastal Management Plan (CMP). A copy of the draft CMP is attached.

2. Background

In February 2007, Council engaged Beca Pty Ltd to develop a Coastal Management Plan for Kingston's 13km of foreshore.

The purpose of the Coastal Management Plan is to:-

- Identify coastal values to protect, manage and restore;
- Guide the future use and development of the foreshore;
- Allow for coordinated and informed decision making and management;
- Engage the community and key stakeholders; and
- Establish an agreement between the Committee of Management, DSE and the community on how to manage the foreshore.

The Coastal Management Plan (CMP) has been developed within the framework of the *Coastal Management Act 1995*. Several pieces of legislation, planning documents and projects at federal, state and local levels are also relevant to the management of the Kingston foreshore and were considered during the development of the CMP.

The CMP will be the central guiding document for management of the Kingston foreshore for the future.

The CMP was developed over the period from April 2007 to July 2008. The content of the draft CMP was substantially formulated through two public stakeholders workshops and extensive consultation with the Kingston Foreshore Reference Group.

Following Council's endorsement of the draft Coastal Management Plan(CMP) at the Ordinary Council meeting held on 28 July 2008, the draft CMP was distributed to:-

- Kingston Foreshore Reference Group members;
- Participants from the community and stakeholder workshops held in 2007;
- Village Committees;
- All foreshore stakeholders who have leases on the foreshore (businesses, life saving clubs, associations etc);
- Mail out to all residents and property owners that directly abut the foreshore or Beach Road; and
- Interested community members who contacted council during the exhibition period.

Approximately 300 hard copies were distributed in total. Following the four week exhibition period which closed on 26th August, 2008, 44 individual submissions were received from the community. During the consultation period, 3 Community Information sessions were hosted on 14th August at Parkdale, Edithvale and Patterson Lakes, where community members could come and ask officers questions about the draft Coastal Management Plan. Approximately 50 people attended these information sessions.

A summary of the submissions received and the proposed officer response (where action is required) is attached. A hard copy of all the submissions has been made available to all Councillors.

On the basis of the submissions received 16 changes are recommended to be made to the Coastal Management Plan;

Another change is also recommended to the Coastal Management Plan on the basis of feedback from the Kingston Foreshore Reference Group meeting held on 3 September 2008.

The recommended changes to the Kingston Coastal Management Plan are as follows in no priority order:-

1. Objective 4e, Action 2 include the CFA as an agency to be involved.
2. Under Objective 7a, add new Action 5 that reads “Ensure that any proposed development or works is planned and undertaken at appropriate times, resulting in minimal disruption to existing activities”.
3. Update the legend on the precinct plans to include the star symbol which represents clubhouses.
4. Provide further clarification and description of issues under 2.4.4 Coastal Process and Infrastructure Values and Threats.
5. Review the management issues chapter to ensure that it is easy to read.
6. Consider whether further emphasis on erosion is required/suitable on the precinct plans.
7. Consider reordering sections of the CMP to following consistent order of themes.
8. Include a paragraph in Chapter 3 that explains the links between the Vision and Implementation Plan.
9. On page 22 under Chapter 4 add paragraph under each Precinct heading that summarises the specific actions for each precinct and note that many actions will apply to numerous precincts or the entire foreshore.
10. Under Objective 4e add Action 5 as follows “Investigate underground overhead wiring where opportunities arise”.
11. Correction of numbering for Actions in relation to Objective 8a.
12. Include new action identifying that fuel load audits will continue to be undertaken along the foreshore to ensure any potential fire risks are managed responsibly in consultation with CFA & DSE.

13. Under Objective 6b insert following action: Planning for significant works involving revegetation of the dunes will involve consultation with immediate neighbours to consider opportunities for:-
 - a. Stewardship of the foreshore including involvement in site preparation, planting and maintenance;
 - b. Removal of inappropriate uses of the foreshore;
 - c. Rationalisation of informal private beach access tracks;
 - d. Encouraging the use of coastal indigenous species on their properties;
 - e. Encouraging the removal of environmental weed species from their properties; and
 - f. Provision of access to boundary fences for maintenance purposes.
14. On page 22 under Chapter 4 add paragraph under each Precinct heading that summarises the specific actions for each precinct and note that many actions will apply to numerous precincts or the entire foreshore.
15. Include a new action under Objective 4a: Continue to advocate for beach renourishment funding as opportunities arise.
16. Add the following text to Section 2.2.7 to acknowledge life saving clubs as a key Community Group that contribute to safety and enjoyment of the foreshore. “In addition, there are seven Life Saving Clubs along Kingston’s foreshore that patrol the beaches and waters to protect the public and offer assistance when incidents occur”.

In addition to the above changes, some minor formatting and grammatical edits will also need to be made to the Coastal Management Plan when the above changes are made to the final CMP.

