

ALL INFORMATION AVAILABLE IN  
VARIOUS FORMATS ON REQUEST  
[city@busselton.wa.gov.au](mailto:city@busselton.wa.gov.au)

Please note: These minutes  
are yet to be confirmed as a  
true record of proceedings

## CITY OF BUSSELTON

### MINUTES FOR THE COUNCIL MEETING HELD ON 11 APRIL 2018

#### TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS.....	2
2.	ATTENDANCE .....	2
3.	PRAYER .....	2
4.	PUBLIC QUESTION TIME.....	3
5.	ANNOUNCEMENTS WITHOUT DISCUSSION.....	4
6.	APPLICATION FOR LEAVE OF ABSENCE.....	4
7.	PETITIONS AND PRESENTATIONS .....	4
8.	DISCLOSURE OF INTERESTS .....	4
9.	CONFIRMATION AND RECEIPT OF MINUTES .....	5
	Previous Council Meetings .....	5
	9.1 Minutes of the Council Meeting held 28 March 2018.....	5
	<b>ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION .....</b>	<b>6</b>
	14.1 LEASE TO SPINWAY CYCLES - BUSSELTON FORESHORE.....	7
	15.1 COUNCILLORS' INFORMATION BULLETIN .....	11
	<b>ITEMS FOR DEBATE .....</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
	12.1 RFT24/17 PROVISION OF TRAFFIC MANAGEMENT SERVICES .....	14
16.	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....</b>	<b>20</b>
	16.1 EASTERN LINK DEFERRAL.....	20
17.	<b>CONFIDENTIAL REPORTS .....</b>	<b>23</b>
	17.1 PROCUREMENT OF EXPERT SERVICES - CONTAMINATED SITE INVESTIGATIONS .....	23
18.	<b>QUESTIONS FROM MEMBERS .....</b>	<b>24</b>
19.	<b>PUBLIC QUESTION TIME.....</b>	<b>24</b>
20.	<b>NEXT MEETING DATE .....</b>	<b>24</b>
21.	<b>CLOSURE .....</b>	<b>24</b>

## MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 11 APRIL 2018 AT 5.30PM.

### 1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.30pm.

### 2. ATTENDANCE

#### Presiding Member:

Cr Grant Henley Mayor

#### Members:

Cr John McCallum Deputy Mayor  
Cr Coralie Tarbotton  
Cr Ross Paine  
Cr Lyndon Miles  
Cr Rob Bennett  
Cr Paul Carter  
Cr Robert Reekie  
Cr Kelly Hick

#### Officers:

Mr Paul Needham, A/ Chief Executive Officer  
Mr Oliver Darby, Director, Engineering and Works Services  
Mr Cliff Frewing, Director, Community and Commercial Services  
Mr Tony Nottle, Director, Finance and Corporate Services  
Ms Sarah Pierson, Manager, Governance and Corporate Services  
Miss Kate Dudley, Administration Officer, Governance

#### Apologies

Nil

#### Approved Leave of Absence

Nil

#### Media:

"Busselton-Dunsborough Times"  
"Busselton-Dunsborough Mail"

#### Public:

18

### 3. PRAYER

The prayer was delivered by Pastor Lee Sykes of Cornerstone Church.

**4. PUBLIC QUESTION TIME****Response to Previous Questions Taken on Notice**

Nil

**Public Question Time****4.1 Mrs Julie Avery**

The following question was asked of Council at the 11 April 2018 Ordinary Council Meeting.

Would the Council consider deferring the decision on the Easter Link project for six months?

**Response**

The Presiding Member responded that Council is considering that Motion tonight.

**4.2 Mr Paul Vines**

The following questions were asked of Council at the 11 April 2018 Ordinary Council Meeting.

If the EPA came down to visit Busselton and assess the site before providing their advice or did they provide the advice based on Council reports?

Why would the EPA provide that advice when the Federal Government had indicated different advice?

**Response**

The Presiding Member responded that the Council referred the matter to the EPA and they made the decision.

The Presiding Member responded that the Federal Government have made the site "controlled action" this also applies to sites like Barnard Park due to run off into the Ramsar wetland.

The Director of Engineering and Works Services suggested the Mr Vines make use of the EPA appeals process.

**4.3 Mr John Geary**

The following question was asked of Council at the 11 April 2018 Ordinary Council Meeting.

Has the Council considered the future growth of Busselton in rejecting the Ford Road option?

**Response**

The Presiding Member responded that the Council hasn't rejected the Ford Road option, it remains part of the Busselton Traffic Study and Environmental studies are currently examining ways the council could resubmit an application for the construction of Ford Road.

**4.4 Mr Ron McDevitt**

The following question was asked of Council at the 11 April 2018 Ordinary Council Meeting.

Mr McDevitt stated that for the Easter Link the Council propose to cut down about 20/30 mature trees, ruin three nice quiet pieces of park land.

