



City of Busselton
Geographe Bay

Policy and Legislation Committee Agenda

26 June 2018

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 26 JUNE 2018


TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Policy and Legislation Committee will be held in the Committee Room, Administration Building, Southern Drive, Busselton on Tuesday, 26 June 2018, commencing at 2.00pm.

The attendance of Committee Members is respectfully requested.

Disclaimer

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



MIKE ARCHER

CHIEF EXECUTIVE OFFICER

20 June 2018

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 26 JUNE 2018

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS.....	4
2.	ATTENDANCE	4
3.	PUBLIC QUESTION TIME.....	4
4.	DISCLOSURE OF INTERESTS	4
5.	CONFIRMATION OF MINUTES	4
5.1	Minutes of the Policy and Legislation Committee Meeting held 29 May 2018	4
6.	REPORTS	5
6.1	REVIEW OF COUNCIL DELEGATION LG3C	5
6.2	RESCISSION OF COUNCIL POLICY 077 INTERNET USE WITHIN THE BUSSELTON AND DUNSBOROUGH PUBLIC LIBRARIES.....	15
6.3	REVIEW OF PURCHASING RELATED POLICIES AND DELEGATIONS	21
6.4	AL FRESCO AREAS AND STREET ACTIVATION IN THE BUSSELTON CITY CENTRE (ESPECIALLY QUEEN STREET) - REPORT ON OUTCOMES OF RECENT CONSULTATION AND PROPOSED DIRECTION.....	89
7.	GENERAL DISCUSSION ITEMS	132
8.	NEXT MEETING DATE	132
9.	CLOSURE	132

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

2. **ATTENDANCE**

Apologies

3. **PUBLIC QUESTION TIME**

4. **DISCLOSURE OF INTERESTS**

5. **CONFIRMATION OF MINUTES**





5.1 **Minutes of the Policy and Legislation Committee Meeting held 29 May 2018**

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 29 May 2018 be confirmed as a true and correct record.

6. REPORTS

6.1 REVIEW OF COUNCIL DELEGATION LG3C

SUBJECT INDEX:	Authorised Delegation of Power/Authority
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Property Services
REPORTING OFFICER:	Property Management Coordinator - Sharon Woodford-Jones
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Amended Delegation LG3C   Attachment B New Instrument of Delegation LG3C  

PRÉCIS

It is proposed to amend Delegation LG3C, Disposing of Property, to broaden the scope of the delegation to include leases or licences over minor portions of land or buildings which may not have been leased before. This would be subject to the introduction of an informal reporting process. The intention of the delegation will not change.

BACKGROUND

Council has the ability to delegate powers and the discharge of duties to its Chief Executive Officer. These delegations are required to be reviewed by the delegator (in this case the Council) at least once in every financial year.

In June 2017 Council were asked to consider changes to Council Delegation LG3K – Acquiring and Disposing of Property. The desired outcomes were to distinguish between acquisition and disposal and place parameters around the disposition of property by way of lease or licence and the sale of other property.

Council therefore resolved (**C1706/151**) to cancel delegation LG3K – Acquiring and Disposing of Property and adopt two new Delegations LG3B – Acquiring of Property and Delegation LG3C - Disposal of Property.

Delegation LG3C is specific to the disposal of property by way of sale, lease or licence and the sale of other non-land or building related property. It prescribes the circumstances in which the delegation can be exercised through limitations on the value and purpose and by excluding the leasing or licencing of property that has not previously been leased.

Whilst the scope of Delegation LG3C is considered to be reasonable and practical in the exercise of the delegation, City Officers have recently encountered a number of scenarios which could have been properly and efficiently dealt with under delegation had the scope of LG3C been wider.

In response to recent direction from Council on the subject, City Officers are proposing amendments to the delegation, the reasons for which are expanded on in the Officer Comment section of this report.

STATUTORY ENVIRONMENT

Section 5.42 of the *Local Government Act 1995* (the Act) provides the Council with the ability to delegate powers and duties to its CEO; such delegation must be in writing. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of the Council.

In accordance with Section 5.18 of the Act requires the local government to keep a register of delegations and that they be reviewed on an annual basis. Wherever a decision has been made under delegated authority, records of the decision must be kept in accordance with the *Local Government (Administration) Regulations 1996*.

RELEVANT PLANS AND POLICIES

The Department of Local Government Sport and Cultural Industries (LGSCI) Operational Guidelines Number 17 – ‘Delegations’.

FINANCIAL IMPLICATIONS

There are no financial implications involved in reviewing this delegation, however, utilisation of delegated authority creates organisational efficiencies. Without a system of delegated authority in place, a significant number of day-to-day local government decisions would need to be referred to Council as agenda reports. Having an effective delegated authority system in place reduces the turnaround time for some matters which allows for the Council to use its time to undertake its more strategic role.

Long-term Financial Plan Implications

There are no direct Long-term Financial Plan implications associated with this review.

STRATEGIC COMMUNITY OBJECTIVES

This delegation review aligns with and supports the **Council’s Key Goal Area 6** – ‘Leadership’ and more specifically **Community Objective 6.1** – ‘Governance systems, process and practices are responsible, ethical and transparent’.

RISK ASSESSMENT

There are no risks associated with the Officer Recommendation identified as being of a medium or greater level.

CONSULTATION

It is not considered that external consultation is necessary to vary the terms of the existing Delegation.

OFFICER COMMENT

As the population of the district continues to expand, it can be expected that the demand for City land and buildings will increase commensurately. New facilities are being constructed to accommodate the increasing need for social and sporting activities and the related associations are being relocated either temporarily or permanently to accommodate longer term strategies.

Delegation LG3C presently applies only to situations involving leases to community groups over 'property' that has been leased before and where the permitted use is ancillary or consistent with the designated purpose. However, the Delegation does not extend to the less significant and smaller scale disposals such as leases of storage facilities, land or buildings where the land or building in question has not been leased previously. Council have indicated that they are supportive of making changes to the delegation to include such scenarios.

It is therefore proposed that the scope of Delegation LG3C be expanded to include scenarios such as those recently encountered at Churchill Park and the Sir Stewart Bovell Park. These scenarios concerned the need to lease part of an existing shed for temporary storage to the Girl Guides of WA at Churchill Park and four leases to user groups constructing new storage facilities on a small portion of Bovell Park. In each scenario, leases over other parts of the land (or 'property') already exist. Such leases could have been entered into under Delegation had the restriction in respect of property that had been leased before been given similar consideration.

Amending parts of Delegation LG3C will mean that leases or licences can be granted over land or buildings that have not been the subject of a lease or licence previously, provided they form part of land or a building that has already been leased or licenced. It is proposed that where this is the case, such land or buildings must form part of a recognised sporting or community facility.

Further amendments are recommended to reflect the direction of Council in relation to instances involving small portions of land or buildings in other scenarios i.e. not involving a community or sporting facility or land that has been leased before. Thus it is proposed that the Delegation specifically includes leases or licences of land or buildings with a maximum area of 100 square meters provided that other conditions, such as a the value of the disposition and consistency of purpose are applied.

The Delegation will also include a requirement that Council are notified periodically of the circumstances under which the delegation is exercised.

Review of the delegation for this purpose also presents an opportunity to make some minor changes to the composition and wording.

CONCLUSION

The proposed changes to Delegation LG3C will assist in streamlining the process of issuing leases or licences where the impact is negligible in terms of the extent of the land or building in question. Controls will continue to apply in the form of conditions to which each lease or licence is subject and Council will be kept informed of the exercise of the delegation.

OPTIONS

Council could decide to retain the delegation in its current form, may decide that it requires changes to the powers and discharge of duties to the Chief Executive Officer or choose to place alternative conditions on the delegation.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Delegation will become effective the day following the decision of Council.

OFFICER RECOMMENDATION**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Under section 5.42 of the Local Government Act 1995, agrees to amend Instrument of Delegation LG3C (Disposal of Property) in accordance with the revocations and additions as indicated within Attachment A; and
2. Adopts the amended Instrument of Delegation LG3C (Disposal of Property) within Attachment B as the delegation of those powers and duties to the CEO.



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3C	Sections 3.58(2), (3) and (4)	Chief Executive Officer	Disposing of Property

Delegator

Council

Power/Duty delegated

To exercise the following powers and discharge the following duties of the local government under Sections 3.58(2), (3) and (4) of the *Local Government Act 1995 (Act)*:

1. Pursuant to Section 3.58(2) of the Act dispose of property by way of a public auction or public –tender;
2. Pursuant to Section 3.58(3) and (4) of the Act dispose of property other than under Section 3.58(2) – (local Public Notice requirements).

Conditions

This delegation is subject to:

1. Disposal by sale
 - (a) The value of the ~~property-land~~ to be disposed of (~~by way of sale~~) shall not exceed \$20,000 ~~for sale of land or \$100,000 for sale of other property in accordance with Section 5.43(d) of the Act other than if paragraph (b) applies~~; and
 - (b) Where the property is land valued at less than \$100,000 and has been put to public auction or put out to tender and not sold, the land may be disposed of in accordance with Regulation 30 (2a) of the Local Government (Functions and General) Regulations ~~1996~~;
 - (c) The value of property other than land to be disposed of shall not exceed \$100,000; and
 - (de) Where the value of ~~land property other than land~~ does not exceed \$20,000, the property may be disposed of in accordance with Regulation 30 (3) (a) of the _____

_____ Local Government (Functions and General) Regulations 1996.

2. Disposal by Lease or Licence

(a) ~~This delegation applies to land or buildings comprising established sporting or community facilities where any other part of the land or building has been leased or licensed by local government before, subject to the following in event of disposal by way of a lease (whether the property is for Sporting, Community or Commercial use):~~

~~(i) The Delegation does not apply to the first time a property is leased. The Delegation only applies in relation to subsequent leases, renewals or options exercised regardless of whether the same lessee is involved or not;~~

(ii) The maximum term of the lease or licence, including any right by ~~the a~~ lessee to assign the lease or sublease the property or extend the term of the lease, shall not exceed 5 years unless the lease or licence is ~~proposed to be renewed~~ the renewal of a lease or licence by a Sporting or Community group ~~for of an~~ existing building or land for a period of not more than 10 years;

(iii) The value of the lease or licence does not exceed \$25,000 pa;

~~(iviii)~~ The permitted use of the property must be consistent with:

- A. the designated purpose of the property; or
- B. the general or ancillary use of the property immediately prior to entering into the lease or licence; or
- C. if the property has recently been acquired, the intention for which the property has been acquired by the local government.

(iv) This delegation includes the power to allow assignment of a lease or sub-lease of the property subject to the abovementioned conditions.

~~(b) In addition, this delegation applies to the first time a property is leased or licensed where the lease or licence is for the purpose of storage only or comprises an area of less than 100 square metres subject to the matters set out in paragraph 2(a)(i) to (iv).~~

3. Briefing and Reporting

At least every six months (and more frequently if required by the Mayor or the CEO), City officers shall provide Councillors a summary and update of leases or licences entered into under this delegation

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO ~~to exercise~~ some of its powers and ~~discharge of its~~ duties provided for in Section 3.58 of the Act, read with Section 5.43 of the Act:

Section 5.43

Acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;

Section 3.58(3)

- (1) ~~In this section —~~
- (2) ~~dispose~~ includes to sell, lease, or otherwise dispose of, whether absolutely or not;
- (3) ~~property~~ includes the whole or any part of the interest of a local government in property, but does not include money.
- (4) ~~Except as stated in this section, a local government can only dispose of property to —~~
- (5) ~~at public auction;~~

Formatted: Indent: Left: 1.55 cm,
No bullets or numbering

Functions and General Regulation 30.