It is also suggested that the vegetation management section of the document including the diagrams be relocated within the body of the Coastal Management Plan with no changes to the text.

4. Summary and Conclusion

The development of a Coastal Management Plan for Kingston has been identified in the Council Plan and there is strong interest from the community. Following consideration of the draft CMP by Council, if then adopted by Council, it will then be referred to the Department of Sustainability and Environment and the Minister for endorsement under the *Coastal Management Act 1995*. Officers will continue to keep Council informed of this progress.

5. Recommendation

That Council:-

1. Adopt the draft Coastal Management Plan inclusive of the proposed changes detailed in this report together with the following:
 - (a) Under Objective 6a, include the following action: Council will continue to revegetate in accordance with the relevant Ecological Vegetation Classes, however vegetation will be planted to minimise impeding or interference with existing underground infrastructure (eg Communication pits, and sewerage pipes), abutting foreshore residents properties south of Mordialloc Creek; and
 - (b) Under Objective 4e, include the following action; Existing informal neighbour paths and required emergency access will be provided for; and
 - (c) Preservation and where possible, rationalisation of existing informal beach access tracks provided they do not damage the coastal dune, so as to continue to allow existing access, but not to allow any new or expanded access paths (eg to multi-unit developments).
2. Refer the Kingston Coastal Management Plan to the Department of Sustainability and Environment and Minister for Environment for endorsement pursuant to the *Coastal Management Act 1995*.

At this juncture, Cr West declared a conflict of interest in this item. She stated that the nature of the conflict was that her private interest as a foreshore resident conflicted with her public duty as an elected official to consider this matter.

Cr West left the Chamber prior to the vote on this matter.

Crs Petchey /McKeegan

That Council:-

1. Adopt the draft Coastal Management Plan inclusive of the proposed changes detailed in this report together with the following:
 - (a) Under Objective 6a, include the following action: Council will continue to revegetate in accordance with the relevant Ecological Vegetation Classes, however vegetation will be planted to minimise impeding or interference with existing underground infrastructure (eg Communication pits, and sewerage pipes), abutting foreshore residents properties south of Mordialloc Creek; and
 - (b) Under Objective 4e, include the following action; Existing informal neighbour paths and required emergency access will be provided for; and
 - (c) Preservation and where possible, rationalisation of existing informal beach access tracks provided they do not damage the coastal dune, so as to continue to allow existing access, but not to allow any new or expanded access paths (eg to multi-unit developments).
2. Refer the Kingston Coastal Management Plan to the Department of Sustainability and Environment and Minister for Environment for endorsement pursuant to the *Coastal Management Act 1995*.

Carried

Cr West returned to the Chamber after voting on this item had concluded.

K135

Proposed amendments to Amenity Local Laws

Approved by: Trevor McCullough General Manager Community
Sustainability

Author: Neil Sheppard Team Leader Local Laws

Purpose

This report proposes a number of minor amendments to Kingston's Local Laws aimed at assisting in improving the amenity and presentation of the City.

Background

Council receives regular complaints regarding the following issues:

- large obtrusive advertising signs placed on or affixed to parked vehicles and trailers;
- damaged and unsightly fences around vacant land;
- vehicles parked displaying for sale signs; and
- unsightly and dangerous land

Under the current Local Laws there is limited enforcement action that can be taken to resolve these issues. The proposed amendments listed below will assist in providing additional avenues to be able to respond to the complaints received and take the necessary action to remove the problems.

Proposed Local Laws Amendments:

1. Advertising Signs

Council often receives complaints pertaining to vehicles or trailers' large obtrusive advertising signs. Under current definitions Local Laws are unable to take corrective action. The proposed changes will allow Local Laws to take action when vehicles or trailers are parked with removable advertising signs on them. Only the definition of "Advertising sign" will require amending.

Current Local Law:

"Advertising sign" means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of a property where goods or services may be obtained.

Proposed changes:

“Advertising sign” - means any placard, sign, pointer board, notice, poster, mobile billboards, banner or other similar device whether portable or affixed or attached to any land, building or vehicle, which is used for the purposes of:

- soliciting sales;
- notifying the presence or location of a property where goods or services may be obtained; or
- notifying an event or competition, including a community or recreational event.

2. Fencing of Vacant Land

There is no current fencing of vacant land Local Law. Introducing the proposed local law would allow Council to direct land owners to either replace or repair broken unsightly or inadequate fences adjacent to vacant land. This amendment would assist improving the general amenity of an area.

Proposed Local Law 5.16(3):

The Council or an authorised officer may, by notice in writing, direct the owner or occupier of any vacant land to:

- a. erect;
- b. repair;
- c. replace; or
- d. modify –

fencing enclosing the vacant land. A notice under this clause may specify:

1. the material with which any fencing to be erected must be constructed; and
2. the height and other dimensions of the fencing to be erected.