What is the Council doing to replace that park land and the trees?

**Response**

The Presiding Member responded that the current design for the Eastern Link identifies 6/7 mature peppi trees that would be required to be removed. There is some potential to relocate some of those trees. Some trials are underway in other locations. In regard to the park land, yes there would be a strip of that park area currently that would be used for the road connection.

**5. ANNOUNCEMENTS WITHOUT DISCUSSION****Announcements by the Presiding Member**

Nil

**Announcements by other Members at the invitation of the Presiding Member**

Nil

**6. APPLICATION FOR LEAVE OF ABSENCE**

Nil

**7. PETITIONS AND PRESENTATIONS**

Nil

**8. DISCLOSURE OF INTERESTS**

Nil

**9. CONFIRMATION AND RECEIPT OF MINUTES**

**Previous Council Meetings**

9.1 Minutes of the Council Meeting held 28 March 2018

**COUNCIL DECISION**

**C1804/066**

Moved Deputy Mayor McCallum, seconded Councillor P Carter

That the Minutes of the Council Meeting held 28 March 2018 be confirmed as a true and correct record.

**CARRIED 9/0**

**ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION**

At this juncture the Mayor advised the meeting that with the exception of the items identified to be withdrawn for discussion, that the remaining reports, including the Committee and Officer Recommendations, will be adopted en bloc.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1804/067** Moved Deputy Mayor McCallum, seconded Councillor Tarbotton

That the Committee and Officer Recommendations in relation to the following agenda items be carried en bloc:

- 14.1 LEASE TO SPINWAY CYCLES - BUSSELTON FORESHORE
- 15.1 COUNCILLORS' INFORMATION BULLETIN

**CARRIED 9/0**

**EN BLOC**

**10. REPORTS OF COMMITTEE**

Nil

**11. PLANNING AND DEVELOPMENT SERVICES REPORT**

Nil

#### 14.1 LEASE TO SPINWAY CYCLES - BUSSELTON FORESHORE

<b>SUBJECT INDEX:</b>	Agreements/Contracts
<b>STRATEGIC OBJECTIVE:</b>	Cycle ways that connect our communities and provide alternative transport choices.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Property Services
<b>REPORTING OFFICER:</b>	Property Management Coordinator - Sharon Woodford-Jones
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Attachment A Lease Area ⇨ Attachment B Example of Existing Bike Stand ⇨

#### **PRÉCIS**

A proposal has been put to the City by an organisation trading as Spinway WA (Spinway) for an automated bike hire system on the Busselton Foreshore. The proposal requires the provision of a concrete hard stand on which to place a bike stand and solar powered unit for electronic credit card processing. The purpose of this report is to recommend that Council authorise the CEO to enter into a lease with Spinway for the land on which this would stand.

This report also contains recommendations in relation to the use of a pre-existing market valuation for the purpose of carrying out the statutory process under section 3.58 of the Local Government Act 1995.

#### **BACKGROUND**

The proponent has been operating a bike hire service from the Busselton Foreshore for some time called Gecko Bike Hire. This is operated with the assistance of the Margaret River Busselton Tourism Association (MRBTA) whereby MRBTA place the Gecko Bikes in the existing bike racks at Railway House and store and manage the provision of helmets and locks from their premises. This arrangement is not convenient for the MRBTA as there is little space available for bike storage and the daily movement of the bikes is time consuming. MRBTA do however see the provision of bike hire as having good synergies with the visitor service they offer and are supportive of Spinway's proposal. They are also willing to continue handing out helmets and locks to bike hirers.

City staff have identified a location on the Busselton Foreshore close to Railway House (and MRBTA); as shown on the proposed lease plan attached. As Spinway will require exclusive possession of the site and incur capital costs in the provision of the handstand and equipment, it is proposed that they be offered a lease. It is recommended that a term of one year with options for a further two years followed by a another two years (1 plus 2 plus 2) be granted.

#### **STATUTORY ENVIRONMENT**

Section 3.58 of the Local Government Act 1995 (LGA) relates to the disposal of property by a local government, with disposal defined to include leasing. Section 3.58 requires the publishing of the proposed disposition with the publication to describe the property concerned, give details of the proposal and invite submissions to be made before a specified date.

Section 3.58(4) of the LGA requires that the disposition includes either a valuation not more than 6 months old or a declaration that a valuation older than 6 months is considered a true indication of the value at the time of the disposition.

The area on which the hard stand, bike rack and processing unit is proposed to be placed is crown land (Reserve 38558) vested in the City of Busselton with power to lease or licence for any term not exceeding 42 years.

Under section 18(2) of the Land Administration Act 1997, approval of the Minister for Lands is required for a lease on Crown Reserve.

### **RELEVANT PLANS AND POLICIES**

The officer recommendation aligns with the objectives of the City of Busselton's Draft Cycling and Shared Path Network Plan (2018-2022).