Dispositions of property excluded from Act

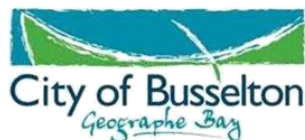
- (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —
 - (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or
 - (b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable.
- (3) A disposition of property other than land is an exempt disposition if —
 - (a) its market value is less than \$20 000; or
 - (b) the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.

Verification

C1706/151

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3C	Sections 3.58(2), (3) and (4)	Chief Executive Officer	Disposing of Property

Delegator

Council

Power/Duty delegated

To exercise the following powers and discharge the following duties of the local government under Sections 3.58(2), (3) and (4) of the *Local Government Act 1995 (Act)*:

1. Pursuant to Section 3.58(2) of the Act dispose of property by way of a public auction or public tender;
2. Pursuant to Section 3.58(3) and (4) of the Act dispose of property other than under Section 3.58(2) – (local Public Notice requirements).

Conditions

This delegation is subject to:

1. Disposal by sale
 - (a) The value of the land to be disposed of shall not exceed \$20,000 other than if paragraph (b) applies; and
 - (b) Where the property is land valued at less than \$100,000 and has been put to public auction or put out to tender and not sold, the land may be disposed of in accordance with Regulation 30 (2a) of the Local Government (Functions and General) Regulations 1996
 - (c) The value of property other than land to be disposed of shall not exceed \$100,000; and
 - (d) Where the value of property other than land does not exceed \$20,000, the property may be disposed of in accordance with Regulation 30 (3) (a) of the Local Government (Functions and General) Regulations 1996.

2. Disposal by Lease or Licence

- (a) This delegation applies to land or buildings comprising established sporting or community facilities where any other part of the land or building has been leased or licensed by local government before, subject to the following :
- (i) The maximum term of the lease or licence, including any right by a lessee to assign the lease or sublease the property or extend the term of the lease, shall not exceed 5 years unless the lease or licence is the renewal of a lease or licence by a Sporting or Community group of an existing building or land for a period of not more than 10 years;
 - (ii) The value of the lease or licence does not exceed \$25,000 pa;
 - (iii) The permitted use of the property must be consistent with:
 - A. the designated purpose of the property; or
 - B. the general or ancillary use of the property immediately prior to entering into the lease or licence; or
 - C. if the property has recently been acquired, the intention for which the property has been acquired by the local government.
 - (iv) This delegation includes the power to allow assignment of a lease or sub-lease of the property subject to the abovementioned conditions.
- (b) In addition, this delegation applies to the first time a property is leased or licensed where the lease or licence is for the purpose of storage only or comprises an area of less than 100 square metres subject to the matters set out in paragraph 2(a)(i) to (iv).

3. Briefing and Reporting

At least every six months (and more frequently if required by the Mayor or the CEO), City officers shall provide Councillors a summary and update of leases or licences entered into under this delegation

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO some of its powers and duties provided for in Section 3.58 of the Act, read with Section 5.43 of the Act:

Local Government Act Section 5.43

Acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;

<i>Functions and General Regulation 30.</i>	<i>Dispositions of property excluded from Act</i>
(2a)	A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been – <ul style="list-style-type: none">(a) <i>put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or</i>(b) <i>the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable.</i>
(3)	A disposition of property other than land is an exempt disposition if – <ul style="list-style-type: none">(a) <i>its market value is less than \$20 000; or</i>(b) <i>the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.</i>


Verification

C1706/151

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

6.2 RESCISSION OF COUNCIL POLICY 077 INTERNET USE WITHIN THE BUSSELTON AND DUNSBOROUGH PUBLIC LIBRARIES

SUBJECT INDEX:	Council Policies
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Community Services
ACTIVITY UNIT:	Library Services
REPORTING OFFICER:	Manager, Community Services - Maxine Palmer
AUTHORISING OFFICER:	Director, Community and Commercial Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Council Policy 077 Internet use within the Busselton and Dunsborough Public Libraries 

PRÉCIS

The purpose of this report is to recommend rescission of Council Policy 077 - Internet use within the Busselton and Dunsborough Public Libraries (the Policy) (Attachment A). The Policy outlines Council's position with respect to the provision of free computer / internet access to all members of the Busselton and / or Dunsborough Library and details a range of operational user guidelines for such use.

In August 2017 the CEO commissioned a high level independent review of the City's governance systems - the Governance Systems Review (GSR). Included in the scope of the review was the City's policy and procedure framework with recommendations made in relation to the nature and intent of Council policies, namely that Council policies should deal with higher level strategies and objectives.

In accordance with the recommendations of the GSR, it is recommended that the Policy be rescinded.

BACKGROUND

The Policy was originally created in 1997 and was last reviewed in July 2016. It is assumed that the Policy, given its original creation date, was developed at a time when the provision of public access to technology within public places such as libraries was very new. It is also likely that Council policy documents were also more operational in their focus than is expected currently.

The GSR was undertaken over a 3 month period by Mr John Woodhouse LLB B.Juris and made the following recommendations with respect to the City's policy and procedure framework:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*

3. *Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

In response a Policy Framework has been developed and endorsed by Council, setting out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

In accordance with the recommendations of the GSR, this report recommends that the Policy be rescinded.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the Local Government Act 1995 it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

RELEVANT PLANS AND POLICIES

There are no plans or other policies directly relevant.

FINANCIAL IMPLICATIONS

The recommendation to rescind the policy has no financial implications.

Long-term Financial Plan Implications

The recommendation to rescind the policy has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The Officers Recommendation will not impact adversely on the achievement of any of the community objectives contained within the Strategic Community Plan 2017 and will instead serve to meet the objectives of Key Goal Area 6, specifically community objective 6.1 - Governance systems, processes and practices are responsible, ethical and transparent, by streamlining the City's governance approach with respect to strategic planning.

RISK ASSESSMENT

The City's libraries have been providing public access to computers and the internet for many years and have well established operational processes that govern that access. Therefore there are no identified risks of a medium or greater level associated with the Officers Recommendation

CONSULTATION

No consultation was considered necessary in relation to this matter.

OFFICER COMMENT

The Policy scope states that Busselton and Dunsborough public libraries provide free internet access to all library members. The content then details the rules or conditions applicable to that use, including for instance:

- that printing from the internet is available and is charged in accordance with Council's Schedule of Fees and Charges;
- that latecomers will forfeit the unused portion of reserved time, or if they are more than fifteen minutes late will forfeit the entire booking;
- that users must read and agree to the "Conditions of Public Access – Internet Use";
- that a maximum of two public users per internet computer is allowed at any one time

As can be seen from above and from review of the attached Policy the matters it deals with are very operational and are more appropriate as a set of usage terms provided to users at the time they make a booking / use a computer.

While the Policy was probably necessary at the time it was adopted, the City's libraries have been providing public access to computers and the internet for many years and have well established processes in relation to how that access is provided and controlled. Hence the Policy is not considered necessary, or, in light of the recommendations of the GSR and the newly adopted Policy Framework, appropriate.

In the event that Council does want to retain a policy outlining their commitment to the provision of free internet access in public facilities (including the City's libraries) then the Policy could be revised to provide a simple statement to that effect.

CONCLUSION

It is recommended that the Policy be rescinded, as it is of an operational nature and is sufficiently covered by current operational practices and procedures.

OPTIONS

Council could instead require that the Policy is reviewed and updated to reflect a more strategic statement with respect to their commitment to the provision of free computer / internet access within public places, including the City's libraries.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be rescinded immediately upon adoption of the Officers Recommendation.

OFFICER RECOMMENDATION

That the Council rescinds Council Policy 077 – Internet use within the Busselton and Dunsborough Public Libraries.

6.2 Attachment A Council Policy 077 Internet use within the Busselton and
Dunsborough Public Libraries

Last Updated 27/08/16

077	Internet Use within the Busselton and Dunsborough Public Libraries	V8 Current
-----	--	------------

PURPOSE

In response to developing technology and the changing needs of the community, the Busselton and Dunsborough Public Libraries endeavour to satisfy the education, information, recreation and cultural needs of the community by providing electronic access to relevant and up-to-date information resources.

SCOPE

Busselton and Dunsborough Public Libraries provide free Internet access to all library members.

POLICY CONTENT

Non Library members may purchase a "Guest Pass" and will be charged in accordance with the Council's Schedule of Fees and Charges.

Printing from the Internet is available and will be charged in accordance with the Council's Schedule of Fees and Charges.

Latecomers will forfeit the unused portion of reserved time. If a user is more than fifteen (15) minutes late for a booking, they may forfeit the entire booked period.

All users for the service, excluding accessing the Library catalogues, must read and agree to the Busselton and Dunsborough Public Libraries "Conditions of Public Access – Internet Use".

Supervision of a child's access to the Internet is the responsibility of the parent or guardian. A parent or guardian must read the "Conditions of Public Access – Internet Use".

The Library does not take any responsibility for technical problems in accessing sites on the Internet. The Library cannot guarantee the Internet will remain operational at all times, and if down-time occurs, the user will lose their booked time.

7. A maximum of two public users per Internet computer is allowed at any one time.
8. Due to the problem of computer viruses, NO outside software programs may be used in the library computers.
9. Users are not permitted to modify the installed hardware of software in any way.
10. As with all formats of information, patrons must respect copyright laws and licensing agreements and abide by general rules of acceptable Internet conduct. Acts of behaviour which may jeopardise a source's files, or behaviour which may jeopardise the Library account or access to resources will result in revocation of Internet privileges at the Library.

6.2 Attachment A Council Policy 077 Internet use within the Busselton and
Dunsborough Public Libraries

Last Updated 27/08/16

11. The Library cannot be held responsible for the security or privacy of content left on the Internet by users. It is the user's responsibility to remove any content at the completion of a booked session.
12. The following disclaimer applies to the Libraries Public Internet Access Facility.
 - a) The City of Busselton has no control over the information accessed through the Internet and cannot be held responsible for its content.
 - b) A person must not use a library computer to transmit, obtain possession of, demonstrate, advertise or request the transmission of an article knowing it to contain objectionable material (WA Censorship Act 1996, s101). The city of Busselton is not responsible for any access points reached.
 - c) A person must not use a computer service to transmit restricted material to a minor (WA Censorship Act 1996, s3). Supervision or restriction of a minor's access is the responsibility of the parent or guardian.
 - d) The City of Busselton does not guarantee or accept any liability for the information's accuracy, authoritativeness, timeliness or usefulness for a particular purpose. The City of Busselton shall have no liability for any direct or indirect or consequential damages related to the use of the information contained therein.