The owner or occupier of any land who receives a notice under clause (3) must perform any work specified in the notice within the time stated in the notice.

Penalty: five (5) penalty units

3. Repairing Vehicles and Display of Vehicles for Sale

The addition of a provision to address vehicles left standing on a roadway, Council or public land will enable enforcement action to be taken when a complaint is received, vehicle is parked dangerously or causing damage.

Current Local Law 2.23

Repairing Vehicles

A person must not on any **road** or **Council land** paint, dismantle or rebuild any **vehicle** or (except where necessary to enable it to be removed) repair any **vehicle**.

Penalty: Twenty (20) Penalty Units

Proposed changes:

This amendment will enable Officers to take action against cars parked with “for sale” signs on them.

Repair and display of vehicles

- a. A person must not on any road, Council land or Public place paint, service, dismantle or rebuild any vehicle or repair any vehicle (except where necessary to enable it to be removed);
- b. A person must not on any road, Council land or Public place without a permit, display for sale, a vehicle or trailer.

Penalty: 20 penalty units

4. Unsightly and Dangerous Land

The current wording of Kingston’s Unsightly/Dangerous Land Local Law is not specific enough. This proposed wording will broaden the scope of action that Officers will be able to undertake to address complaints; improve public safety and the general amenity of the area.

Current Local Law 5.16

Unsightly / Dangerous Land

1. The owner or occupier of **land** must not cause or allow the **land** to be kept in an unsightly or dangerous state, or in a state detrimental to the amenity of the neighbourhood.

Penalty: Five (5) Penalty Units

2. The owner or occupier of **land** must ensure that all necessary steps are taken to prevent fire and minimise the possibility of the spread of fire. This includes keeping the **land** free of undergrowth, scrub, bracken, ferns, weeds, stubble and grass (whether alive or dead and whether standing or not standing), and any other similar material or substance.

Penalty: Ten (10) Penalty Units

Proposed changes:

Local Law 5.16 Unsightly/Dangerous Land

- (1) The owner or occupier of any property must not allow or permit the property to be kept in a manner which is unsightly.
- (2) In this clause unsightly means any land containing:
 - a. unconstrained rubbish;
 - b. excessive vegetation growth;
 - c. dead trees and vegetation;
 - d. a disused excavation;
 - e. waste material;
 - f. a building which is incomplete and not currently being constructed;
 - g. a building or other structure or thing which is detrimental to the amenity of the area;
 - h. graffiti on any building, structure or boundary fence.

For the purposes of Clause (2) a building may be detrimental to the amenity of the area if, in the opinion of an Authorised Officer, it has substantial adverse visual impact in the context of the surrounding area:

For the purposes of Clause (2) any land identified containing remnant and/or protected vegetation, or identified as a conservation area may be exempt.

Taking into account its appearance to the street or other public place, but not taking into account its intended design or siting. Where Council is of the opinion the property is unsightly; or

detrimental to the general amenity of the neighbourhood the Council may serve a Notice to Comply on the owner or occupier of the premises.

Penalty: 10 Penalty Units

Where the owner of the land fails to comply with the requirements of sub-clause (2), Council may carry out the work required and charge a fee determined by Council.

Proposed changes:

Local Law 5.16 Unsightly/Dangerous Land

- (3). The owner or occupier of any property must not allow or permit the property to be;
- a. kept in a manner which is dangerous or likely to cause danger to health, life or property;
 - b. haven for vermin, prohibited plants or insects;
 - c. used without a permit for the storage of any substance which in the opinion of an authorised officer is dangerous or is likely to cause danger to health, life or property; or
 - d. in any other condition determined by Council to be dangerous or likely to cause danger to health, life or property.
- (4) The owner of any land in a residential, business or industrial zone, as determined by reference to the Kingston Planning Scheme, shall at all times maintain their land in a neat and tidy condition by;
- a. Keeping grass and undergrowth cut to a height of no more than 150mm; and keeping the land clear of all rubbish and litter and must ensure that all necessary steps are taken to prevent fire and minimise the possibility of the spread of fire. This includes keeping the **land** free of undergrowth, scrub, bracken, ferns, weeds, stubble and grass (whether alive or dead and whether standing or not standing), and any other similar material or substance.

For the purposes of Clause (3) and/or (4) any land identified containing remnant and/or protected vegetation, or identified as a conservation area may be exempt.

Penalty: 10 Penalty Units

Where the owner of the land fails to comply with the requirements of sub-clause (3), Council may carry out the work required and charge a fee determined by Council. and/or (4).

Conclusion

These amendments will assist in being able to ensure that Kingston remains a safe and attractive place to live.

It is proposed to commence the process to amend Kingston Local Laws and conduct a consultation process in accordance with S223 of the Local Government Act 1989.