### **FINANCIAL IMPLICATIONS**

A number of market rent valuations were obtained for this area during the development and planning phases of the Busselton Foreshore. The most recent of which is dated 30<sup>th</sup> November 2016 and was provided by the Opteon Property Group. Whilst this valuation is over 16 months old, the area required by Spinway is in the same general vicinity as the land the subject of this valuation and therefore comparable in terms of rent threshold. It is therefore proposed that the rent be set at \$45 per square metre, totalling \$1125 per annum excluding GST.

#### **Long-term Financial Plan Implications**

The officer recommendation will result in no significant long term implications.

### **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation in this report reflects the objectives of Key Goal Areas 1 and 5 and specifically Community Objectives 1.3 and 5.3 of the City of Busselton Strategic Community Plan 2017:

"A community with access to a range of cultural and art, social and recreational facilities and experiences" and

"Cycle ways that connect our communities and provide alternative transport choices".

### **RISK ASSESSMENT**

There are no identified risks of a medium or greater level associated with the officer recommendation, with the recommendation serving to mitigate the risks associated with there not being a lease in place.

### **CONSULTATION**

The idea for a bike hire facility such as that proposed was originally raised by staff at the MRTBA. Since then there have been a number of discussions with the proponents concerning the location, tenure and rent for leasing the required land.

MRBTA are supportive as they will benefit from the proposal, both in respect of bringing to an end the task of storing and displaying the Gecko bikes and from the footfall to the visitor centre for the purpose of collecting bike helmets and locks.

As the proposed location of the site falls partially within the line of sight of the forthcoming microbrewery on the foreshore, the proponents of that project were also consulted. They have confirmed they have no objection to the chosen area.

The Department of Planning, Lands and Heritage have also indicated provided informal 'officer level' approval for the proposal and confirm that the use of the area for bike hire is consistent with the reserve purpose.

Stakeholder consultation linked to the development of the City of Busselton's Draft Cycling and Shared Path Network Plan reaffirmed the need to take into account of all types of users when developing future path networks, including recreational cyclists.

#### **OFFICER COMMENT**

Spinway currently operate out of other prominent locations throughout Perth such as Kings Park and the Fremantle foreshore and in Newcastle, the Gold Coast and Adelaide. In their submission to the City they refer to their service as having been described as a "bike revolution", offering the first fully automated high quality bike hire in Western Australia. Attachment B of this report shows a photo of a sample rack and solar powered credit card payment facility, referred to as a "bike station".

The area required for the operation proposed for Busselton is relatively small at 10 metres by 2.5 metres. The stations consist of an electronic credit card processing unit attached to a rack of between four and up to thirty two bikes. Spinway are proposing a station of up to 10 bikes in Busselton. The station will need to be placed on a concrete hard stand that Spinway will install.

The system is simple, needing very little infrastructure, with stations running off battery or solar power. Customers simply swipe their credit card and follow the onscreen instructions to hire a bike. A bike is released on the completion of a credit card transaction and at the end of the ride is re-docked into the system. The transaction is fully secure and runs using the Commonwealth banks merchant banking system.

Customers have the flexibility of hiring a bike for a minimum of one hour and up to 24 hours. The fees are relatively low -one hour \$11, two to four hours \$22, or \$33 for the whole day. If a rider selects the one-hour option but has the bike longer, the system will charge for the extra time.

Helmets and locks are included in the hire charge. It is proposed that they will be collected from the visitor centre. So far as security is concerned the systems are designed to remain in outdoor public areas. The bikes, which are good quality and heavy duty, are secured within the bike station via a front probe which is virtually impossible to remove and are electronically monitored at all times through a central computer program. For the three years Spinway have been operating they tell us that theft and vandalism have not been a problem.

Spinway describe themselves as a family owned company motivated to start their business by a keen interest in the environment and health and fitness. They strongly identify with the need to provide greener modes of transport. They pride themselves on being the first automated bike hire company to operate within Western Australia and have built up a fleet of 84 bikes operating from 16 locations.

#### **CONCLUSION**

The proposed location for Spinway would complement the existing dual use path network and contribute to the development of sustainable modes of transport around the foreshore and town sites. The existence of other Spinway bike hire facilities in places such as Kings Park and Fremantle are testament to the popularity and viability for a service such as this.

As the proposal is yet to be tested in a regional area, the recommendation is for a term of one year initially followed by two further two year options. This will allow sufficient time for the proponent to ascertain whether the concept is viable.

### **OPTIONS**

1. Council could resolve not to enter into a lease with Spinway but allow the arrangement assisted by the MRBTA to continue.
2. Council can resolve to enter into a lease on alternative terms and conditions.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Advertising of the proposed disposition will take place as soon as possible for a 14 day period. A further report will be presented to Council if any submissions are received with any subsequent recommended changes to the proposed lease arrangements. If no submissions are received it is anticipated that a lease will be entered into by the end of May 2018.