Policy Background

Policy Reference No. – 077
Owner Unit – Libraries
Originator – Manager, Information Services
Policy approved by – Council
Date Approved – 13/12/2006
Review Frequency – As required
Related Documents – N/A
Background / History – Implemented 27 August 1997






















History

Council Resolution	Date	Information
C1607/166	27 July, 2016	Review June 2016 to include a "Guest Pass" Version 8
C1103/072	9 March, 2011	Reviewed by Council. No changes made.
C0612/375	13 December, 2006	New policy 077/03 to replace former 077/02 for more efficient method of registering use and the removal of operational information. Version 7

Last Updated 27/08/16

C018/444	22 August 2001	Implementation of the provision of free access to the internet. Version 6
C011/037	24 January, 2001	Fees and charges levels removed as dealt with during budgeting process. Version 5
C9911/507	10 November, 1999	Student discount approved. Version 4
	28 August, 1999	New fees and charged inserted into policy. Version 3
C995/0208	26 May, 1999	New policy to include access to email facilities from library computers. Version 2
C978/330	27 August 1997	Date of Implementation. Version 1

6.3 REVIEW OF PURCHASING RELATED POLICIES AND DELEGATIONS

SUBJECT INDEX:	Procurement
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal and Property Services
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson Manager Legal and Property Services - Martyn Cavanagh
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Current Purchasing Policy  
	Attachment B Current Regional Price Preference Policy  
	Attachment C Current Tender Selection Criteria Policy  
	Attachment D Current Tender Pre Selection Criteria Policy  
	Attachment E Current Delegation LG3J  
	Attachment F Current Delegation LG3K  
	Attachment G Current Delegation LG3M  
	Attachment H Proposed Purchasing Policy  
	Attachment I Proposed Regional Price Preference Policy  
	Attachment J Proposed SMP - Procurement Selection Criteria  
	Attachment K Proposed Instrument of Delegation LG3K  
	Attachment L LG3J Track Changes  
	Attachment M Proposed Instrument of Delegation LG3J  
	Attachment N LG3K Tracked Changes  

PRÉCIS

In August 2017 the CEO commissioned a high level independent review of the City's governance systems and processes – the Governance Systems Review (GSR). The review was undertaken by Mr John Woodhouse and was completed on 30 October 2017. The review considered the City's policy and procedure framework generally. The review also considered certain specific policy matters, including the City's policy approach to procurement and tenders.

The City has acknowledged the recommendations in the GSR and given consideration to the City's current policies, processes and delegations in relation to procurement and tenders.

The purpose of this report is to advise Council of the outcomes of the City's considerations, and to make recommendations to Council about the City's procurement policies and delegations.

BACKGROUND

The GSR recommendations as to policy framework (generally)

In relation to Council policies more broadly, the GSR made the following recommendations:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*

3. *Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

In response a Policy Framework has been developed and endorsed by Council, along with a new (adopted) Council Policy template. A new approach and template has also been put in place for the development of Staff Management Practices (SMP) (previously referred to as Operational Practices and Procedures).

GSR Recommendations as to procurement policy

In relation to procurement and tenders, the GSR made the following recommendations:

1. *One single procurement/purchasing policy should be developed by the CEO for adoption by the Council.*
2. *"The new council policy should:*
 - a. *replace 3 of the existing council policies referred to above;*
 - b. *focus on the strategic approach to procurement and the overall goals to be achieved;*
and
 - c. *not descend into unnecessary detail.*
3. *The new council procurement policy should be consistent with contemporary policies adopted by the major metropolitan local governments.*
4. *The CEO should develop and put in place an internal policy or OPP which covers all matters of detailed implementation including:*
 - a. *selection criteria and how criteria are to be used according to the nature of the tender;*
 - b. *how and by whom (e.g. a panel) the evaluation is to be prepared.*
5. *The new internal policy or OPP should be consistent with similar, contemporary policies or practices in the major metropolitan local governments.*
6. *The existing Regional Price Preference Policy – Policy 049 should be revised with a view to it being simpler and clearer for both prospective tenderers and City employees to understand. There is no need to change the underlying intent that the maximum percentages are to be allowed where a regional location or regional content is established.*
7. *I recommend that consideration be given to the delegation to the CEO of the authority to make the purchasing policy (required by Regulation 11A).*
8. *The new purchasing policy should, of course, be reported to the Council and be made available on the City's website.*

GSR findings as to supporting local business

The GSR further considered under the heading "Supporting local business" the 'perceived need by some that there should be greater emphasis put on local content'. While the GSR made no recommendations in relation to this, Mr Woodhouse made the following comments:

- *"In this regard I found that the Policies and OPPs of the City of Busselton are generally consistent with those of most other local governments in regional Western Australia"*
- *"In this respect I did not find that the City was out of kilter with contemporary practice".*
- *"... if a decision is taken that the matter is worthy of consideration, then, in my view, a thorough review should first be done and that any review should not start from the premise that a change to existing policies is needed or that the existing policies lead to an undesirable outcome"*

The following were provided by Mr Woodhouse as suggested considerations for any review:

- *“Is the current approach “broken” or in need of improvement or does it serve the community well?”*
- *What do the figures show is the result of the current approach?*
- *How does that approach compare with comparable local governments (if comparisons can sensibly be made)?*
- *What if any quantifiable impact might a proposed change make?*
- *If other local governments in the region were to do likewise then what impact might that have?*
- *Putting aside any possible change to the existing policies, what other measures might be introduced or strengthened by the City to address the root causes of the issue or the perceived issue?*
- *Are there recurring reasons why some tenders from “local” suppliers (and perhaps others) are reducing their chances of being recommended?*
- *If so, can the City assist in educating or informing those suppliers of the reasons and how they might be addressed?*
- *If one were to focus on that portion of the procured works and services which are not awarded to local businesses, what are the reasons for that being the case and are those reasons good reasons?*
- *If one of the reasons that a local supplier cannot submit a tender is that the supplier does not have the ability to provide all components of the required works or services, then is there scope for the City to divide one tender into a number of tenders for differing components?”*

The City’s Current Procurement Framework

The City’s current procurement policy framework is comprised of the four (4) separate Council policies and three (3) delegations of powers and duties. These are:

1. Purchasing Policy (Policy 239) – adopted 9 March 2016 (**Attachment A**)
2. Regional Price Preference Policy (Policy 049) – adopted 8 November 2017 (**Attachment B**)
3. Tender Selection Criteria Policy (Policy 031) – adopted 11 March 2011 (**Attachment C**)
4. Tender Pre Selection Criteria Policy (Policy 247) – adopted 8 June 2016 (**Attachment D**)
5. Delegation instrument LG3J (relating to tenders and associated contracts) (**Attachment E**)
6. Delegation instrument LG3K (preliminary selection of tenderers) (**Attachment F**).
7. Delegation instrument LG3M (establishing panels of pre-qualified suppliers) (**Attachment G**)

The delegation instrument LG3C is subject to certain conditions, one of which is that the standard selection criteria under Policy 031 is used, and further that the (Purchasing) Policy 239 is complied with.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the Local Government Act 1995 (the Act) it is the role of the Council to determine the local government’s policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

Regulation 11A(1) of the Regulations requires a local government to implement a purchasing policy in relation to contracts for supply of goods or services where the consideration under the contract is, or is expected to be, \$150,000 or less. Such a policy must, among other things, make provision in respect of:

- the form of quotations acceptable;
- the minimum number of oral and written quotations that must be obtained; and
- the recording and retention of purchasing records.

Under Regulation 24AC(1)(a) a local government may adopt and implement a policy for panels of pre-qualified suppliers. The City's Purchasing Policy (current and revised) includes provisions to meet all of the requirements for a policy on establishing panels of pre-qualified suppliers.

Section 3.57 of the Act requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services. Regulations 11 through 21(A) of the Regulations deal with matters relating to tenders, including when tenders have to be publicly invited, requirements for publicly inviting tenders (essentially determining of criteria for deciding which tender should be accepted), and rejecting and accepting tenders.

Part 4A of the Regulations enables a local government to give a regional price preference in connection with assessing tenders, where it has a regional price preference policy made in accordance with the Regulations.

RELEVANT PLANS AND POLICIES

Outside of the policies which are the subject of this report, there are no other applicable policies or plans.

FINANCIAL IMPLICATIONS

Adoption of the officer's recommendation will not have any financial implications.

Long-term Financial Plan Implications

Adoption of the officer's recommendation will not have any long term financial implications.

STRATEGIC COMMUNITY OBJECTIVES

Adoption of the officer's recommendation aligns to the following Key Goal Areas of the City of Busselton Strategic Community Plan 2017:

Key Goal Area 6 –Leadership

6.1: Governance systems, process and practices are responsible, ethical and transparent.

Key Goal Area 4 – Economy

4.2: A community where local business is supported and in turn drives our economy

RISK ASSESSMENT

There are no risks associated with the Officer Recommendation identified as being of a medium or greater level.

CONSULTATION

In reviewing the procurement policy framework, and specifically in considering aspects related to the establishment of panels of pre-qualified suppliers, officers have consulted with the Western Australian Local Government Association (WALGA) and the Department of Local Government, Sport and Cultural Industries (DLG). The revised Purchasing Policy reflects the advice received from both with respect to the operation of such panels.

Officers have also consulted with the Shire of Augusta-Margaret River with respect to the Regional Price Preference (RPP) Policy, with the aim of exploring a reciprocal price preference arrangement where each local government would provide a preference to suppliers located within the other's district. Correspondence received from the Shire of Augusta –Margaret River indicates that a reciprocal arrangement is not supported. As such, the policy has been drafted only preferencing businesses located within the City of Busselton District.

The Busselton Chamber of Commerce and Industry (BCCI) have been provided with copies of the proposed new policies and practices along with an overview of the rationale in relation to amendments to the RPP Policy, the inclusion of a local benefit criterion for assessment of tenders and quotations (where a formal assessment is required), and the recommendation to rescind the Tender Selection Criteria Policy and the Tender Pre Selection Criteria Policy in favour of a SMP setting out selection criteria.

OFFICER COMMENT

Following the release of the GSR findings, a review of the City's procurement policy framework was undertaken by City officers, with a small project team formed comprising of officers from legal and property services, governance services and operations services.

This report makes a number of recommendations in relation to the procurement policy framework, with each recommendation addressed below under a relevant heading.

Adoption of a revised Purchasing Policy (Attachment H)

The City's Purchasing Policy provides the framework for purchasing decisions made by the City. In particular it details the procedures that must be followed for purchasing in accordance with the estimated value of the transactions. While officers feel it is necessary to provide some broad detail around how purchasing decisions are to be carried out (both for the purposes of setting high level direction for City staff and for informing suppliers), the current policy is considered to be too detailed.

As per the recommendations of the GSR, the policy has therefore been reviewed to focus more on the strategic approach to procurement and the overall goals to be achieved. Operational and administrative aspects have been removed. These include matters such as how to obtain a verbal quotation, re-statements of the Act and Regulations, and procedures for opening tenders. If considered appropriate by the CEO, these types of matters may be incorporated into a SMP or other operational procedure. The revised policy that has been developed is similar in nature and focus to other local government policies that were reviewed, with officers noting that like Councils including Albany, Bunbury, Fremantle, Geraldton, Joondalup and Rockingham, all have a similar policy relating to purchasing.

It is not considered that the Council should delegate to the CEO the power to make the purchasing policy required by Regulation 11A. It is considered that Council should provide the broad strategic direction of a policy that deals with purchases under \$150,000, tenders and panels of pre-qualified supplies. The following GSR recommendations have not therefore been implemented and it is proposed that a Council policy be retained (noting that in effect this will satisfy recommendation 8).