- September 2008 Public Notice of Council's intention; local papers, Government Gazette, display information on Kingston website; and submissions invited.
- October 2008 Submissions close (following a 14 day period to receive submissions).
- October 2008 Section 223 Submission Committee hearing (verbal submissions).
- October 2008 Report to Council (Council Meeting) including consideration of Section 223 Committee submissions; National Competition Policy Review; and Council decision.
- Advertisement in the Government Gazette.
- Local Law amendments come into operation once advertised in the Government Gazette.

Recommendation

That Council:

1. Amend Local Law 2 Roads and Traffic as follows:

Remove:

Part 1 Preliminary Provisions definition "**Advertising sign**" means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of a property where goods or services may be obtained.

Add:

Part 1 Preliminary Provisions definition

"Advertising sign" - means any placard, sign, pointer board, notice, poster, mobile billboards, banner or other similar device whether portable or affixed or attached to any land, building or vehicle, which is used for the purposes of:

- soliciting sales;
- notifying the presence or location of a property where goods or services may be obtained; or
- notifying an event or competition, including a community or recreational event.

2. Add Local Law 5.16(3) to Kingston's Local Law 5 Environment and Amenity to read as follows:

The Council or an authorised officer may, by notice in writing, direct the owner or occupier of any vacant land to:

- a. erect;
- b. repair;
- c. replace; or
- d. modify –

fencing enclosing the vacant land. A Notice to Comply under this clause may specify:

1. the material with which any fencing to be erected must be constructed; and
2. the height and other dimensions of the fencing to be erected.

The owner or occupier of any land who receives a notice under clause (3) must perform any work specified in the notice within the time stated in the notice.

Penalty: five (5) penalty units

3. Amend Local Law 2.23 Roads and Traffic Section 23 Repairing Vehicles to read: Repair and Display of Vehicles

- a. A person must not on any road, Council land or Public place paint, service, dismantle or rebuild any vehicle or repair any vehicle (except where necessary to enable it to be removed);
- b. A person must not on any road, Council land or Public place without a permit, display for sale, a vehicle or trailer.

Penalty: 20 penalty units

4. Amend Local Law 5 Section 16 Unsightly/Dangerous Land to read: Local Law 5.16 Unsightly/Dangerous Land

1. The owner or occupier of any property must not allow or permit the property to be kept in a manner which is unsightly.
2. In this clause unsightly means any land containing:
 - a. unconstrained rubbish;
 - b. excessive vegetation growth;
 - c. dead trees and vegetation;
 - d. a disused excavation;
 - e. waste material;
 - f. a building which is incomplete and not currently being constructed;
 - g. a building or other structure or thing which is detrimental to the amenity of the area;
 - h. graffiti on any building, structure or boundary fence.

For the purposes of Clause (2) a building may be detrimental to the amenity of the area if, in the opinion of an Authorised Officer, it has substantial adverse visual impact in the context of the surrounding area:

For the purposes of Clause (2) any land identified containing remnant and/or protected vegetation, or identified as a conservation area may be exempt.

Taking into account its appearance to the street or other public place, but not taking into account its intended design or siting. Where Council is of the opinion the property is unsightly; or detrimental to the general amenity of the neighbourhood the Council may serve a Notice to Comply on the owner or occupier of the premises.

Penalty: 10 Penalty Units

Where the owner of the land fails to comply with the requirements of sub-clause (2), Council may carry out the work required and charge a fee determined by Council.

Local Law 5.16 Unsightly/Dangerous Land

- (3). The owner or occupier of any property must not allow or permit the property to be;
 - a. kept in a manner which is dangerous or likely to cause danger to health, life or property;
 - b. a haven for vermin, prohibited plants or insects;
 - c. used without a permit for the storage of any substance which in the opinion of an authorised officer is dangerous or is likely to cause danger to health, life or property; or
 - d. in any other condition determined by Council to be dangerous or likely to cause danger to health, life or property.
- (4) The owner of any land in a residential, business or industrial zone, as determined by reference to the Kingston Planning Scheme, shall at all times maintain their land in a neat and tidy condition by;
 - a. Keeping grass and undergrowth cut to a height of no more than 150mm; and keeping the land clear of all rubbish and litter and must ensure that all necessary steps are taken to prevent fire and minimise the possibility of the spread of fire. This includes keeping the **land** free of undergrowth, scrub, bracken, ferns, weeds, stubble and grass (whether alive or dead and whether standing or not standing), and any other similar material or substance.

For the purposes of Clause (3) and/or (4) any land identified containing remnant and/or protected vegetation, or identified as a conservation area may be exempt.

Penalty: 10 Penalty Units

Where the owner of the land fails to comply with the requirements of sub-clause (3) and/or (4), Council may carry out the work required and charge a fee determined by Council.

