

# Agenda

## **Special Meeting of Council** **(Adjourned from Wednesday, 22nd May 2019)**

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**Monday 27<sup>th</sup> May 2019**

Commencing at 7.00pm

Council Chamber  
1230 Nepean Highway, Cheltenham

[kingston.vic.gov.au](http://kingston.vic.gov.au)

John Nevins  
Chief Executive Officer  
Kingston City Council



**City of Kingston  
Special Meeting of Council**

**Agenda**

**27 May 2019**

**Notice** is given that the Special Meeting of Kingston City Council called for Wednesday 22 May 2019 at 7.00pm has been adjourned to Monday 27 May 2019 at 7.00pm at Council Chamber, 1230 Nepean Highway, Cheltenham.

**1. Apologies**

**2. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest**

*Note that any Conflicts of Interest need to be formally declared at the start of the meeting and immediately prior to the item being considered – type and nature of interest is required to be disclosed – if disclosed in writing to the CEO prior to the meeting only the type of interest needs to be disclosed prior to the item being considered.*

**3. City Assets and Environment Reports**

- 3.1 CON -18/63 Contract Foreshore Shared Path Construction Project 1  
- Mentone to Rennison Street, Parkdale ..... 5

**4. Confidential Items ..... 23**

**Confidential Attachments**

- 3.1 CON -18/63 Contract Foreshore Shared Path Construction Project 1  
- Mentone to Rennison Street, Parkdale  
Appendix 3      Quantity Surveyor CON -18/63

### **3. City Assets and Environment Reports**

# Special Meeting of Council

27 May 2019

Agenda Item No: 3.1

## **CON -18/63 CONTRACT FORESHORE SHARED PATH CONSTRUCTION PROJECT 1 - MENTONE TO RENNISON STREET, PARKDALE**

**Contact Officer: Chris White, Team Leader - Public Place Projects  
Brian Trower, Team Leader Roads & Drains**

### **Purpose of Report**

This report seeks Council's approval to amend the previous resolution from 10 December 2018, to award Contract 18/63 – Foreshore Shared Path Construction Project 1 – Naples Road, Mentone to Rennison, Street Parkdale to CDN Construction Pty Ltd for a lump sum tender of \$5,155,439.77 ex. GST and a separate 10% contingency amount of \$515,544 ex. GST to cover unexpected financial variations relating to the works.

### **Disclosure of Officer / Contractor Direct or Indirect Interest**

No Council officer/s and/or Contractor/s who have provided advice in relation to this report have declared a Conflict of Interest regarding the matter under consideration.

### **OFFICER RECOMMENDATION**

That Council:

1. Amend the previous resolution from 10 December 2018, to include the road asphalt works within the scope of works to Contract 18/63 – Foreshore Shared Path Construction Project 1 – Naples Road, Mentone to Rennison, Street Parkdale.
2. Authorise the Chief Executive Officer or their delegate to award Contract No. 18/63 Foreshore Shared Path Construction Project 1 – Naples Road, Mentone to Rennison Street, Parkdale on a Lump Sum basis to CDN Constructors Pty Ltd for the lump sum of \$5,155,439.77 ex GST.
3. Approve a Contingency Allowance of \$515,544 ex GST from civil infrastructure capital allocation to cover unexpected financial variations relating to the works.

### **1. Executive Summary**

The purpose of this report is to seek an amendment to the resolution from December 2018 to award Contract No. 18/63 Foreshore Shared Path Construction Project 1 – Naples Road, Mentone to Rennison Street, Parkdale.

The amended resolution intends to award a revised contract sum for the full scope of works, including the contractual sum and contingency amounts.

At the 10 December 2018 Ordinary Council meeting resolved to award Contract No. 18/63 Foreshore Shared Path Construction Project 1 Naples Road, Mentone to Rennison Street, Parkdale on a Lump Sum basis to CDN Constructors Pty Ltd for the tendered price of \$3,369,000 ex GST for the Shared Path. This resolution amended the recommended award of a full contract lump sum of \$4,884,740.77 (\$3,369,000 shared path and \$1,515,740.77 Road Works) with a 10% contingency of \$488,474.08, reflecting the removal of the road works component and award the shared path works.