### **COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1804/068**

Moved Deputy Mayor McCallum, seconded Councillor Tarbotton

That the Council:

1. In accordance with Section 3.48(4) of the Local Government Act 1995, declare that the valuation carried out by Opteon Property Group dated 30 November 2016 indicating the market rent for a portion of Reserve 38558, Foreshore Parade, Busselton of \$42 to \$46 per square meter per annum (net of GST) to be a true reflection of the current market value of the area.
2. Advertises the proposed disposition of land to Spinway WA in accordance with Section 3.58 of the Local Government Act 1995 for the term and conditions outlined in this report
3. If there are no adverse objections resulting from resolution 2, delegates to the CEO the power to negotiate and enter into a lease with Spinway WA for a portion of Lot 560, Plan 409945, as shown on Attachment 1 on the following terms and conditions:
  - i. The annual rent will be \$1125 exclusive of GST with annual CPI rent reviews
  - ii. The term of the lease will be 1 year with options for two further two year terms

**CARRIED 9/0**

**EN BLOC**

## 15.1 COUNCILLORS' INFORMATION BULLETIN

<b>SUBJECT INDEX:</b>	Councillors Information Bulletin
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Governance Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Administration Officer - Governance - Katie Dudley
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Planning Applications received by the City between 1 March, 2018 and 15 March, 2018⇒ Attachment B Planning Applications determined by the City between 1 March, 2018 and 15 March, 2018⇒ Attachment C WALGA Summary⇒

### PRÉCIS

This report provides an overview of a range of information that is considered appropriate to be formally presented to the Council for its receipt and noting. The information is provided in order to ensure that each Councillor, and the Council, is being kept fully informed, while also acknowledging that these are matters that will also be of interest to the community.

Any matter that is raised in this report as a result of incoming correspondence is to be dealt with as normal business correspondence, but is presented in this bulletin for the information of the Council and the community.

### INFORMATION BULLETIN

#### 15.1.1 Planning and Development Statistics

##### Planning Applications

Attachment A is a report detailing all Planning Applications received by the City between 1 March, 2018 and 15 March, 2018. A total of 43 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 1 March, 2018 and 15 March, 2018. A total of 31 applications (including subdivision referrals) were determined by the City during this period with 29 approved / supported and 2 refused / not supported.

#### 15.1.2 Current Active Tenders

##### 2017/2018 TENDERS

##### **RFT19/17 SUPPLY AND DELIVERY OF CONCRETE SERVICES**

The City of Busselton invited tenders for the supply of concrete and ancillary works to the City of Busselton. The tender was advertised on 11 November 2017, with a closing date of 28 November 2017. A total of 2 tenders were received. Under Regulation 18(5) of the *Local Government (Functions and General) Regulations 1996* a local government may decline to accept any tender. The evaluation was completed and under Delegation LG3J the CEO declined not to accept any tender as it was considered that the tenders received did present best value for money. The City will again be inviting tenders for the supply of these goods and services as soon as practicable.

### **RFT24/17 PROVISION OF TRAFFIC MANAGEMENT SERVICES**

The City of Busselton invited tenders for the provision of traffic management services within the City of Busselton. The tender was advertised on 16 December 2017, with a closing date of 16 January 2018. A total of 7 tenders were received. The value of the contract will exceed the CEO's delegated authority. The evaluation has been completed and a recommendation report has been presented in this Council Agenda.

### **RFT01/18 MANUFACTURE AND INSTALLATION OF BUSSELTON FORESHORE PLAY SPACE**

Following an Expressions of Interest (EOI 01/17) process for making a preliminary selection among prospective tenderers, the City of Busselton invited tenders for the manufacture, construction and installation of a new play space located within the Busselton foreshore precinct in between the Equinox Restaurant and Bar and Railway House, Busselton. The following five (5) tenderers were invited to submit a tender:

<b>Company</b>	<b>Location</b>
Earthcare (Australia) Pty Ltd T/A Earthcare Landscapes	Bibra Lake, Perth
Environmental Industries Pty Ltd	Canning Vale, Perth
Perkins (WA) Pty Ltd T/A Perkins Builders (Corporation)	Bunbury and Busselton
Phase Three Landscape Constructions Pty Ltd	O'Connor, Perth
Total Eden Pty Ltd T/A Landscape Australia	Bibra Lake, Perth

The tender closed on 30 January 2018. A total of 4 tenders were received. The evaluation has been completed and Council resolved at its 14 March 2018 meeting to delegate authority to the CEO to negotiate and agree final terms and conditions with and to award a contract for a finalised lump sum price to Phase 3 Landscape Constructions Pty Ltd.