5. That in accordance with Section 119 of the *Local Government Act 1989*. Council gives notice of its intention to amend the Local Laws in the Victorian Government Gazette and in local newspapers.

6. Appoint a Section 223 committee comprising Councillor _____, the General Manager Community Sustainability and the Manager Local Laws and Health Services to hear submissions on the proposed amendments and report to Council.

Crs Athanasopoulos / McKeegan

That Council:

1. Amend Local Law 2 Roads and Traffic as follows:

Remove:

Part 1 Preliminary Provisions definition "**Advertising sign**" means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of a property where goods or services may be obtained.

Add:

Part 1 Preliminary Provisions definition

"Advertising sign" - means any placard, sign, pointer board, notice, poster, mobile billboards, banner or other similar device whether portable or affixed or attached to any land, building or vehicle, which is used for the purposes of:

- soliciting sales;
- notifying the presence or location of a property where goods or services may be obtained; or
- notifying an event or competition, including a community or recreational event.

3. Add Local Law 5.16(3) to Kingston's Local Law 5 Environment and Amenity to read as follows:

The Council or an authorised officer may, by notice in writing, direct the owner or occupier of any vacant land to:

- e. erect;
- f. repair;
- g. replace; or
- h. modify –

fencing enclosing the vacant land. A Notice to Comply under this clause may specify:

3. the material with which any fencing to be erected must be constructed; and
4. the height and other dimensions of the fencing to be erected.

The owner or occupier of any land who receives a notice under clause (3) must perform any work specified in the notice within the time stated in the notice.

Penalty: five (5) penalty units

**3. Amend Local Law 2.23 Roads and Traffic Section 23 Repairing Vehicles to read:
Repair and Display of Vehicles**

- c. A person must not on any road, Council land or Public place paint, service, dismantle or rebuild any vehicle or repair any vehicle (except where necessary to enable it to be removed);
- d. A person must not on any road, Council land or Public place without a permit, display for sale, a vehicle or trailer.

Penalty: 20 penalty units

**4. Amend Local Law 5 Section 16 Unsightly/Dangerous Land to read:
Local Law 5.16 Unsightly/Dangerous Land**

1. The owner or occupier of any property must not allow or permit the property to be kept in a manner which is unsightly.
2. In this clause unsightly means any land containing:
 - i. unconstrained rubbish;
 - j. excessive vegetation growth;
 - k. dead trees and vegetation;
 - l. a disused excavation;
 - m. waste material;
 - n. a building which is incomplete and not currently being constructed;
 - o. a building or other structure or thing which is detrimental to the amenity of the area;
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For the purposes of Clause (2) a building may be detrimental to the amenity of the area if, in the opinion of an Authorised Officer, it has substantial adverse visual impact in the context of the surrounding area:

For the purposes of Clause (2) any land identified containing remnant and/or protected vegetation, or identified as a conservation area may be exempt.

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Penalty: 10 Penalty Units

Where the owner of the land fails to comply with the requirements of sub-clause (2), Council may carry out the work required and charge a fee determined by Council.

Local Law 5.16 Unsightly/Dangerous Land

- (3). The owner or occupier of any property must not allow or permit the property to be;
- e. kept in a manner which is dangerous or likely to cause danger to health, life or property;
 - f. a haven for vermin, prohibited plants or insects;
 - g. used without a permit for the storage of any substance which in the opinion of an authorised officer is dangerous or is likely to cause danger to health, life or property; or
 - h. in any other condition determined by Council to be dangerous or likely to cause danger to health, life or property.
- (4) The owner of any land in a residential, business or industrial zone, as determined by reference to the Kingston Planning Scheme, shall at all times maintain their land in a neat and tidy condition by;
- a. Keeping grass and undergrowth cut to a height of no more than 150mm; and keeping the land clear of all rubbish and litter and must ensure that all necessary steps are taken to prevent fire and minimise the possibility of the spread of fire. This includes keeping the **land** free of undergrowth, scrub, bracken, ferns, weeds, stubble and grass (whether alive or dead and whether standing or not standing), and any other similar material or substance.

For the purposes of Clause (3) and/or (4) any land identified containing remnant and/or protected vegetation, or identified as a conservation area may be exempt.

Penalty: 10 Penalty Units

Where the owner of the land fails to comply with the requirements of sub-clause (3) and/or (4), Council may carry out the work required and charge a fee determined by Council.

5. That in accordance with Section 119 of the *Local Government Act 1989*. Council gives notice of its intention to amend the Local Laws in the Victorian Government Gazette and in local newspapers.

6. Appoint a Section 223 committee comprising a Councillor to be appointed at a future date, the General Manager Community Sustainability and the Manager Local Laws and Health Services to hear submissions on the proposed amendments and report to Council.