7. *I recommend that consideration be given to the delegation to the CEO of the authority to make the purchasing policy (required by Regulation 11A).*
8. *The new purchasing policy should, of course, be reported to the Council and be made available on the City's website.*

Adoption for advertising of a revised Regional Price Preference Policy (Attachment I)

While the City's current RPP Policy was only adopted in November 2017, it was included in this review given the GSR recommendation:

1. *The existing Regional Price Preference Policy – Policy 049 should be revised with a view to it being simpler and clearer for both prospective tenderers and City employees to understand. There is no need to change the underlying intent that the maximum percentages are to be allowed where a regional location or regional content is established*

It was also considered prudent to explore the possibility of a reciprocal price preference arrangement as discussed earlier in this report as well as consideration of a local content / benefit selection criteria.

The proposed revised policy provides the same price preference percentages as the existing policy however officers have sought to simplify and, in contrast to the changes made in November 2017, refine the policy with respect to its application.

Under the Regulations a policy may provide for a price preference for a tenderer that has been operating a business continuously out of a premises within the region (as defined in the policy) for at least six months, or if they are from outside of the region but supply goods or services from within the region. The current policy allows for a price preference to be provided in both situations.

While aligning to the Regulations, in practice this can result in a price preference being applied to non-local suppliers who have for example indicated they will use local sub-contractors. Calculating the value of the sub contracted works in such a scenario can be difficult, and overall there is some confusion amongst both staff and suppliers with regards to applying the policy.

It is therefore proposed that the revised policy apply only to a Local Supplier defined as a supplier who has had for more than 6 months prior to the closing date of the tender a physical presence by way of a shop, depot, outlet, headquarters or other premises from which they operate within the City of Busselton district). This will narrow the application of the policy and will reduce the opportunity for those located outside of the district but who source local goods or services to be provided a preference. It is recommended however that a local benefit selection criteria be introduced, as discussed under the next heading, with this continuing to provide some benefit to suppliers who operate from outside the district but who source local goods and services.

The GSR recommended that

1. *One single procurement/purchasing policy should be developed by the CEO for adoption by the Council.*
2. *"The new council policy should:*
 - a. *replace 3 of the existing council policies referred to above;*

Officers are of the view that the RPP Policy should remain a separate policy as there is a statutory requirement to advertise the RPP Policy that does not exist for the broader Purchasing Policy. Additionally the Purchasing Policy, while simplified, already addresses a number of matters and adding more content and complexity to it is not considered to be the best approach.

Rescission of the Tender Selection Criteria Policy and Tender Pre Selection Criteria Policy in favour of a new SMP: Purchasing – Procurement Selection Criteria.

The City's current Tender Selection Criteria Policy sets out four qualitative criteria which are to be used in the assessment of all tenders. The policy sets parameters for the weighting of each criterion (0% to 20%) and also sets parameters for the weighting of price in conjunction with the qualitative criteria (20% to 80%). Delegation LG3J sets out that use of the standard selection criteria as outlined in this policy is as a condition to the delegated power of determining the written criteria for deciding which tender should be accepted; requiring the CEO to seek a formal Council decision if he wishes to use an alternative criterion or set of criterion for a particular tender.

Similarly the Tender Pre Selection Criteria Policy sets out a similar set of qualitative criteria in relation to pre tender Expressions of Interest (EOI) processes and it is a condition of Delegation LG3K that this policy is complied with in such processes.

To date there have been no operational practices underpinning the application of these policies, with the policies drafted almost as instructions to officers. While not specifically intended to be used for the formal assessment of quotations (below tender level), in the absence of any other operational practice, the same criteria have generally also been applied for this purpose.

In addition to recommendation 1 noted above, the GSR recommended that

8. *The CEO should develop and put in place an internal policy or OPP which covers all matters of detailed implementation including:*
 - a. *selection criteria and how criteria are to be used according to the nature of the tender;*
 - b. *how and by whom (e.g. a panel) the evaluation is to be prepared.*

A new SMP has been prepared, Purchasing – Procurement Selection Criteria (PSC SMP) (**Attachment J**), setting out a range of selection criteria and how they are to be applied in the assessment of tenders, EOIs, invitations to join a panel of pre-qualified suppliers, and request for quotations. It is recommended that the Tender Selection Criteria Policy and the Tender Pre Selection Criteria Policy be rescinded and that Council notes the new PSC SMP as the mechanism by which selection criteria are applied. It is also therefore recommended that amendments are made to the current delegation containing conditions relating to the current policies. This is discussed further below.

While still imposing some clear parameters and processes for officers to follow, the PSC SMP provides flexibility by giving officers a broader range of criteria to select from. Additionally, in the event that a criterion not included under the practice was considered appropriate to a particular tender the CEO could make a determination to include it. The PSC SMP also sets out a slightly more moderate range for price being 30% to 70%. Again however if the CEO deemed it appropriate this could be adjusted for particular or unusual circumstances.

In order to provide appropriate levels of support for local business and enhance the local benefits generated through procurement, a local benefit criterion is proposed as a fixed selection criterion, weighted of 5%. The criterion proposed is:

Local Benefit

The respondent is to describe how they will contribute to the local community (social, economic, environmental, or other) over and above being a local supplier operating within the district.

Respondents would be required to demonstrate through their tender submission the level of community benefit they or their proposal generates. This is intended to be benefit beyond just being a Local Supplier as per the RPP policy. Benefits such as employing or contracting locally, contributing to the community through engagement in sporting or cultural groups, or contributing to vocational and education advancement (work experience programs, scholarships or awards) would be considered under this criterion. Officers would then score each submission using the scoring guide set out in the SMP. Until now, while a common scoring guide has been used, it has not been formalised in any standard practice documentation, and of course it has not contained factors relevant to a local benefit criterion.

While inclusion of a local benefit criterion is recommended in order to enhance the ability for procurement decisions to positively impact on the community, officers do not feel it should play a significant role in the assessment of whether a respondent can fulfil the requirements of an unduly significant specification / contract. Hence it is proposed that the criterion be weighted at 5%, noting that the benefits provided under the RPP Policy apply independently. Procurement decisions should be guided by the principle of 'best value for money' and achieving the most advantageous outcome to the City (and its ratepayers). It is considered that selection criteria related directly to the respondents' ability to carry out the required works or deliver the required services will be the dominant considerations in achieving this principle.

More broadly with respect to supporting local business, the City is also pursuing other initiatives. In March a new procurement tool called VendorPanel Marketplace was launched. While still in its infancy, it is intended that this tool will improve the City's ability to engage with and support local suppliers. Some additional promotion and education is required in order to ensure suppliers are registered within the Marketplace, however once they are, City staff will be more readily able to locate them and engage by way of quotations. The opportunity exists for local business to actively engage in this initiative.

In the past six to eight months the City has also presented at information sessions and forums about its procurement processes including Procure South West in Bunbury and a Meet the Buyer session arranged by the BCCI and held here at the City's offices. As detailed in those sessions, in the 2016/17 year 63% of the City's total spend (excluding nett pays to employees, transactions related to utility providers, inter-government agency and other similar payments, and term bank deposits) was in the South West Region, with 54% of that in the Busselton district. While we are keen and working hard to see this increased, it represents a good base to build on.

Amendments to Delegation instruments LG3J and LG3K

Finally, in line with the recommendation to rescind the two selection criteria policies, it is proposed that amendments are made to Delegation instruments LG3J and LG3k to remove the conditions which reference the policies.

In relation to Delegation instrument LG3J it is also recommended that the delegation of powers and duties more comprehensively and explicitly identify the scope of the delegation. The instrument is to be amended to refer to the CEO's powers to purchase goods and services under the exceptions to the tender requirements. The revised delegation is presented as **Attachment K**, with the track changes version provided as **Attachment L**.

In relation to Delegation instrument LG3K it is recommended, subject to Council rescinding the Pre-Tender Selection Criteria Policy, that the instrument be correspondingly amended. The revised delegation is presented as **Attachment M**, with the track changes version provided as **Attachment N**.

CONCLUSION

A review of the City's procurement policy framework has identified a number of improvements which will assist the City in obtaining the most advantageous outcome with respect to its procurement while also supporting local business to in turn drive the local economy. The proposed amendments to the policies and procedures aim to support this, while also implementing a better balance between Council's strategic function and the CEO's administrative functions. The improvements are also aimed at ensuring the City's procurement policies and processes are in line with the City's new Policy Framework, and meeting a number of the recommendations of the GSR.

OPTIONS

The Council may choose not to adopt the officer's recommendation and instead may seek to do one or more of the following:

1. Request further or different amendments be made to the Purchasing Policy;
2. Retain the RPP Policy in its current form;
3. Request that the Tender Selection Criteria Policy and Tender Pre Selection Criteria Policy be retained and / or amended to reflect the content of the proposed SMP or amended in other ways;
4. Request that the Delegation condition with respect to the Tender Selection Criteria Policy and Tender Pre Selection Criteria Policy be retained.

It is noted that the above options would not accord with the recommendations of the GSR.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Purchasing Policy will come into force immediately upon Council's endorsement of the officer recommendation, with the PSC SMP coming into force within a week.

The Tender Selection Criteria Policy and the Tender Pre Selection Criteria Policy will also be immediately rescinded and the Delegations updated.

The RPP Policy will be advertised for public submissions within a week upon adoption of the proposed policy (for advertising purposes) and if submissions are received the subject will need to be further considered by Council.

OFFICER RECOMMENDATION

That the Council after taking into consideration the Governance Systems Review

1. Adopts the proposed Purchasing Policy as per Attachment H, replacing the current Purchasing Policy (shown as Attachment A).
2. Adopts the proposed Regional Price Preference Policy as shown in Attachment I for the purpose of giving notice to the public in accordance with section 24E of the Local Government (Functions and General Regulations) 1996; and
3. If there are no submissions received after the expiration of the public notice period referred to in 2 above, adopts the Regional Price Preference Policy as per Attachment I, replacing the current Regional Price Preference Policy (shown as Attachment B).
4. Rescinds the Tender Selection Criteria Policy shown as Attachment C.
5. Rescinds the Tender Pre Selection Criteria Policy shown as Attachment D.
6. Notes the content of the Staff Management Practice: Purchasing – Procurement Selection Criteria as per Attachment J.

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

7. Adopts the amended Delegation LG3J as per Attachment K, replacing the current delegation (shown as Attachment E).
8. Adopts the amended Delegation LG3K as per Attachment M, replacing the current delegation (shown as Attachment F).

Last updated 09/03/2016

239	Purchasing	V4 Current
-----	------------	------------

1 PURPOSE

This policy provides a best practice approach to purchasing for the City of Busselton (the "City"). It also ensures compliance with the *Local Government Act 1995* ("the Act") and the *Local Government (Functions and General) Regulations 1996* ("the Regulations").

2 SCOPE

This policy provides the framework for all purchasing decisions made by employees of the City and defines the procedures that must be followed for purchasing in accordance with the value of the transaction.

3 POLICY CONTENT

3.1 Objectives

The objectives of the Purchasing Policy are to ensure that all purchasing activities:

- * demonstrate that best value for money is attained for the City;
- * are compliant with relevant legislations, including the Act and the Regulations;
- * are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the City;
- * mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- * ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;
- * are conducted in a consistent and efficient manner across the City and that ethical decision making is demonstrated; and
- * to establish a written policy as required under Regulation 11A and to address the particular requirements of Regulation 24AC(1)(a) of the Regulations for the purposes of establishing panels of pre-qualified suppliers.

4 ETHICS & INTEGRITY

All employees of the City shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the City of Busselton.