### **RFT02/18 CITY OF BUSSELTON COASTAL ADAPTATION STRATEGY**

The City of Busselton invited tenders for the City of Busselton Coastal Adaptation Strategy. The tender was advertised on 6 January 2018, with a closing date of 13 February 2018. A total of 4 tenders were received. The value of the contract is not expected to exceed the CEO's delegated authority. It is anticipated the evaluation will be completed and a recommendation report presented to the CEO in April 2018.

### **RFT03/18 CRUSHING SERVICES FOR CONSTRUCTION AND DEMOLITION MATERIAL WITHIN CITY OF BUSSELTON**

The City of Busselton invited tenders for crushing services for construction and demolition material within the City of Busselton. The tender was advertised on 3 February 2018, with a closing date of 27 February 2018. A total of two tenders were received. The value of the contract is not expected to exceed the CEO's delegated authority. It is anticipated the evaluation will be completed and a recommendation report presented to the CEO in April 2018.

**RFT04/18 SUPPLY AND DELIVERY OF IRRIGATION COMPONENTS**

The City of Busselton invited tenders for the supply and delivery of irrigation components to the City of Busselton. The tender was advertised on 24 February 2018, with a closing date of 20 March 2018. A total of two tenders were received. The value of the contract is not expected to exceed the CEO's delegated authority. It is anticipated the evaluation will be completed and a recommendation report presented to the CEO in April 2018.

**15.1.3 WALGA Summary**

Attachment C is a summary of the WALGA SW Zone and State Council Meetings held in February/March 2018.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1804/069** Moved Deputy Mayor McCallum, seconded Councillor Tarbotton

That the items from the Councillors' Information Bulletin be noted:

- 15.1.1 Planning and Development Statistics
- 15.1.2 Current Active Tenders
- 15.1.3 WALGA Summary

**CARRIED 9/0**

**EN BLOC**

## 12.1 RFT24/17 PROVISION OF TRAFFIC MANAGEMENT SERVICES

<b>SUBJECT INDEX:</b>	RFT24/17 Provision of Traffic Management Services
<b>STRATEGIC OBJECTIVE:</b>	Assets are well maintained and responsibly managed.
<b>BUSINESS UNIT:</b>	Operation and Works Services
<b>ACTIVITY UNIT:</b>	Maintenance & Construction
<b>REPORTING OFFICER:</b>	Maintenance and Construction Coordinator - Matthew Twyman
<b>AUTHORISING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

**Attachment A is confidential under Section 5.23 - 2(c) of the Local Government Act 1995 in that it deals with “a contract entered into or which may be entered into, by the local government”. Copies have been provided to Councillors, the Chief Executive Officer and Directors Only.**

### **PRÉCIS**

The Council is requested to consider the tenders received in response to Request for Tender RFT24/17 – Provision of Traffic Management Services. The purpose of this report is to obtain the Council’s consensus to award Tender – RFT24/17 in accordance with the Tender Evaluation panel recommendation.

### **BACKGROUND**

A suitably qualified supplier is required for the provision of traffic management services to the City of Busselton.

The RFT specified the requirements of the City of Busselton and invited suitably qualified and experienced respondents to submit bids to enter into a Contract for the provision of traffic management services within the City of Busselton in accordance with the specification.

Subject to the City’s right to early termination the initial term is for a period of three years from date of award. The City may negotiate two additional terms each with a period of twelve months.

1. Seven submissions were received in response to the Request for Tender.  
Submissions were received from:
  - TMSW Pty Ltd
  - Quality Traffic Management Pty Ltd
  - Busselton Civil Pty Ltd
  - Jag Traffic Pty Ltd
  - CB Traffic Solutions
  - Taborda Contracting Pty Ltd
  - AW Roadworks Pty Ltd
2. The review process of submissions for RFT24/17 has been completed by the Tender Evaluation Panel comprised of the following:
  - Manager, Operations Services (Acting)
  - Engineering Technical Officer
  - Contract and Tendering Officer

## STATUTORY ENVIRONMENT

In terms of Section 3.57 of the *Local Government Act 1995 (Act)* a local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and service.

Part 4 of the *Local Government (Functions and General) Regulations 1996 (Tender Regulations)*:

- requires that tenders be publicly invited for such contracts where the estimated cost of providing the required goods and/or service exceeds \$150,000; and
- under Regulations 11, 14, 18, 20 and 21A provides the statutory framework for inviting and assessing tenders and awarding contracts pursuant to this process.

## RELEVANT PLANS AND POLICIES

The following Council policies have relevance to the Tender process.

Policy 239 – Purchasing:

The procurement process complies with this policy.

Policy 049/1 –Regional Price Preference:

The Regional Price Preference was applied to this tender.

Policy 031 – Tender Selection Criteria:

The procurement process complies with this policy.

## FINANCIAL IMPLICATIONS

Application of appropriate selection criteria to the tender has contributed to ensuring that tenderers are offering the "best value" with respect to the supply of services.