Following the 10 December 2018 Meeting, Council has advocated to VicRoads, Members of Parliament and the Minister for Roads and Road Safety to pursue the position that resurfacing of the road should not be included in the project, and subsequently requisite project approvals required from VicRoads. Through this process, a condition inspection report and photographic evidence was provided demonstrate the failing condition of the road, and requirement for VicRoads to re-surface their road sooner than anticipated. In response VicRoads have written to Council with a commitment to reimburse Council to a maximum of \$700,000 for resurfacing works in the 2020/21 financial year. On this basis the amended resolution is presented for further consideration of Council.

An updated contract lump sum of \$5,155,439.77 has been negotiated with CDN to reflect the market changes since the 10 December 2018. Officers have instructed an independent Quantity Surveyor to ensure costs reflect current market value. The review showed that most costs have increased by 3% with a 10% increase in specific items such as concrete due to current market demand. As such the negotiated CDN schedules are deemed within current market value.

CDN Construction Pty Ltd has passed financial viability checks and has a long company history with an extensive list of successfully completed road and shared path reconstruction projects with the City of Kingston and other municipalities.

## **2. Background**

In June 2018, Council sought tenders for Foreshore Shared Path Construction Project 1 – Naples Road, Mentone to Rennison, Street Parkdale. Following the tender evaluation CDN Constructors Pty Ltd, was recommended as the preferred tender for award of Contract No. 18/63. A report recommending the award of contract to CDN Constructors Pty Ltd was presented at the 10 December 2018 Ordinary Meeting.

At the December 2018 Ordinary Meeting, Council adopted the following resolution:

That Council:

1. *Authorise the Chief Executive Officer or their delegate to negotiate terms and award Contract No. 18/63 Foreshore Shared Path Construction Project 1 Naples Road, Mentone to Rennison Street, Parkdale on a Lump Sum basis to CDN Constructors Pty Ltd for the tendered price of \$3,369,000 ex GST for the Shared Path;*
2. *Approve a Contingency Allowance of \$336,900 ex GST (10% of contract sum) from civil infrastructure capital allocation to cover unexpected financial variations relating to works or contract negotiations;*
3. *Direct the Chief Executive Officer or their delegate to inform VicRoads that Kingston City Council does not agree to resurface Beach Road and Council advocate to the State Government for the removal of the pavement re-sheeting requirement for this section of Beach Road, and seek a similar outcome as achieved by the City of Bayside when they constructed their section of the bay trail and altered the line markings in order to narrow their road lanes.*

4. *Implement the re-vegetation of this section of the Kingston foreshore, including a boulevard style street tree planting program along both sides of Beach Road with a preference for Coastal Banksias, Drooping Sheoak, Bottle Brush or Coastal Manna Gums, subject to ecological advice about what species is most suitable and about beach-side plantings. Further that the boulevard style planting be done with 1 species, and be planted with trees of local provenance, with at least 2 per nature strip, or 1, should issues prevent such plantings. Further that all residential-side trees be planted no later than the end of April 2019. Beach side trees to be planted, except where there is Sand Heathland or Coastal Headland Scrub immediately adjacent to the Bay Trail, as soon as the Bay Trail works are completed.*
5. *During the establishment of the boulevard; should damage occur the trees are to be immediately replaced and the tree vandalism policy is to be discharged in full.*
6. *Further reiterate that foreshore revegetation to compensate for the 8,500 square meters of vegetation that will be removed is to be located as close as possible as to where it has been removed from the foreshore.*
7. *Determine that the Bay Trail and Beach Road Boulevard be designated a social and cultural path that will celebrate Council's local history, including and not limited to, local indigenous community, Kingston's Citizens of the Year, local artists and artworks and/or social causes championed by the City of Kingston. Further that a report on the best way to do this be presented to the February 2019 Ordinary Council Meeting.*

Officers have commenced action on each of the 6 parts to the resolution. This report seeks amendment to items 1 and 2.