4.1 Purchasing principles

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- * full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- * all purchasing practices shall comply with relevant legislation, regulations, and requirements under the City policies, practices and procedures, and Code of Conduct;
- * purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;

Last updated 09/03/2016

- * all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, practices and procedures, and audit requirements; and
- * any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;

5 VALUE FOR MONEY

Value for money is determined when the consideration of price, risk and qualitative factors are assessed to determine the most advantageous outcome to be achieved for the City.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

An assessment of the best value for money outcome for any purchasing should consider:

- * all relevant whole-of-life costs and benefits; whole of life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;
- * the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
- * financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- * a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;
- * the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- * purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- * providing opportunities for businesses within the City's boundaries to quote for providing goods and services wherever possible.

6 PURCHASING REQUIREMENTS

The requirements that must be complied with by the City, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the City.

Purchasing that is \$150,000 or below in total value must be in accordance with the relevant thresholds detailed at section 6.3.

Purchasing that exceeds \$150,000 in total value must be put to public tender in accordance with the statutory requirements under the Regulations (unless a regulatory tender exemption is deemed suitable).

Last updated 09/03/2016

6.1 Purchasing Value Definition

Determining purchasing value is to be based on the following considerations:

- Exclusive of Goods and Services Tax (GST);
- The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the City of Busselton will continue to purchase a particular category of goods, services or works and what the total purchased value is or could be reasonably expected to be . Best practice is if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply; and
- Any variation to the scope of the purchase is limited to a 10% tolerance of the original purchasing value.

6.2 Purchasing from Existing Contracts

Where the City has an existing contract in place that relates to a particular good or service, it must endeavour to purchase required goods or services under that existing contract, to the extent that the scope of the contract allows. When planning the purchase, the City must consult its contract register in the first instance before seeking to obtain quotes or tenders.

6.3 Purchasing Thresholds

Where the value of procurement for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

	Amount of Purchase	Requirements
6.3.1	Up to \$5000	Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation from that supplier either from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.2	\$5,001 - \$14,999	Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by theCity; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.3	\$15,000 - \$49,999	Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from:

6.3 Attachment A Current Purchasing Policy

Last updated 09/03/2016

		<ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.4	\$50,000 - \$149,999	<p>Obtain at least three (3) written quotations from suppliers by way of a formal request for quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.</p> <p>The selection should not be based on price alone. Consideration should be given to qualitative factors such as quality, availability, accreditation requirements, time for completion or delivery, warranty conditions, technology, maintenance requirements, an organisation's capability, previous relevant experience and any other relevant factors. The quotations are to be evaluated by a panel with a minimum of two members with a mix of skills and experience relevant to the nature of the purchase.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.5	Over \$150,000	Conduct a public tender process in accordance with the statutory requirements under the Act and the Regulations.

6.4 \$ 150,000 and above

For the procurement of goods or services where the value exceeds \$150,000, it is a requirement to follow a public tender process in accordance with the statutory requirements under the Regulations (see also part 7 of this Policy).

6.5 Inviting tenders under the Tender Threshold

Where considered appropriate and beneficial, procurement of goods and services with a value of less than the tender threshold of \$150,000, may, in lieu of obtaining quotations, be done by way of a tender process in accordance with the statutory requirements under the

Last updated 09/03/2016

Regulations. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements.

6.6 Verbal Quotations

The general principles for obtaining verbal quotations are:

- * ensure that the requirement/specification is clearly understood by the employee seeking the verbal quotations;
- * ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote;
- * read back or confirm in writing the details to the supplier's contact person to confirm their accuracy; and
- * ensure the terms and conditions of the purchase are clear to both parties and that they are fair and reasonable and do not pose any unacceptable risk to the City.

6.7 Written Quotations

The general principles relating to written quotations are:

- * an appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion;
- * they should include general terms and conditions of contract that are appropriate and adequate for the purchase and which do not pose any unacceptable risk to the City;
- * requests to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond;
- * any new information that is likely to change the requirements should be offered to all prospective suppliers at the same time.
- * responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented; and
- * respondents should be advised in writing as soon as possible after the final determination is made and approved.

6.8 Due Diligence

The responsible City officer is expected to demonstrate due diligence in seeking quotations and may determine that the process outlined for a higher transaction value may be appropriate to a purchase, despite it being of a lower value. As best practice the number of quotations, the contract conditions and level of evaluation required should be determined by the type and nature of the purchase and the associated risk and not purely its value. The value dictates the minimum requirements for the purchase.

In addition, it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value robust evaluation are maintained.

6.9 Sole source of supply (monopoly suppliers)

Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the City is satisfied and can evidence that there is only one source of supply for those goods, services or works. The City must use its best endeavours to determine if the sole source of supply is

Last updated 09/03/2016

genuine by exploring if there are any alternative sources of supply. If the view is formed that there is no alternative source of supply, a written justification to this effect must be endorsed by the Chief Executive Officer, prior to a contract being entered into.

From time to time, the City may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

6.10 Waiver of requirements

The Chief Executive Officer may, at his/her discretion, waive the requirements to obtain the number or nature of quotations set out in section 6.3. The responsible City officer must request such a waiver in writing, providing sufficient justification therefore, by way of a 'Waiver to the Purchasing Policy' form or equivalent.

6.11 Anti-Avoidance

The City shall not enter into two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$150,000, thereby avoiding the need to follow the tender process under the Regulations.

6.12 Recordkeeping

The responsible City officer must ensure that all aspects of any procurement or purchase are properly documented and registered in the City's record keeping systems in accordance with all statutory requirements and relevant City practices and procedures.

7 REGULATORY COMPLIANCE - TENDERS

This part includes detail on the requirements of the Act and the Regulations for the public tender process. As these may change from time to time, it is the responsibility of the employee to inform themselves of the requirements of the relevant statutory requirements when conducting a tender process and not rely on this policy alone.

7.1 Tender exemption

An exemption to publicly invite tenders may apply in the following instances:

- * the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;
- * the purchase is from a Regional Local Government or another Local Government;
- * the purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents value for money;
- * the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- * the purchase is from a pre-qualified supplier under a Panel established by the City; or
- * any of the other exclusions under Regulation 11 of the Regulations apply.

Last updated 09/03/2016

7.2 Tender Criteria

The City shall, before tenders are publicly invited, determine in writing the criteria by which tenders will be evaluated.

7.3 Advertising Tenders

Requests for tenders must be advertised in a state wide publication and, in addition, may also be advertised locally. The tender must remain open for a minimum of at least 14 days after the date the tender is advertised.

The notice must include;

- * a brief description of the goods or services required;
- * information as to where and how tenders may be submitted;
- * the date and time after which tenders cannot be submitted;
- * particulars identifying a person from whom more detailed information as to tendering may be obtained. Detailed information shall include;
 - such information as the local government decides should be disclosed to those interested in submitting a tender;
 - detailed specifications of the goods or services required;
 - the criteria for deciding which tender should be accepted;
 - whether or not the local government has decided to submit a tender; and
 - whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tenders may be submitted.

7.4 Issuing Tender Documentation

Approved tenders will be allocated a tender number, which shall be recorded in the City of Busselton's Tender Register.

A written record will be kept of the details of all persons who request and are supplied with tender documentation.

7.5 Addendum to Tender

Clarifications, variations or adjustments to the tender documentation and/or the conditions of tender may be made by way of addendum after the tender has been publicly advertised but prior to the tender closing date. An addendum is to be given to all prospective tenderers who requested and have been supplied with tender documentation by the City and the responsible City officer must use his/her best endeavours to ensure that all addendums are acknowledged by the receiving persons.

7.6 Opening of Tenders

A lockable tender box is to be kept by the City and all tenders received by the City are to be placed in the tender box. No tenders are to be removed from the tender box, or opened, read or evaluated prior to the tender closing date.

Tenders are to be opened in the presence of at least two persons which can be either:

- (1) Two employees of the City; or

Last updated 09/03/2016

- (2) One employee of the City and another person authorised by the Chief Executive Officer for that purpose.

The details of all tenders received and opened shall be recorded in the Tender Register.

Tenders are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the tender opening, and price information should be regarded as commercial-in-confidence to the Local Government. Members of the public are entitled to be present.

7.7 Tender Evaluation

Tenders that have not been rejected shall be assessed by means of a written evaluation against the pre-determined criteria. The tender evaluation panel shall assess each tender that has not been rejected to determine which tender represents best value for money.

The evaluation panel must contain a minimum of three members and shall be established prior to the advertising of a tender. Panel members shall have a mix of skills and experience relevant to the nature of the purchase.

7.8 Notification of Outcome

Each tenderer is to be given notice in writing containing particulars of the successful tender or advising that no tender was accepted.

7.9 Tender Register

The City must maintain a tender register which is to include:

- (a) a brief description of the goods and services required;
- (b) particulars of —
 - (i) any notice by which expressions of interests from prospective tenderers was sought; and
 - (ii) any person who submitted an expression of interest; and
 - (iii) any list of acceptable tenderers that was prepared under Regulation 23(4); and
- (c) a copy of the notice of the invitation to tender; and
- (d) the name of each tenderer whose tender has been opened; and
- (e) the name of any successful tenderer.

7.10 Minor Variation prior to awarding a contract

Prior to awarding a contract from a tender, the City may negotiate and agree on minor variations with the preferred tenderer. Any amendments must be incorporated into the contract with the chosen tenderer for the supply of the varied requirement. Any major variation will require a new and separate tender. A minor variation may not materially alter the specification or structure provided for by the initial tender.

Last updated 09/03/2016

8 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION PREFERRED SUPPLIERS PROGRAM

The Western Australian Local Government Association (WALGA) has a number of pre-qualified suppliers called WALGA preferred suppliers. Using WALGA preferred suppliers may be considered appropriate for particular procurement. This method of sourcing goods and services can simplify the process otherwise required for a request for quotation or request for tender, however, in all other respects purchasing via WALGA's preferred supplier panels must comply with this policy.

The City can make purchases from suppliers on a WALGA preferred supplier panel:

- * for purchases up to \$150,000; and
- * for purchases over \$150,000 in reliance on the exemption to the requirement for a public tender,

provided that:

- * the purchasing thresholds in section 6.3 are observed in relation to numbers of and types of quotation sought;
- * this purchasing policy is otherwise followed, in particular the principles of ethics, integrity and best value for money in section 4 and 5.

Note: WALGA terms and conditions are available for use in connection with requests for quotation via eQuotes, however consideration must be given to whether such terms and conditions are appropriate for the proposed purchase. If alternative terms and conditions are used then they must meet the requirements of this Policy.

9 PANELS OF PRE-QUALIFIED SUPPLIERS ("PANEL")

9.1 Background

In accordance with Regulation 24AC of the Regulations, the City may establish a Panel of Pre-qualified Suppliers ("Panel") where there is an ongoing need for particular goods or services. Using these Panels simplifies the process that would otherwise be required as part of a request for quotation. A Panel may be created where most of the following factors apply:

- the City determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of low to medium risk;
- the Panel will streamline and will improve procurement processes;
- the City has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The City will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

Last updated 09/03/2016

9.2 Establishing a Panel

Should the City determine that a Panel is beneficial to be created, it must do so in accordance with Regulation 24AC of the Regulations.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Subject to 9.3(b), panels may be established for a minimum of 2 years and for a maximum length of time deemed appropriate by the City.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the City will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the Panel category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the City must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

9.3 Distributing Work Amongst Panel Members

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the City intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with section 9.3(a); or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with section 9.3 (b).