In order to evaluate the pricing component of the tender a representative annual supply scenario for traffic management services was applied to the tendered rates. This demonstrated a five (5) percent decrease in the recommended Tenderer's rates, when compared against the City's existing tender rates, last adjusted in 2016.

In comparison the Consumer Price Index for Perth (all groups) has increased by two (2) percent between March 2016 and December 2017.

Based on the previous three years it is estimated that expenditure relating to this tender will be approximately \$1.9 million over the full term, including all extension options (five years in total, three years plus two one year extensions if applied). This equates to approximately \$390,000 per annum. These are estimates only and are subject to annual operational and capital budgets.

The cost of services within this tender are provided for in capital works and operational budgets for each financial year. Purchasing under this contract will be in accordance with these adopted budgets.

## STRATEGIC COMMUNITY OBJECTIVES

The Officer's recommendation aligns to achievement of the following Key Goal Area and Community Objective of the City's Strategic Community Plan 2017:

Key Goal Area 6:

Leadership

Community Objective 6.4:

Assets are well maintained and responsibly managed.

## **RISK ASSESSMENT**

The recommended tenderer has suitable supply contingency measures in place to fulfil the requirements of the tender.

The recommended tenderer provides traffic management services to the private sector as well as local and state governments within Western Australia.

The risk of poor service or the tenderer going out of business is considered low and there are no other risks of a medium or greater level identified.

## **CONSULTATION**

Nil

## **OFFICER COMMENT**

As part of the tender evaluation an initial compliance check was conducted to identify submissions that were non-conforming with the immediate requirements of the Request for Tender (RFT). This included compliance with contractual requirements and provision of requested information.

Tender submissions were found to be compliant with the specified requirements.

The assessments of the tenders were based on the following Qualitative Criteria as included in the Request for Tender Document:

- (a) Relevant Experience: 15%;
- (b) Key Personnel Skills & Experience: 15%
- (c) Tenderers Resources: 10%
- (d) Demonstrated Understanding: 20%

The tendered price was given the following weighting and has been assessed in conjunction with the Qualitative Criteria.

- Tendered Price: 40%

Regional Price preference was applicable to the tender submissions from AW Roadworks Pty Ltd, Busselton Civil Pty Ltd, Quality Traffic Management Pty Ltd and TMSW Pty Ltd.

The importance of the qualitative criteria, as demonstrated by its 60% overall weighting, is reflective of the important safety function that traffic management plays in carrying out works. It is vital to ensure that the selected tenderer has the relevant experience and the staff qualified and capable of carrying out the required services.

The Evaluation panel members individually assessed the compliance and qualitative criteria and then applied an average to provide a final rating. The scores were then added together to indicate the rankings for the tender. The Confidential report attached provides further detail in relation to the relative merits of each of the individual tenderers. Following this evaluation, TMSW Pty Ltd, is the preferred tenderer for the reasons outlined in the confidential report.

## **CONCLUSION**

This report seeks the Council's endorsement of the officer's recommendation to award all requirements of the Contract RFT24/17 – Provision of Traffic Management Services to TMSW Pty Ltd. The submission received from TMSW Pty Ltd represents the best value for money option for the City of Busselton and demonstrates the company's ability to complete the contract requirements to the standard required and within the time frames required at a competitive price.

## **OPTIONS**

The Council may consider the following options:

1. The Council choose not to accept the officer's recommendation and award the Tender to an alternate tenderer. In the view of the officers this could result in a Tender being awarded to a tenderer that has not presented the "best value" for money offer.
2. Further to the recent briefing presented to Council on the subject of this report, the Council may choose not to award the Tender and to instead request the CEO to engage a panel of Pre-Qualified Suppliers to provide traffic management services, in accordance with the Local Government (Functions and General) Regulations 1996.

A panel would consist of up to a maximum of three qualified traffic management providers engaged through a process similar to that of a tender, with respondents assessed using qualitative and quantitative (price) criteria and then ranked for selection to the panel. The panel would be operated using a ranking and / or quotation basis where, for instance traffic management services below a certain value (e.g. \$20,000) could be awarded to the traffic management service provider ranked number one, with works in excess of that value engaged via a best value for money quotation basis, where all providers on the panel are requested to provide quotations.

This would provide opportunity for more than one contractor to deliver traffic management services and could result in more competitive pricing for those jobs where quotes are sought. The disadvantage being that none of the suppliers on the panel would be guaranteed a set level of work, which may in turn impact on their pricing, and suppliers who have tendered through this process will need to re-submit a response to be considered for the panel and then submit quotes as requested. The operation of a panel may also result in some operational impacts as compared to engaging with one supplier.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The award of the tender to the successful tenderer can be announced immediately after the Council has endorsed the officers' recommendation. The successful Tenderer will receive formal written notification within seven (7) days of the decision being handed down. The unsuccessful tenderers will also be notified in this time.