Following the 10 December 2018 Meeting in accordance with part 3, Council has advocated to VicRoads, Members of Parliament and the Minister for Roads and Road Safety to pursue the position that resurfacing of the road should not be included in the project, and subsequently requisite project approvals required from VicRoads.

Through this process, a condition inspection report and photographic evidence was provided demonstrate the failing condition of the road, and requirement for VicRoads to re-surface their road sooner than anticipated. The road surface is in sections showing signs of dilapidation and surface break-up (Appendix 1). In response VicRoads have written to Council with a commitment to reimburse Council to a maximum of \$700,000 for resurfacing works in the 2020/21 financial year. On this basis the amended resolution is presented for further consideration of Council.

As a result, the road asphalt works have been included within the total scope of the works. An updated contract lump sum of \$5,155,439.77 has been negotiated with CDN to reflect the changes since the 10 December resolution to include road works and meet negotiated terms to cover increase in material costs.

### **3. Discussion**

#### **3.1 Council Plan Alignment**

Goal 1 - Our well-planned, liveable city supported by infrastructure to meet future needs

Direction 1.1 - Intergenerational land use planning for a sustainable community

Works covered by Contract No. 18/63 have been identified in a range of strategies as part of the Port Phillip Bay Trail project.

### **3.2 Consultation/Internal Review**

Feedback and input into the award of this contract has been sought from relevant internal departments. This includes:

- Advice from Traffic and Transport on traffic management approvals;
- Procurement and Contracts on the preferred procurement model and tender negotiations
- Foreshore Management Team on vegetation removal and maintenance requirements;
- Infrastructure on design, construction management planning and tender documentation;
- Communications and Community Relations on the communication plan for the project works.

### **3.3 Operation and Strategic Issues**

#### **3.3.1 Removal of re-sheeting of Beach Road from the contract - VicRoads**

The Council resolution from 10 December 2018 directed the Chief Executive Officer to advise VicRoads that Council would not agree to the re-sheeting of Beach Road.

Council has advocated to VicRoads, Members of Parliament and the Minister for Roads and Road Safety to pursue the position that resurfacing of the road should not be included in the project, and subsequently requisite project approvals required from VicRoads. Members of the community have raised concern with Council and VicRoads on the existing condition of Beach Road. In considering these concerns, a condition inspection report including photographic evidence was undertaken and subsequently provided to VicRoads to demonstrate the failing condition of the road. VicRoads have previously advised that Beach Road would not require resurfacing until 2026/27.

Following consideration of Council's position VicRoads have written to Council with a commitment to reimburse Council to a maximum of \$700,000 for resurfacing works in the 2020/21 financial year (Appendix 2). On this basis the amended resolution is presented for further consideration of Council.

### **3.4 Tender Evaluation**

Prices were sought from the approved contractor panel appointed under Expression of Interest process, with tenders closing on Thursday, 21 June 2018, at 2:00PM.

Two tenders were received and evaluated by a Tender Evaluation Panel, consisting of Senior Construction Engineer, Senior Design Engineer, Strategic Projects Co-ordinator and Public Place Project Officer. Procurement procedures were followed in line with advice received from Council's Procurement and Contracts Department.

Tender evaluation for contract 18/63 was undertaken by a scored tender evaluation method. Appendix 2 includes a breakdown of the scoring for the detailed evaluations. The detailed evaluation involved scoring tenderers against the following criterion:

- Tender price
- Ability to meet set constraints
- Methodology
- Access to suitable plant and equipment
- Access to suitable sub-contractors/ in-house trades

Scoring for the CDN Constructors Pty Ltd and Evergreen Civil Pty Ltd were derived after conducting a face to face interview and detailed analysis of the tender submissions.