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- a) each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the Panel will be awarded on the basis of value for money in every instance; or
- b) work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) of the

Last updated 09/03/2016

Regulations when establishing the Panel. The City is to invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a contract is awarded to a Panel member for the work to be undertaken. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the City may then invite suppliers that are not pre-qualified under the Panel, in accordance with the purchasing thresholds stated in section 6.3 of this policy. When a ranking system is established, the Panel must not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

9.4 Recordkeeping

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept in the City's records system in accordance with all statutory requirements and relevant practices and procedures.

10 PURCHASING FROM DISABILITY ENTERPRISES

Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be procured from an Australian Disability Enterprise, as registered on www.ade.org.au. This is contingent on the demonstration of value for money.

Australian Disability Enterprises may be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

A complete list of approved Disability Enterprises registered in Western Australia is available at www.wade.org.au.

11 PURCHASING FROM ABORIGINAL BUSINESSES

Pursuant to Part 4 of the Regulations the City is not required to publicly invite tenders if the goods or services are to be supplied from a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation, provided the expected value of the goods or services to be purchased is \$250,000 or less. This is contingent on the demonstration of value for money.

Aboriginal businesses may be invited to quote for supplying goods and services under abovementioned threshold. A qualitative weighting may be afforded in the evaluation of quotes to provide advantages to Aboriginal owned businesses, or businesses that demonstrate a high level of aboriginal employment.

A complete list of persons registered on the Aboriginal Business Directory is available at www.abdwa.com.au.

Last updated 09/03/2016

12 SUSTAINABLE PROCUREMENT AND CORPORATE SOCIAL RESPONSIBILITY

The City is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the City shall endeavour to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the City's sustainability objectives.

13 OPERATIONAL PRACTICES

Operational Practices, including standard documentation and more detailed information regarding procedures, may be prepared and endorsed by the Chief Executive Officer or their delegate for any action or process referred to in this City of Busselton Purchasing Policy. Any such Operational Practices shall comply with terms of the Act, the Regulations and this Policy.

Policy Background

Policy Reference No. – 239
 Owner Unit – Corporate Services
 Originator – Contracts and Tendering Officer
 Policy approved by – Council
 Date Approved – 9 March 2016
 Review Frequency – As required
 Related Documents –
 Local Government Act 1995
 Local Government (Functions and General) Regulations 1996

History

Council Resolution	Date	Information
C1603/043	9 March, 2016	Update policy in accordance with amendments effective 01 October 2015 Version 4
C1405/123	14 May, 2014	Update to Sustainable Procurement and purchases under the WALGA exemption Version 3
C1207/196	25 July, 2012	Update to policy format, City terminology and minor editing Version 2
C0703/069	28 March, 2007	Date of implementation of purchasing policy which replaces former Council policy 188/1 Tender Procedures. Version 1

Last updated 08/11/2017

049	Regional Price Preference	V4
-----	---------------------------	----

1. PURPOSE

In order to promote sub-regional development the City will provide a price preference allowance to local suppliers located within the City of Busselton district when evaluating and awarding contracts via the Tendering Process (note that no price preference will be offered for purchases made other than via the tendering process). Any price preference provided will comply with Part 4A of the Local Government (Functions and General) Regulations 1996 as amended.

2. SCOPE

This policy applies to all tenders called by the City of Busselton.

3. POLICY CONTENT

The following price preference allowance will be allowed on the value of all goods and services sourced from within the City on tenders assessed in relation to this policy;

Part 1 Goods and Services

- 10% allowance up to a maximum price reduction of \$50,000 unless a lesser amount is stipulated in the tender document.

Part 2 Construction (building) Services

- 5% allowance up to a maximum price reduction of \$50,000 unless a lesser amount is stipulated in the tender document.

Part 3 Goods and Services, including Construction (Building) Services - tendered for the first time where Council previously supplied the Goods or Services

- 10% allowance up to a maximum price reduction of \$500,000 unless a lesser amount is stipulated in the tender document.

The Regional Price Preference allowance will only be given to suppliers who have been located within the City of Busselton district for more than 6 months prior to the advertising date of the tender.

Located within the City is defined as a supplier having a physical presence in the way of a shop, depot, outlet, headquarters or other premises where the goods or services specifically being provided are supplied from. This does not exclude suppliers whose registered business is located outside the City but undertake the business from premises within the City. An example is a franchisee of a multinational company.

Only the value of those goods and services identified in the tender as being from a source or supplied through the businesses physical presence located within the City will have the price preference applied when assessing the tender. The value of those goods and services claimed by the supplier may be adjusted during the tender assessment process if the value claimed is considered unreasonable or cannot be justified.

Price is only one factor that Council considers when evaluating a tender. There is nothing contained within this policy that compels Council to accept the lowest tender or any tender based on price offered.

Last updated 08/11/2017

Policy Background

Policy Reference No. - 049
Owner Unit – Contracts and Tendering
Originator – Director, Finance and Corporate Services
Policy approved by – Council
Date Approved – 08/11/2017
Review Frequency – As required
Related Documents –
Local Government (Functions and General) Regulations 1996

History

Council Resolution	Date	Information
C1708/192	9 August, 2017	
C1504/081	8 April, 2015	Version 3 Changes to reflect City of Busselton structure only
C1012/415	8 December, 2010	Policy re-adopted in new standard format Version 2
		Version 1

Last updated 09/03/2011 (Implementation)

031	Tender Selection Criteria	V1 Current
------------	----------------------------------	-------------------

1. PURPOSE

If a local government is required to invite a tender, or not being required to invite a tender, decides to invite a tender, the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted. This policy sets out the local government’s acceptable criteria to be applied to any decision to invite a tender in accordance with any authority delegated to the Chief Executive Officer for this purpose.

2. SCOPE

This policy applies to all decisions to invite a tender made by the Chief Executive Officer under delegated authority.

3. POLICY CONTENT

The standard selection criteria established by the local government for the purposes of regulation 14(2a) of the *Local Government (Functions and General) Regulations 1996* are as follows:

Compliance Criteria

Please select with a Yes or No whether you have complied with the following compliance criteria:

Description of Compliance Criteria	
(a) Compliance with the Specification contained in the Request.	Yes / No
(b) Compliance with the Conditions of Responding contained in this Request.	Yes / No
(c) Compliance with the Delivery Date	Yes / No
(d) Compliance with and completion of the Price Schedule.	Yes / No

Qualitative Criteria

Before responding to the following qualitative criteria, Tenderers must note the following:

- All information relevant to your answers to each criterion are to be contained within your Tender;
- Tenderers are to assume that Evaluation Panel has no previous knowledge of your organisation, its activities or experience;
- Tenderers are to provide full details for any claims, statements or examples used to address the qualitative criteria; and
- Tenderers are to address each issue outlined within a qualitative criterion.

Last updated 09/03/2011 (Implementation)

<p>A) Relevant Experience Describe your experience in completing/supplying similar Requirements. Tenderers must, as a minimum, address the following information in an attachment and label it "Relevant Experience":</p> <ul style="list-style-type: none"> (a) Provide details of similar work; (b) Provide the scope of the Tenderer's involvement including details of outcomes; (c) Provide details of issues that arose during the project and how these were managed by the Tenderer; (d) Demonstrate sound judgement and discretion; and (e) Demonstrate competency and proven track record of achieving outcomes. 	<p>Weighting <i>To be established between 0 – 20%</i></p> <hr/> <p>"Relevant Experience" Attachment 11</p> <p>Tick if attached <input type="checkbox"/></p>
<p>B) Key Personnel skills and experience Tenderers should provide as a minimum information of proposed personnel to be allocated to this project, such as:</p> <ul style="list-style-type: none"> (a) Their role in the performance of the Contract; (b) Current curriculum vitae; (c) Membership to any professional or business association; (d) Qualifications, with particular emphasis on experience of personnel in projects of a similar requirement; and (e) Any additional information. <p>Supply details in an attachment and label it "Key Personnel".</p>	<p>Weighting <i>To be established between 0 – 20%</i></p> <hr/> <p>"Relevant Experience" Attachment 12</p> <p>Tick if attached <input type="checkbox"/></p>
<p>C) Tenderers Resources Tenderers should demonstrate their ability to supply and sustain the necessary:</p> <ul style="list-style-type: none"> (a) Plant, equipment and materials; and (b) Any contingency measures or back up of resources including personnel (where applicable). <p>As a minimum, Tenderers should provide a current commitment schedule and plant/equipment schedule in an attachment and label it "Tenderers Resources".</p>	<p>Weighting <i>To be established between 0 – 20%</i></p> <hr/> <p>"Relevant Experience" Attachment 13</p> <p>Tick if attached <input type="checkbox"/></p>

Last updated 09/03/2011 (Implementation)

<p>D) Demonstrated Understanding Tenderers should detail the process they intend to use to achieve the Requirements of the Specification. Areas that you may wish to cover include:</p> <p>(a) A project schedule/timeline (where applicable); (b) The process for the delivery of the goods/services; (c) Training processes (if required); and (d) A demonstrated understanding of the scope of work.</p> <p>Supply details and provide an outline of your proposed methodology in an attachment labelled "Demonstrated Understanding".</p>	<p>Weighting <i>To be established between 0 – 20%</i></p> <hr/> <p>"Demonstrated Understanding" Attachment 14</p> <p>Tick if attached <input type="checkbox"/></p>
---	---

Price Considerations

CLAUSE A: WEIGHTED COST CRITERIA

The weighted price method is used where price is considered to be crucial to the outcome of the contract. The price is then assessed with quality.

Criteria	Weighting
Tendered price	<i>To be established between 20-80%</i>

with the Shire’s “Regional Price Preference” policy in effect.

The CEO is to determine a combination of the qualitative criteria to provide for a combined weighting score of 100% in accordance with the parameters provided before proceeding to invite tenders.

Policy Background

Policy Reference No. - 031
Owner Unit – Contracts and Tendering
Originator – Director, Finance and Corporate Services
Policy approved by – Council
Date Approved – 9 March, 2011
Review Frequency – As required
Related Documents –
Local Government Act 1995
Local Government (Functions and General) Regulations 1996
Delegation to CEO to Call for Tenders
Background/History - Initiated February 2011 to streamline tender processes and procedures

History

Council Resolution	Date	Information
C1103/079	11 March, 2011	Date of implementation Version 1

Last updated 08/06/2016

247	Tender Pre Selection Criteria Policy	V1 Current
-----	--------------------------------------	------------

PURPOSE

If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services. Expressions of interest that have not been rejected under the Local Government (Functions and General) Regulations 1996 (Tender Regulations) are to be considered by the local government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services. This policy sets out the City of Busselton's acceptable evaluation methodology and criteria to be applied by the Chief Executive Officer when making a decision under delegated authority to decide which, if any, of those expressions of interest that are received, are from persons who he thinks to be capable of satisfactorily supplying the goods and services required for this purpose.

SCOPE

This policy applies to all decisions to be made by the Chief Executive Officer under delegated authority to decide whether expressions of interest received from prospective tenderers pursuant to a preliminary selection process under the Tender Regulations, are considered to be from a person capable of satisfactorily supplying the goods or services. Council 41 8 June 2016

POLICY CONTENT

The evaluation methodology and standard selection criteria established for the purposes of regulation 23 of the Tender Regulations are as follows:

Evaluation Methodology

Respondents' expressions of interest (**EOI**) will be evaluated using information provided in the prescribed Response Form and attachments thereto and on the Respondents' response to the Selection Criteria. Such other information as is necessary in order to determine whether Respondents are acceptable tenderers may also be requested and taken into account.