## **OFFICER RECOMMENDATION**

That the Council :

1. Endorses the outcomes of the evaluation panel's assessment in relation to Tender RFT24/17 – Provision of Traffic Management Services which has resulted in the tender submitted by TMSW Pty Ltd, being ranked as the best value for money.
2. Delegate authority to the CEO to award the contract resulting from RFT24/17 – Provision of Traffic Management Services to TMSW Pty Ltd, to run for a period of three (3) years with an option of two (2), one (1) year extensions, under the same terms and conditions as the initial period, to be exercised at the Principal's discretion, in accordance with the terms and conditions contained within the RFT document.

**COUNCIL DECISION AND AMENDED RECOMMENADTION****C1804/070** Moved Councillor P Carter, seconded Deputy Mayor McCallum

That the Council :

1. Notes the outcomes of the evaluation panel's assessment in relation to Tender RFT24/17 – Provision of Traffic Management Services and declines to accept any tender on the basis that it is considered not to represent best value for money.
2. Notes that in this instance it is considered that procurement of traffic management services to the City through a panel of pre-qualified suppliers will represent the best value for money to the City.
3. Requests the Chief Executive to establish under Part 4 Division 3 of the *Local Government (Functions and General) Regulations 1996* and the City's Purchasing Policy a panel of pre-qualified suppliers for the provision of traffic management services to the City.

**CARRIED 9/0**

**12. COMMUNITY AND COMMERCIAL SERVICES REPORT**

Nil

**16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****16.1 EASTERN LINK DEFERRAL**

Councillor Robert Bennett has given notice that at the Council meeting on 11 April 2018, he will move the following motion:

**MOTION**

That if the City receives environmental approval, or advice from the EPA, for the Eastern Link project it defers commencement of construction (for six months) while further public consultation (through public forums, online surveys or other methods identified as appropriate) and feasibility investigation of other options are undertaken.

**Reasons**

There seems to be a lot of opposition and misinformation about proceeding with this link, even though something needs to be done to ease the congestion of traffic entering Busselton along Causeway Road.

I would like to see the City acquire more feedback from the community on this proposal, either through public forums, survey, or other methods.

By deferring the project for six months it will allow sufficient time for extensive public consultation, as well as the detailed consideration and costings of all the options.

I think it is important to note that the local Member Libby Mettam has expressed concern to councillors about an alleged lack of community consultation on the Eastern Link and that she is of the opinion there is value in the City undertaking a more thorough process.

**AMENDED MOTION****C1804/071**

Moved Councillor Bennett, seconded Councillor L Miles

That the Council, with respect to the 'Eastern Link' project and other potential options for improving road access into and out of the Busselton City Centre, other than with respect to relatively minor intersection or other upgrades, not make a final decision to commence construction until the following has occurred –

1. Further public consultation (through public forums, online surveys or other methods identified as appropriate);
2. Further feasibility and cost investigation of Eastern Link options and other options, including those that may be identified in the public consultation;
3. Environmental advice or approval from the State Environmental Protection Authority for the Eastern Link has been received, and the implications of that approval or advice have been considered; and
4. The outcomes of 1, 2 and 3 above have been presented to and formally considered by the Council.

**CARRIED 9/0**

**CEO COMMENT**

In many respects, the notice of motion reiterates the current direction of the City. That direction involves obtaining greater clarity on the environmental conditions that might apply to development of the Eastern Link, and other road upgrade options, as well as undertaking further community engagement, before the Council makes final decisions. Given that, officers do not consider it is necessary for the Council to re-confirm that through a formal resolution. In broad terms, though, there is not seen to be a particular problem with the Council making a resolution of the kind proposed.

There is one aspect of the notice of motion, however, that is seen as problematic. That is the suggestion that, after environmental approvals have been obtained (or environmental advice received from the EPA – i.e. the WA Environmental Protection Authority) construction be deferred for six months. There are three key reasons why that is problematic.

Firstly, it is not clear exactly what would trigger the start of the six month period. This would not be such an issue if the notice did not appear to set out a fixed time period.

Secondly, because it could be anything from one to perhaps as many as 12 months before there is clarity around environmental requirements and conditions, it could effectively mean deferral of construction for perhaps as little as 7 months, or as many as 18 months. Because the external funding that the City has secured to meet a significant portion of the project costs currently needs to be spent by late 2019, it could jeopardise that funding.

Thirdly, it is considered that further community engagement can, at least in substantial part, happen at the same time as resolution of environmental questions (note that this may not necessarily be what the notice of motion intends, but it could be interpreted in that way).