CDN Constructors Pty Ltd obtained the highest overall score in the detailed evaluation and is therefore recommended as the preferred tenderer for this project.

CDN Constructors Pty Ltd has a long company history with an extensive list of successfully completed road and shared path reconstruction projects with the City of Kingston and other municipalities.

An updated contract lump sum of \$5,155,439.77 has been negotiated with CDN to reflect the market changes in materials costs since the 10 December 2018. To ensure Council's interests are protected, Council officers have instructed a Quantity Surveyor to verify the contract increase as competitive in current market, acknowledging increase in raw cost of materials.

The Quantity Surveyor review showed that most scheduled costs have increased by 3% with a 10% increase in specific items such as concrete due to current market demand. As such the negotiated CDN schedules are deemed within current market value. Refer to Quantity Surveyor (Appendix 3) report attachment detailing schedules (confidential to protect commercial contract rates).

### **3.5 Project Costs**

The discrete shared path works associated with this project are relative to the 2015 cost estimate of \$3.3M. This original estimate included the shared path construction and associated landscaping. The presented tender includes new and upgraded bus stops, the relocation of power poles and the installation of signalised pedestrian crossings which have been requested following the approval process with VicRoads and Public Transport Victoria – these items were not considered in the 2015 cost estimate.

In addition to the inclusion of other items to the scope of works, there have been several factors that have contributed to the tender price and cost of the works.

- There has also been a price increase of materials including concrete, asphalt and steel, that has resulted in substantial cost increases for these materials. The 2015 cost estimate included the price of a shared path as \$80 per sq. m (based on tender/contract pricing) whereas the current tender price demonstrates an approximately 40% price increase per sq. m.



- As part of the Vic Roads approval, Vic Roads has required the entire width of Beach Road be resurfaced with asphalt, this was not included within the original cost estimate for the works. These requirements have resulted in a significant cost to the works, approximately 30% of the tendered amount.

A contingency of \$515,544 ex GST (approx. 10%) is being sought to cover unknown subsurface ground conditions, flexibility to add additional night works or more expensive retaining wall treatments to minimise excavation.

#### **4. Conclusion**

Following the tender evaluation and the revised position of VicRoads with a contribution to road resurfacing costs, it is recommended that Council award contract 18/63 Foreshore Shared Path Construction Project 1 – Naples Road, Mentone to Rennison Street, Parkdale to CDN Constructors Pty Ltd, inclusive of the road resurfacing component.

##### **4.1 Environmental Implications**

The construction of the foreshore shared path will have a positive environmental impact by providing a safe path to cycle on which may in turn partially reduce reliance on motor vehicles in the area.

Vegetation offsets and revegetation will occur to minimize impact from habitat loss and removal.

##### **4.2 Social Implications**

The 700m-long Bay Trail between Charman Road and Mentone Life Saving Club was completed by Council in 2015 following a period of consultation, planning, design and construction. This section of the trail has been welcomed by the community, with high use by recreational cyclists and pedestrians.

The construction of the section of shared path between Mentone Life Saving Club to Mordialloc, considers better visibility of the path from the street, retaining the gravel walking path to provide separation between pedestrians and cyclists and offset of any vegetation loss.

As part of the planning of the construction works, hours of work and the staging of the works have been carefully considered to minimise community disruption as much as possible. Reduced work times imposed by Vic Roads will result in a longer construction program and works over summer are anticipated. Construction will commence in 2019 under Contract 18/63.