Carried

K136

**Contract No. 08/64
Levenswell Road, Moorabbin
Road Reconstruction – Tender Report**

Approved by: Tony Rijs – General Manager Environmental Sustainability

Author: Brian Trower – Team Leader Roads and Drains

1. Purpose of Report

This report seeks Council's approval to accept tenders for Contract No. 08/64 – Levenswell Road, Moorabbin – Road Reconstruction. It is proposed that PRESTA & SONS PTY LTD be accepted as the preferred tenderer for this contract based on their submitted tender of \$873,000.00.

2. Background

The existing guttering and road surface has reached the end of its' expected life and is due for replacement to maintain a satisfactory road for local businesses. Whilst rebuilding the road, council is taking the opportunity to improve the underground drainage system along Levenswell Road

3. Brief Description of the Work under the Contract

The works involved in this contract includes the following items:

- Replacement of all concrete kerbs (charcoal coloured) on both sides of the road.
- Replacement of all concrete vehicle crossings (charcoal coloured).
- Formalisation (concreting) of nature strips (charcoal coloured).
- Replacement of the footpath (charcoal coloured) on both sides
- Asphalt resurfacing of the road
- Upgrading of street drainage
- Easement drainage work in the easement at the rear of 41 to 83 Levenswell Road.

4. Tenders Received

Tenders were advertised in The Age on Saturday 16th August 2008 and closed at 2.00pm on Thursday 4th September 2008. Seven (7) tenders were received, details of which are set out in the *Confidential Attachment*.

5. Project Funding

This project will be funded from Council's 2008/09 Capital Works Budget.

6. Evaluation Panel

The tenders were assessed by:

Tony Pell	–	Senior Construction Engineer
Chang Wuol	–	Construction Engineer
Matthew Varcoe	–	Construction Engineer

7. Triple Line Checklist

7.1 Budget/Financial Impact

For the subject contract the preferred tenderer represents the best outcome to Council in terms of value for money and level of risk. The submitted price from the preferred contractor is below the Design Engineer's estimate of \$973,555.00.

7.2 Social Impact

There will be inconveniences during the works which are typical of a large road reconstruction contract such as this one. A Special Clauses document was prepared as part of the contract package, which outlines a number of requirements by set out by Council to stage the works and minimise community disruption as much as possible.

7.3 Environmental Impact

Environmental impacts during construction of these works will be minimised due to measures put in place for controlling stormwater runoff quality, including silt barriers and straw bales

The final outcome of the works will alleviate a significant drainage/flooding issue in the area

8. *Summary and Conclusion*

The Evaluation Panel has ranked Presta & Sons Pty Ltd highly for this contract. The panel believes that Presta & Sons Pty Ltd have demonstrated their ability via their tender submission and previous works undertaken for Kingston City Council, to provide the best overall value for the construction of Contract No. 08/64 – Levanswell Road, Moorabbin – Road Reconstruction

9. Recommendation

That Council award Contract No. 08/64 – Levanswell Road, Moorabbin – Road Reconstruction on a Lump Sum basis to Presta & Sons Pty Ltd for the tendered price of **\$873,000.00**

Please refer to the “Confidential Attachment” outlining the scoring matrix and all other submissions.

Crs Alabaster / Athansopoulos

That Council award Contract No. 08/64 – Levanswell Road, Moorabbin – Road Reconstruction on a Lump Sum basis to Presta & Sons Pty Ltd for the tendered price of **\$873,000.00**

Carried

6. Project Funding

This project will be funded from Council's 2008/09 Capital Works Budget.

7. Evaluation Panel

The tenders were assessed by:

Tony Pell	–	Senior Construction Engineer
Chang Wuol	–	Construction Engineer
Matthew Varcoe	–	Construction Engineer

A sensitivity analysis was undertaken on the four (4) short listed contractors at the detailed evaluation stage. This was done by accurately hypothetically modelling the maximum criterion scores of the 2nd, 3rd and 4th lowest submissions and test them against the accurate scoring of the cheapest contractor. As a result of the sensitivity analysis, the final considered score of the cheapest contractor, Guy Road Construction P/L, could not be surpassed.

7. Triple Line Checklist

7.1 Budget/Financial Impact

For the subject contract the preferred tenderer represents the best outcome to Council in terms of value for money and level of risk. The submitted price from the preferred contractor is below the Design Engineer's estimate of \$1.4 million.

The cost versus benefit ratio of this contract increased as a result of the reassessment of the 2002 Flood Mitigation Strategy.

7.2 Social Impact

There will be inconveniences during the works which are typical of a large drainage construction contract such as this one. A Special Clauses document was prepared as part of the contract package, which outlines a number of requirements by set out by Council to stage the works and minimise community disruption as much as possible.