It is therefore suggested that, if the Council is going to support the notice of motion, it be amended to make it clear that further community engagement can occur, to some degree, at the same as environmental questions are resolved. In the view of officers, that could be achieved by inserting the words 'up to' in front of 'six months', and replacing the word 'while' with 'and that'. Such a motion would read as follows –

*'That if the City receives environmental approval, or advice from the EPA, for the Eastern Link project it defers commencement of construction (for up to six months) and that further public consultation (through public forums, online surveys or other methods identified as appropriate) and feasibility investigation of other options are undertaken.'*

It is also worth noting that traffic congestion in and around the Busselton City Centre has long been acknowledged by the community as an issue of concern, and as the community and traffic grow, those concerns are also growing.

The modification of local roads to improve access and egress into the City Centre was identified by the community as a priority during extensive consultation undertaken as part of the City of Busselton Vision 2030 community engagement process. Similarly, the 2016/2017 Community Survey which drew on a random selection of respondents and was undertaken by an independent consultant, ranked traffic management as one of the highest community concerns. Workshops held in 2013 as part of development of the City's Local Planning Strategy and Busselton City Centre Conceptual Plan also revealed resident concerns around vehicle access into and around the City Centre.

A strategic direction for upgrading the road network in and around the City Centre, drawing from a range of studies and other investigations that together constitute the Busselton Traffic Study, was endorsed by the Council in June 2016. Work has been ongoing for five years and has been informed by extensive engineering, environmental, traffic modelling, financial and land tenure investigations, with the aim of ensuring the best outcomes for the community as a whole.

Since that time, the City has been relaying information about the work via its website, the City's electronic newsletter, *Bay to Bay*, and the *Your Say Busselton* consultation portal. Public open-day information sessions and community access sessions have been held, as well as individual meetings and communications with affected landowners or on request by members of the public.

**17. CONFIDENTIAL REPORTS**

The reports listed below are of a confidential nature, in accordance with section 5.23(2) of the Local Government Act 1995. These reports have been provided to Councillors, the Chief Executive Officer and Directors only.

**17.1 PROCUREMENT OF EXPERT SERVICES - CONTAMINATED SITE INVESTIGATIONS****SUBJECT INDEX:**

**STRATEGIC OBJECTIVE:** Accountable leadership that is supported by a skilled and professional workforce.

**BUSINESS UNIT:** Corporate Services

**ACTIVITY UNIT:** Legal Services

**REPORTING OFFICER:** Legal Services Coordinator - Cobus Botha

**AUTHORISING OFFICER:** Director Finance and Corporate Services - Tony Nottle

**VOTING REQUIREMENT:** Simple Majority

**ATTACHMENTS:** Nil

**This item is confidential in accordance with section 5.23(2) (c) of the Local Government Act 1995, as it contains information relating to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.**

**OFFICER RECOMMENDATION**

That the Council:

1. Endorses the engagement of Waves Environmental Liability and Risk Management (WELARM) to date as the City's environmental consultants for investigating, monitoring and reporting on potential groundwater contamination issues at the Busselton waste facility located at Lot 27 and Lot 500 Rendezvous Road, Vasse and compliance with relevant statutory requirements in relation thereto.
2. Authorises the Chief Executive Officer to extend WELARM's engagement to the extent that it is required for successful delivery of this project.

**COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION**

**C1804/072** Moved Councillor Tarbotton, seconded Deputy Mayor McCallum

That the Council:

1. Endorses the engagement of Waves Environmental Liability and Risk Management (WELARM) to date as the City's environmental consultants for investigating, monitoring and reporting on potential groundwater contamination issues at the Busselton waste facility located at Lot 27 and Lot 500 Rendezvous Road, Vasse and compliance with relevant statutory requirements in relation thereto.
2. Endorses the procurement process in relation to WELARM's engagement as outlined in this report.
3. Authorises the Chief Executive Officer to extend WELARM's engagement to the extent that it is required for:

- (a) Preparation of a schedule for carrying out further investigations, risk assessment and management of Lot 27 and Lot 500 Rendezvous Road, Vasse and related sites in accordance with relevant statutory requirements; and
  - (b) Formulation of the scope of services and technical specification required for implementation of the works mentioned in paragraph (a) above (the actions in paragraphs a and b referred to as the "Works Schedule"); and
  - (c) Any expert environmental services in relation to these groundwater contamination issues required as a matter of urgency prior to reporting to Council pursuant to resolution 4 below.
4. Requests the Chief Executive Officer to report to Council, upon completion of the Works Schedule but in any event no later than August 2018, on:
- (a) The nature and extent of further investigations, risk assessment and management of the affected sites required in terms of the Works Schedule; and
  - (b) Options for procurement of services required for implementation of the Works Schedule.

**CARRIED 9/0**

**18. QUESTIONS FROM MEMBERS**

Nil

**19. PUBLIC QUESTION TIME**

Nil

**20. NEXT MEETING DATE**

Tuesday, 24 April 2018

**21. CLOSURE**

The meeting closed at 5.55pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 24 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON TUESDAY, 24 APRIL 2018.

DATE: \_\_\_\_\_

PRESIDING MEMBER: \_\_\_\_\_