The following evaluation methodology will be used:

- (a) An Evaluation Panel for the purpose of assessing and evaluating EOIs and making a recommendation to the Chief Executive Officer will be appointed.
- (b) EOIs will be checked for completeness and compliance.
- (c) EOIs that are not submitted at the place, or by the delivery method and within the time specified in the public notice inviting expressions of interest, will be rejected.
- (d) EOIs that are submitted at a place and within the time specified in the public notice, but fail to satisfy the Compliance Criteria, may be rejected by the without considering its merits.
- (e) EOIs which have not been rejected under paragraphs (c) and (d) will be assessed against the Selection Criteria.

6.3 Attachment D Current Tender Pre Selection Criteria Policy

Last updated 08/06/2016

- (f) Respondents may be required to clarify their EOI, make a presentation, demonstrate the product/solution offered and/or open premises for inspection. Referees may also be contacted prior to the shortlisting of Respondents.
- (g) Respondents whose EOI's have not been rejected and are considered to be capable of satisfactorily supplying the goods or services may be short listed as acceptable tenderers.

Compliance Criteria

- (a) An expression of interest is required to be rejected unless it is submitted at a place, and within the time, specified in the notice.
- (b) An expression of interest that is submitted at a place, and within the time, specified in the notice but that fails to comply with any other requirement specified in the notice may be rejected without considering its merits.

Qualitative Criteria

Subject to the Conditions of Responding, EOI'S will be assessed by the City against some or all of the following Qualitative Criteria:

A. Relevant Experience

The Respondent to describe:

1. The Respondent's experience, competency and proven track record in undertaking and Council 42 8 June 2016 successfully completing projects similar to the Project, with the CEO to specify the details of such similar projects [which may include the scope, number, value and location of such similar projects and any other requirements/detail relevant to the Project] (**Relevant Projects**);
2. The Respondent's role in relation to the Relevant Projects; and
3. How the Respondent exercised sound judgment and discretion in identifying and resolving issues that arose during Relevant Projects and demonstrating how these were managed by the Respondent.

Supply details and provide this information in an attachment labelled "Relevant Experience".

B. Key Personnel skills and experience

Respondents to provide information regarding their employment/engagement of personnel with relevant experience and skills to undertake and successfully complete the Project, such as:

1. The personnel engaged and their curriculum vitae;
2. Their proposed role in the performance of the Project;
3. Their membership to any professional or business associations;
4. Their qualifications and experience, with particular emphasis on their experience with projects similar to the Project; and
5. Any additional information which may be relevant to the Project.

Last updated 08/06/2016

Supply details and provide this information in an attachment labelled “**Key Personnel Skills and Experience**”.

C. Respondents’ Capacity and Resources

Respondents to provide:

1. Information to demonstrate their ability to supply, manage and sustain:
 - (a) plant and equipment required for undertaking and completing the Project within the proposed timeframe;
 - (b) contingency measures or back up of resources (including personnel) which may be required in event of an emergency/special circumstances; and
 - (c) financial resources to successfully manage the cash flow requirements of the Project or such other cash flow requirements as specified.
2. A current commitment schedule and plant/equipment schedule.

Supply details and provide this information in an attachment labelled “**Respondent’s Capacity and Resources**”.

D. Demonstrated Understanding

Respondents to demonstrate their understanding of what is required to complete the Project. Areas which should be covered include (if applicable):

1. Demonstrated understanding of the scope of work;
2. The process/methodology which the Respondent proposes/intends to use to successfully Council 43 8 June 2016 deliver the Project;
3. A project schedule/timeline;
4. Suppliers/manufacturers from whom/where goods/materials/products will be sourced; and
5. Contract management, training and quality assurance processes.

Supply details and provide an outline in an attachment labelled “**Demonstrated Understanding**”.

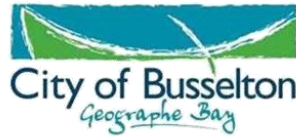
Policy Background

Policy Reference No. – 247
Owner Unit – Contracts and Tendering
Originator – Director, Finance and Corporate Services
Policy approved by – Council
Date Approved – 8 June, 2016
Review Frequency – As required
Related Documents –
Local Government Act 1995
Local Government (Functions and General) Regulations 1996
Delegations contained in the Delegation Register

Last updated 08/06/2016

History

Council Resolution	Date	Information
C1606/139	8 June, 2016	Date of Implementation Version 1



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3J	LGA - 3.57 Functions and General Regs 11, 14, 18, 20 and 21A	Chief Executive Officer	Inviting Tenders and Rejecting and Accepting Tenders

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Regulations 11, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations* to:

- (1) Publicly invite tenders;
- (2) Determine the written criteria for deciding which tender should be accepted;
- (3) Reject, assess, decline to accept any tender or decide which tender to accept;
- (4) Vary requirements before entering into a contract; and/or
- (5) Vary a contract for the supply of goods and services.

Conditions

The delegation is subject to:

- a) Utilising the standard selection criteria as per Policy 031;
- b) Complying with the requirements of the City's Purchasing Policy as it relates to tendering;
- c) Following the City's operational processes and procedures for tender evaluation; and
- d) Acceptance of a tender is not to exceed a contract value of \$500,000.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act 1995* and part of Regulation 11, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.

Local Government Act Section 3.57. Tenders for providing goods or services

(1) 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 or services.

- (2) *Regulations may make provision about tenders.*

Functions and General Regulation 11. When tenders have to be publicly invited

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.*

Functions and General Regulation 14. Requirements for publicly inviting tenders

- (2a) *If a local government —*
- (a) *is required to invite a tender; or*
 - (b) *not being required to invite a tender, decides to invite a tender,*
- the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.*

Functions and General Regulation 18. Rejecting and accepting tenders

- (1) *A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.*
- (2) *A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.*
- (3) *If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.*
- (4) *Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.*
- (4a) *To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.*
- (5) *The local government may decline to accept any tender.*
- (6) *If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.*
- (7) *If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.*

Functions and General Regulation 20. Variation of requirements before entry into a contract

(1) *If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.*

(2) *If -*

(a) *the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or*

(b) *the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,*

that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

(3) *In subregulation (1) —*

minor variation *means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.*

Functions and General Regulation 21A. Varying a contract for the supply of goods or services

(1) *If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —*

(a) *the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or*

(b) *the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(i).*

Verification

Recent Council Resolution
C1708/195

Initial Council Resolution
C1103/179

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Related Documents

Tender Register

Notes of recent alterations
Inclusion of specific reference to various other administrative functions associated with the tender process by way of including reference to Regulations 20 and 21A. Regulation 20 enables the CEO to vary requirements prior to entering into a contract with the chosen tenderer. Regulation 21A enables the CEO to vary a contract for the supply of goods and services <i>(9 August 2017)</i>
Condition (b) reworded to require from the CEO to follow the City's internal operational processes and procedures for the purposes of tender evaluation <i>(9 August 2017)</i>
Conditions (b) and (c) reversed in order for the purposes of referencing the City's Purchasing Policy as the initial reference document, followed by operational processes and procedures <i>(9 August 2017)</i>



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3K	Regulations 21(1) and 23(3) of the Local Government (Functions and General) Regulations 1996	Chief Executive Officer	<p>Preliminary Selection of Tenderers</p> <p>Reg 21(1) – Whether to make a preliminary selection from amongst prospective tenderers</p> <p>Reg 23(3) – Assess expressions of interest and decide which are from persons capable of satisfactorily supplying the goods or services.</p>

Delegator

Council

Power/Duty

Regulation 21(1)

Exercise the local government’s powers and discharge of its duties under Regulation 21 of the *Local Government (Functions and General) Regulations 1996* to decide whether to make a preliminary selection from amongst prospective tenderers by seeking expressions of interest with respect to the supply of the goods or services.

Regulation 23(3)

Assess expressions of interest that have not been rejected under sub-regulation (1) or (2) and decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

Conditions

In exercising the powers under this delegation the CEO must act in accordance with and utilise the evaluation methodology and selection criteria under the City of Busselton Tender Pre Selection Criteria Policy.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for under Regulations 21(1) and 23(3) of the *Local Government (Functions and General) Regulations 1996*.

Regulation 21. Limiting who can tender, procedure for

- (1) *If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services.*

Regulation 23. Rejecting and accepting expressions of interest to be acceptable tenderer

- (1) ...
(2) ...
(3) *Expressions of interest that have not been rejected under subregulation (1) or (2) are to be considered by the local government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.*

Verification

Initial Council Resolution
C1606/139

Review Requirements

In accordance with the requirements of *Section 5.46(2)* of the *Local Government Act 1995*, at least once every financial year.

Related Documents

City of Busselton Tender Pre Selection Criteria Policy (Policy No 247)



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3M	5.42(1)(a)	Chief Executive Officer	Establishment of panels of pre-qualified suppliers

Delegator

Council.

Power/Duty

To exercise the following powers and discharge the following duties of the local government under Part 4 Division 3 of the *Local Government (Functions and General) Regulations 1996*:

1. Pursuant to Regulation 24AC(1)(b) determine whether there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers;
2. In accordance with Regulations 24AD – 24AI establish panels of pre-qualified suppliers for provision of particular goods or services; and
3. In accordance with Regulation 24AJ enter into a contract, or contracts, for the supply of goods or services with a pre-qualified supplier who is part of a panel of pre-qualified suppliers for the supply of those particular goods or services.

Conditions

This delegation is subject to:

- (a) Compliance with the requirements of the City’s Purchasing Policy as it relates to panels of pre-qualified suppliers; and
- (b) The contract value of any particular goods or services to be procured from a particular supplier or in connection with a particular project is not to exceed \$500,000.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO to exercise some of its powers and discharge of its duties provided for under Part 4 Division 3 of the *Local Government (Functions and General) Regulations 1996*.

24AB. Local government may establish panels of pre-qualified suppliers

A local government may establish a panel of pre-qualified suppliers to supply particular goods or services to the local government in accordance with this Division.

24AC. Requirements before establishing panels of pre-qualified suppliers

- (1) A local government must not establish a panel of pre-qualified suppliers unless —
 - (a) ; and
 - (b) the local government is satisfied that there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers.

Verification

Initial Council Resolution
C1704/091

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, Delegations are reviewed at least once every financial year.

Related Documents

City of Busselton Purchasing Policy 239
City of Busselton Tender Selection Criteria Policy 031
City of Busselton Tender Pre Selection Criteria Policy 247

COUNCIL POLICY



Council Policy Name: Purchasing Policy

Responsible Directorate: Finance and Corporate Services Version: Proposed

1. PURPOSE

- 1.1. The City is committed to using efficient and effective purchasing procedures that are directed towards delivering the most advantageous purchases of goods and services by the City.
- 1.2. The City’s purchasing policy is directed at satisfying the following objectives:
 - a. Achieving ‘best value for money’ with respect to all purchasing;
 - b. Ensuring that the City complies with all regulatory obligations;
 - c. Strengthening integrity and confidence in the purchasing system;
 - d. Ensuring that sustainable benefits, such as environmental, social and local economic factors are considered in the overall ‘best value for money’ assessment;
 - e. Mitigating probity risk, by establishing consistent and demonstrated administrative processes that promote transparency and fairness; and
 - f. Ensuring that purchasing activities are conducted in a consistent and efficient manner across the City.