##### **4.3 Resource Implications**

The funding for this contract is planned to be delivered through Council's adopted capital works program. Based on the project cost of \$5,155,439.77 funding will be drawn from the following funded areas:

- |                             |             |
|-----------------------------|-------------|
| • Bay Trail Implementation  | \$2,800,000 |
| • Road Works                | \$1,483,440 |
| • Walking and Cycling Paths | \$ 172,000  |
| • Vic Roads contribution    | \$ 700,000  |

In addition to the contract sum to be awarded, it is recommended that Council approve a contingency allowance to cover unexpected project variations through delivery and contract negotiation. It is prudent to allow for variations of this magnitude as it is not possible to fully predict subsurface ground conditions and service authority asset locations prior to commencement of excavation works. This allowance is standard for projects of this nature

Sufficient funds are available within the Council's civil infrastructure Capital Works Budget for the contingency amount and additional road works. This will mean that some road and car parking projects will have a delayed commencement and will be undertaken over the 2019/20 and 2020/2021 financial year. It is proposed that Northcliffe Road Edithvale (Randall to Munro - \$700K), Chelsea Road Chelsea (Drinan to Beardsworth Ave - \$940K) and Bourke Road, Clarinda (Old Dandenong to Clarinda Rd - budgeted \$360K) road projects be deferred to cover the cost of the Beach Road asphalt works and contingency amount of \$515,544.

#### **4.4 Legal / Risk Implications**

A significant risk exists of the Bay Trail remaining as a 'gap' in one of Melbourne's key shared path networks, if contract 18/63 is not awarded. This project has been subject to a range of statutory processes which have assessed the risk profile of the project, this report now considers the contract for the implementation of the project in accordance with the approved project.

### **Appendices**

Appendix 1 - Beach Rd Condition Assessment (Ref 19/96751) 

Appendix 2 - Letter from VicRoads Foreshore Shared Path (Ref 19/94473) 

Appendix 3 - Quantity Surveyor CON -18/63 (Ref 19/96098) - Confidential

Author/s: Chris White, Team Leader - Public Place Projects  
Brian Trower, Team Leader Roads & Drains

Reviewed and Approved By: David Shepard, Acting Manager Parks and Recreation  
Rachelle Quattrocchi, Manager Infrastructure  
Daniel Freer, General Manager City Assets and Environment

# 3.1

## CON -18/63 CONTRACT FORESHORE SHARED PATH CONSTRUCTION PROJECT 1 - MENTONE TO RENNISON STREET, PARKDALE

1	Beach Rd Condition Assessment .....	15
2	Letter from VicRoads Foreshore Shared Path .....	21

**CONDITION REPORT on PAVEMENT SURFACE /WEARING COURSE**  
**Beach Road (between Naples Road and Nepean Highway)**

**Section 1 – Naples Road to Warrigal Road** – This is approximately 900 m section of asphalt pavement. This section of road is in good condition and has a condition rating of 4. There are no significant defects noticed in this section of pavement surface. However the surface is oxidised due to the age of asphalt overlay. Estimated life of this section could be 6 to 8 years.

**\*\*Sections 2– Warrigal Road to Parkers Road** - Length of the section is 800 m. This section of road is in satisfactory condition and has a condition rating of 5. Transverse and longitudinal cracks have appeared in some areas and surface looks bony in few spots. Some patching work is needed in the near future . Crack sealing is also required along the joints of the pavement. Estimated life of this section could be 4 to 6 years.

**See below photos of the section of road between Warrigal Road to Parkers Road.**





**\*\*\*Sections 3–Parkers Road to Mcindoe Pde-** This 300m section of road is in poor condition and has a condition rating of 6. Areas of pavement exhibit significant cracking and needs patching work soon. Estimated life of this section could be 2 to 4years. (Checking of aerial photos indicates that this section has not been resurfaced in at least 10 years).



See below photos of the section of road between Parkers Road to Mcindoe Pde.









**Sections 4– Mcindoe Pde to Bay Street** – Approximate length of the section is 400 m. This section of road is in satisfactory condition and has a condition rating of 5. Longitudinal cracks have appeared and needs crack sealing. Estimated life of this section could be 4 to 6 years. (Approximately half of this section is not within the current contract length i.e. 200m approx.).