7.3 Environmental Impact

Environmental impacts during construction of these works will be minimised due to measures put in place for controlling stormwater runoff quality, including silt barriers and straw bales

The final outcome of the works will alleviate a significant drainage/flooding issue in the area

8. Summary and Conclusion

The Evaluation Panel has ranked Guy Road Construction P/L highly for this contract. The panel believes that Guy Road Construction P/L have demonstrated their ability via their tender submission and previous works undertaken for Kingston City Council, to provide the best overall value for the reconstruction of Contract No. 08/62 – Lower Dandenong Rd To Keiller Ave Via Ivy Street, Parkdale – Major Drainage Construction

9. Recommendation

That Council award Contract No. 08/62 – Lower Dandenong Rd to Keiller Ave via Ivy Street, Parkdale – Major Drainage Construction on a Lump Sum basis to Guy Road Construction P/L for the tendered price of **\$1,292,711.10**.

Please refer to the “Confidential Attachment” outlining the scoring matrix and all other submissions.

Crs West / Alabaster

That Council award Contract No. 08/62 – Lower Dandenong Rd to Keiller Ave via Ivy Street, Parkdale – Major Drainage Construction on a Lump Sum basis to Guy Road Construction P/L for the tendered price of **\$1,292,711.10**.

Carried

K138 Contract No. 08/41 Tree Planting & Tree Establishment Services

Approved by: Tony Rijs, General Manager Environmental Sustainability

Author: Tim Ford Supervisor Tree Planning and Planting

1. Purpose of Report

This report seeks approval for the Tree Planting and Tree Establishment Services Contract No. 08/41 for, Sevron Environmental Contractors Pty Ltd, as a Lump Sum contract for a two (2) year period, with the option to extend the operation of this Contract beyond the Initial Contract Term for a maximum period of two (2) years from the expiration of the Initial Contract Term.

2. Background

Due to the current climatic conditions, the City of Kingston has been utilising the services of Sevron Environmental Contractors for street tree watering and establishment services in order to ensure the ongoing survival of new and recently planted street trees across Kingston. In the past two years, Council has spent in excess of 160K per year, on contractors assisting with the street tree establishment programs.

Benchmarking and a brief cost analysis were undertaken in February 2008 with the view to reduce costs associated with the street tree watering and establishment programs.

A brief report was provided to the General Manager of Environment and Sustainability, on 13th June 2008, which sought approval for the tendering of this service. The report further outlined current costs associated with the additional requirements for street tree establishment within The City of Kingston and provided a cost analysis of current contracts providing similar services in Local Government within metropolitan Melbourne.

The service required to be provided under the Tree Planting and Tree Establishment Contract 08/41 will be improved from the previous informal and fragmented arrangement with Sevron Environmental Contractors with changes included in order to maximise on the expenditure and improve efficiencies within the service delivery.

The new contract allowed for 2 pricing options:

Schedule 3 Table C – Lump Sum, Tree Establishment – minimum of 51 irrigation events to approximately 2800 recently planted street trees from September to May with the ability to increase or decrease the irrigation season in line with seasonal variations, with possible savings to Council.

Schedule 3 Table A – Schedule of Rates, Tree Planting, Table B Miscellaneous Works – minimum of 200 trees to be planted across Kingston.

3. Brief Description of Contract Works

The awarded contractor is to provide tree establishment services in the north of the municipality, as shown shaded green in Attachment A, and include works in road reserves, parks and other Council-owned properties. Tree planting services are required to be provided

anywhere within the municipality. Council will provide tree establishment services in the south of the municipality and will maintain planting the majority of the street trees across the city annually.

The works to be completed under this contract include:

- **The irrigation of approximately 2800 recently planted street and reserve trees within the northern half of the municipality. With approximately 51 scheduled irrigation events between September and May.**
- **The planting of approximately 200 street trees annually. Trees may be planted anywhere within the municipality.**
- **Activities included within the establishment program are, mulching, re staking and tying, weed control, formative pruning, stake removal and the service of smart track requests.**
- **The contract is for a 2-year period commencing on 1st October 2008, with options to extend the contract for an additional two years at Council's discretion.**
- **The contract is a Lump Sum contract combined with a Schedule of Rates, subject to price adjustment for rise and fall in prices.**

4. Tenders Received

Tenders were advertised on 24th of June 2008 and closed on Thursday 24th July 2008. At the close of tender, three tender submissions were received, details of which are set out in the Confidential Attachment.

5. Project Funding

The additional services for Street Tree Establishment have been funded from Goods and Services, Parks Department operational budget. Within the last 2 financial years, the additional requirement of tree establishment has been partially funded, however this service overall has continued as a budget over-run.