**Section 5 – Bay Street to Nepean Highway** - This is approximately 800 m section of asphalt pavement. This section of road is in good condition and has a condition rating of 4. There are no significant defects on the pavement. Estimated life of this section could be 6 to 8 years. (Please note that this section is not connected to the current contract).

In general it is predicted from the visual inspection that the pavement surface has approximately 40% or less of its remaining life left since the last resurfacing treatment.

Prepared by B Trower & E Kabir



John Nevins  
Chief Executive Officer  
Kingston City Council  
PO Box 1000  
MENTONE VIC 3194

Dear Mr Nevins

**Re: Kingston Bay Trail**

I write to confirm final details and arrangements for the Kingston Council Bay Trail project with VicRoads. I acknowledge the significant time and effort the Council has spent on investigating and developing this important project to complete the missing 3.2km section of the Bay Trail shared pedestrian/cycling path from Mentone Life Saving Club to Mordialloc.

The project addresses the lack of formal pedestrian and cyclist facilities by providing a three-metre wide, off-road shared path along the foreshore side of Beach Road. VicRoads acknowledges that the project will deliver a net community benefit and will promote a safer and more attractive environment by providing a continued trail path for walking and cycling along Beach Road.

VicRoads appreciates Council acknowledging safety requirements by agreeing to resurface the full four lanes along the section of Beach Road subject to line marking changes. Given this will provide the best solution in terms of both asset management and customer experience, VicRoads agrees to reimburse Council to a maximum of \$700,000 for resurfacing following successful delivery of the project during the June 2020/21 financial year. This reimbursement is based on an increased asset life of eight years and a cost share of 50% on the \$1.4m cost provided by Council.

VicRoads' officers have been working through the approval process for the detailed plans and note that the following actions must be addressed by Kingston Council:

1. Changes to the type of kerb and channel at some locations.
2. Provisions for Retro Reflective Pavement Markings (RRPM) to meet colour standards (Yellow).
3. Finalise submission of proposed plans for review including:
  - o Pedestrian Operated Signal (POS) remodelling plans
  - o Location of street lightings and power poles.
4. Ensure pedestals of Pedestrian Operated Signals (POS) are located at least 1m from the traffic lanes.

5. Ensure the relocated electronic speed sign/s are located at least 1m from the traffic lane.
6. Ensure wording of signs meets standards.

Your officers have been provided with more details by Nathan Ganeshanathan, Senior Project Engineer (9881 8063).

Pending Council addressing the above issues, the project can proceed to the delivery phase. At this stage there will be a standard design review, audit and certification process and charges that apply to this project. VicRoads will also require Consent for Work and MOA approvals before construction can commence.

Should you require any further information, Savoula Lidis, Director Transport & Planning, Metropolitan South East, (0419 009 080) would be pleased to assist. VicRoads are keen to work closely with Council to see the project delivered.

Please confirm your agreement to the above arrangement.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mark Koliba'.

**Mark Koliba**  
**Acting Regional Director Metro South East**

**14 / 5 / 2109**

## 4 Confidential Items

The following item was deemed by the Chief Executive Officer to be confidential in accordance with Section 77 of the Local Government Act 1989. In accordance with that Act, Council may resolve to consider this issue in open or closed session.

### Confidential Appendices

- 3.1 CON -18/63 Contract Foreshore Shared Path Construction Project 1 - Mentone to Rennison Street, Parkdale**  
*Appendix 3, Quantity Surveyor CON -18/63 is designated confidential as it relates to (s89 2d)*

### RECOMMENDATION

That in accordance with the provisions of section 77(2) of the *Local Government Act 1989*, Council designate the following appendix confidential on the ground that it is a contractual matter in accordance with Section 89(2) of the Act:

### Confidential Appendices

- 3.1 CON -18/63 Contract Foreshore Shared Path Construction Project 1 - Mentone to Rennison Street, Parkdale**  
**Appendix 3, Quantity Surveyor CON -18/63**  
*This appendix is confidential in accordance with the Local Government Act s89(2) as it relates to (s89 2d)*