6. Tender Evaluation Panel

The tenders were assessed by:

- Tony Rijs - General Manager Environmental Sustainability
- Mark Juler - Manager Environment
- Tony Collins - Team Leader Parks Department
- Lin Dawes - Systems Co-ordinator Parks Department
- Tim Ford - Supervisor Tree Planning and Planting Parks Department

7. Assessment of Tenders

Three conforming tenders were received. Tenders were assessed in accordance with the evaluation criteria set out in the Request for Tender, clause 5.1, Evaluation Criteria within Schedule 1.

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The Criteria were as follows:

1. Compliance Criteria
 - 1.1 Tender Compliance
 - 1.2 Financial Soundness
 - 1.3 Statutory Compliance
2. Price Criteria
 - 2.1 Schedule of Prices
3. Qualitative Criteria (in order of importance).
 - 3.1 Methodology
 - 3.2 Relevant Experience
 - 3.3 Skilled Personnel, Sub Contracting, Management and Administration
 - 3.4 Quality Management
 - 3.5 Occupational Health and Safety

Following evaluation of both the lump sum and schedule of rates within Table A, Tree Planting and Table B, Miscellaneous Works, it was assessed that the contract would be awarded on *Schedule 3* as this combined schedule carried the highest weighting value for evaluation.

A detailed evaluation matrix is provided in the Confidential Attachment.

Whilst Sevron Environmental Contractors Pty Ltd did not provide the lowest price for the lump sum component for Tree Planting and Establishment Services, they did obtain the highest total score on the evaluation matrix for Schedule 3 and on the overall evaluation. Sevron was more competitive within the Schedule of rates for Table A, Planting and Table B Miscellaneous Works. Furthermore, Sevron has a significant amount of experience within local government in delivering Tree Planting and Establishment services, has the additional ability to cart in Class A recycled water, uses a mobile tracking data base to track vehicle movements using a GPS monitoring system and has the flexibility with providing appropriate resources for the contract.

Sevron Environmental Contractors have been providing Tree Planting and Establishment services to local Government and corporate organisations since 1988. The company is a wholly owned and operates as a P/L company with its own independent Board of Directors. The company's core business is the delivery of environmental management services to local government including hard and soft landscape construction, water cartage of Class A recycled water, tree planting and establishment services and horticultural trees and gardens services.

The company is currently providing similar services to 9 Councils within metropolitan Melbourne.

Relevant current tree planting and establishment contracts include Dandenong City Council; Boroondara City Council, Yarra City Council, Whitehorse City Council, Stonnington City Council and Manningham City Council.

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The company has been previously providing quality tree planting and establishment service for the City of Kingston. They have local knowledge as the informal incumbent street tree planting and establishment services provider for the past 2 years.

Sevron has a well-established work planning, asset and service management system capable of providing all required service reports, and the necessary experience, personnel, recording and reporting systems, plant and equipment to carry out the service in accordance with the contract specifications.

8. Triple Bottom Line Checklist

Budget/Financial Impact

As a direct impact of climatic conditions, Council has spent over \$160K per annum on the tree planting and establishment budget, in the past two financial years. This total cost was based upon a \$3.00 per unit rate for street tree watering alone. By formally seeking a competitive market price, Council can achieve a per unit rate of \$1.90 for street tree watering and establishment services. The ongoing costs for Contract 08/41, Street Tree Planting and Establishment Services, can be met within the existing Council budget.

Social Impact

The formalisation of the contract is expected to improve tree establishment service delivery and thereby improve the overall quality of the service to the Kingston community.

Environmental Impact

The successful establishment of approximately 2800 street trees annually by minimising the environmental impact of tree establishment through the use of collected rain and bore water and maintaining a healthy and establishing urban forest across the municipality.

9. Summary and Conclusion

The Evaluation Panel have ranked Sevron Environmental Contractors Pty Ltd the highest and believe that this company have demonstrated their ability through; current contracts and their tender submission, to meet Council's expectations and will deliver the best quality Tree Planting and Establishment services for the residents of Kingston.

Recommendation

- | |
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| <ul style="list-style-type: none">• That Council award Contract 08/41, Tree Planting and Establishment Services, to Sevron Environmental Contractors Pty Ltd, as a lump sum contract for a two (2) year period, commencing on the 1st of October 2008 for an initial price of \$281,840.• That the CEO be delegated authority to exercise the option to extend Contract 08/41 by two (2) years, subject to satisfactory performance of the contract. |
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Crs Alabaster /West

- That Council award Contract 08/41, Tree Planting and Establishment Services, to Sevron Environmental Contractors Pty Ltd, as a lump sum contract for a two (2) year period, commencing on the 1st of October 2008 for an initial price of \$281,840
- That the CEO be delegated authority to exercise the option to extend Contract 08/41 by two (2) years, subject to satisfactory performance of the contract

Carried

There were no items of urgent business.

There were no items in camera.

The meeting closed at 8:19 pm.

Confirmed.....His Worship The Mayor 22 September 2008.