2. SCOPE

- 2.1. This Policy is applicable to all purchases made by the City.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995 (WA).</i>
Formal RFQ	A request for quotation that contains pre-determined evaluation criteria to assess all value for money considerations, evaluated by a panel consisting of at least 2 City officers.
GST	The goods and services tax under the <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth).</i>
Panel	A Panel of Pre-Qualified Suppliers established under the Regulations.
Policy	This City of Busselton Council policy entitled “Purchasing Policy”.
PQS	A Request for Applications to Join a Panel of pre-qualified suppliers.
Regulations	<i>Local Government (Functions and General) Regulations 1996 (WA).</i>
WALGA	Western Australian Local Government Association.

4. STRATEGIC CONTEXT

- 4.1. This Policy is made in connection with the following Key Goal Areas of the City's Strategic Community Plan 2017:
- a. Key Goal Area 6 – Leadership – Governance systems, process and practices are responsible, ethical and transparent;
 - b. Key Goal Area 4 – Economy – An innovative and diversified economy that provides a variety of business and employment opportunities, and a community where local business is supported and in turn drives our economy.

5. POLICY STATEMENT

- 5.1. Purchasing is to be carried out to deliver the most advantageous outcome for the City.
- 5.2. Full accountability shall be taken by Councillors and employees for all purchasing decisions.
- 5.3. Purchasing is to be carried out in accordance with approved City budget provisions.
- 5.4. Purchasing is to be carried out on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently.
- 5.5. All processes, evaluations and decisions shall be transparent, free from bias, merit based and fully documented in accordance with applicable policies, practices and procedures, and audit requirements.
- 5.6. Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.

Most Advantageous Outcome

- 5.7. The most advantageous outcome of a purchasing process is to be determined by weighing up the considerations of price, risk and relevant qualitative factors.
- 5.8. Accordingly purchasing decisions should take into account factors other than price.
- 5.9. Qualitative and risk factors that may be considered include:
 - a. All relevant whole-of-life costs and benefits. This should include transaction costs associated with acquisition, delivery, distribution, as well as other costs such as holding costs, consumables, deployment, maintenance and disposal;
 - b. The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
 - c. Financial viability and capacity to supply without risk of default. This relates to the competency of the prospective suppliers in terms of their organisational, managerial and technical capabilities and regulatory compliance history;
 - d. A sufficient element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;
 - e. The safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
 - f. Purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility.

Purchasing Requirements

- 5.10. The requirements that must be complied with by the City, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing practises.
- 5.11. In determining the purchase value, the following considerations are to be taken into account:
- a. All values are exclusive of GST;
 - b. The actual or expected value of a contract over the full contract period, including all options.
- 5.12. The following quotation/tender purchase value thresholds apply:

Amount of Purchase	Requirements
Up to \$5,000	Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation from that supplier.
\$5,001 - \$14,999	Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement.
\$15,000 - \$49,999	Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement.
\$50,000 - \$149,999	A Formal RFQ process must be followed by officers at this level of purchase. Officers must obtain at least three (3) written quotations from suppliers.
Over \$150,000 Where circumstances warrant, City officers may conduct a tender process for projects which are below the \$150,000 threshold.	Conduct a public tender process in accordance with the Act and the Regulations, subject to the exceptions in Regulation 11(2)

- 5.13. The responsible City officer is expected to demonstrate due diligence in seeking quotations. The number of quotations obtained, the contract conditions and level of evaluation required should be determined by having regard to the type and nature of the purchase and the associated risk, and not purely the purchase value. For example the officer may determine that the process outlined for a higher purchase value is more appropriate than the process for the actual purchase value.

Exemptions to purchasing requirements – Purchase value less than \$150,000

- 5.14. From time to time there will be circumstances where it is not appropriate or not reasonably practicable to adhere to the requirements to obtain the number of quotations set out under the heading 'Determining Purchasing Value and Purchasing Thresholds'. An example is where the City is satisfied and can evidence that there is only one source of supply for goods, services or works, having used genuine endeavours to determine that there is not a reasonable alternative source of supply.

5.15. In such circumstances, the Chief Executive Officer (or such other employee of the City to whom such power has been delegated) may waive the requirements to obtain the number of quotations as set out under section 5.10 - 5.13 of this Policy. The responsible City officer must document the waiver process in the manner required by the CEO.

Exceptions to purchase requirements – Purchase value \$150,000 or greater

5.16. Where the purchase value exceeds \$150,000, the Regulations provide for a range of exceptions to the requirement to publicly invite tenders. These are set out in regulation 11(2) of the Regulations.

5.17. The exceptions include:

- a. The supply of goods or services authorised as an emergency under s 6.6(1)(c) of the Act;
- b. The supply of goods or services obtained through the WALGA Preferred Supplier Program (see further information below);
- c. Where the City has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier;
- d. The goods or services are to be supplied by a person registered on the Aboriginal Business Directory WA (subject to a maximum of \$250,000 and the City being satisfied as to 'value for money');
- e. Where the goods or services are to be supplied by an Australian Disability Enterprise; or
- f. Where the goods or services are to be supplied by a pre-qualified supplier under a Panel of Pre-Qualified Suppliers established by the City under the Regulations (see further information below).

Regulatory Compliance – Tenders

This part includes detail on the requirements of the Act and the Regulations for the public tender process. As these may change from time to time, it is the responsibility of the employee to inform themselves of the requirements of the relevant statutory requirements when conducting a tender process and not rely on this Policy alone.

Advertising Tenders

5.18. Requests for tenders must be advertised as a minimum in a state-wide publication and on the City's TenderLink portal and in addition, may be advertised locally. The tender must remain open for a minimum of at least 14 days after the date the tender is advertised.

Addendum to Tender

5.19. Clarifications, variations or adjustments to the tender documentation and the conditions of tender may be made by way of addendum after the tender has been publicly advertised but prior to the tender closing date.

Opening of Tenders

5.20. Tenders are to be opened in accordance with the advertised time and place and in the presence of at least two persons which can be either:

- a. Two employees of the City;
- b. One employee of the City and another person authorised by the Chief Executive Officer for that purpose;
- c. The details of all tenders received and opened shall be recorded in the Tender Register. There is no obligation to disclose or record tendered prices at the tender opening. Members of the public are entitled to be present.

Tender Evaluation

5.21. Tenders that have not been rejected shall be assessed by means of a written evaluation against the pre-determined criteria to determine which tender represents best value for money. The evaluation panel must contain a minimum of three members.

Tender Register

5.22. The City must maintain a tender register which is to include:

- a. a brief description of the goods and services required;
- b. particulars of:
 - i. Any notice by which expressions of interests from prospective tenderers was sought;
 - ii. Any person who submitted an expression of interest;
 - iii. Any list of acceptable tenderers that was prepared under Regulation 23(4).
- c. A copy of the notice of the invitation to tender;
- d. The name of each tenderer whose tender has been opened;
- e. The name of any successful tenderer.

Minor Variation prior to awarding a contract

5.23. Prior to awarding a contract to a preferred tenderer, the City may negotiate and agree on "minor variations" with the preferred tenderer.

5.24. Any amendments must be incorporated into the contract with the preferred tenderer for the supply of the varied requirement.

5.25. Any major variation will require a new and separate tender.

5.26. A minor variation has been determined by the City to mean a variation which does not materially alter the specification or structure provided for by the initial tender.

WALGA Preferred Suppliers Program

5.27. WALGA has a number of pre-qualified suppliers called WALGA preferred suppliers. The City can make purchases from WALGA preferred suppliers:

- a. For purchases up to \$150,000;
- b. For purchases over \$150,000 in reliance on the exemption to the requirement for a public tender.

Provided that:

- c. The purchasing thresholds detailed in section 5.10 - 5.13 of this Policy are observed in relation to numbers of and types of quotation sought, noting that for all purchases over \$150,000 three quotes must be obtained;
- d. This Policy is otherwise followed.

Panels of Pre-Qualified Suppliers

5.28. A Panel may only be established where it is determined that there is or will be a continuing need for particular goods or services to be supplied by pre-qualified suppliers.

5.29. When establishing a Panel, officers must consider the following:

- a. Is there a continuing need for the goods or services?
- b. Will it be more efficient for the City to work collaboratively with a small group of suppliers to deliver a good or service on a regular basis?

6.3 Attachment H Proposed Purchasing Policy

- c. Is it necessary for the City to have more than one supplier for a good or service (if one is sufficient then a Request for Tender may be appropriate)?
 - d. Is there another panel available for the City to access?
- 5.30. Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.
- 5.31. Requests for applications to join a panel of pre-qualified suppliers must be advertised through a State-wide public notice.
- 5.32. Prior to issuing a PQS, Officers must determine the criteria by which applications will be assessed and accepted which must be determined and communicated in the PQS.
- 5.33. Officers may assess applications using the discount principles of the City's Regional Price Preference Policy.
- 5.34. A PQS Panel established by the City is to be operated in a manner that applies the principles of the City's Regional Price Preference Policy when assessing quotations.
- 5.35. When establishing a Panel a PQS must set out how the City intends to purchase goods and services through the use of the Panel.
- 5.36. The City is to procure goods and services from a member of a Panel by either seeking written quotations from each panel member with respect to either all purchases or alternatively all purchases above a specified threshold (if any).
- 5.37. Where the City has determined that written quotations will be sought from each Panel member above a specified threshold, goods and services may be procured below that threshold on the basis of the relative rankings of the Panel members.
- 5.38. Where Panel members are ranked, the City is to determine the rankings from time to time on the basis of written quotations obtained from the members of the panel.
- 5.39. The City will obtain written quotations through electronic means, principally through the use of its online procurement portal.
- 5.40. Quotations received from panel members are to be assessed in accordance with the City's practices and procedures.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Local Government Act 1995.
- 6.2. Local Government (Functions and General) Regulations 1996.
- 6.3. Regional Price Preference Policy
- 6.4. Delegation LG3J – Tenders.
- 6.5. Delegation LG3K – Preliminary Selection of Tenderers.
- 6.6. Delegation LG3M - Establishment of panels of pre-qualified suppliers.

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previously Adopted	DATE	12 June 2018	Resolution #	

COUNCIL POLICY		 City of Busselton <i>Geographic Bay</i>
Council Policy Name:	Regional Price Preference	
Responsible Directorate:	Finance and Corporate Services	Version: Proposed

1. PURPOSE

- 1.1. Part 4A of the Regulations enables a local government located outside of the metropolitan area to give a regional price preference when assessing a tender. Any price preference must comply with the Regulations, including that a policy must be adopted, following a period of State-wide advertising.
- 1.2. The purpose of this policy is to promote, under the Regulations, local economic development through the provision of a price preference allowance to Local Suppliers when evaluating and awarding contracts under a tender process

2. SCOPE

- 2.1. This policy is applicable to all tenders invited by the City of Busselton

3. DEFINITIONS

Term	Meaning
Local Supplier	a supplier who has had for more than 6 months prior to the closing date of the tender a physical presence by way of a shop, depot, outlet, headquarters or other premises from which they operate within the City of Busselton district.
Policy	this City of Busselton Council policy entitled "Regional Price Preference"
Regulations	the <i>Local Government (Functions and General) Regulations 1996</i>

4. STRATEGIC CONTEXT

- 4.1. This policy links to Key Goal Area 4 of the City's Strategic Community Plan 2017 and specifically the following Community Objective/s:
 - a. 4.2: A community where local business is supported and in turn drives our economy

5. POLICY STATEMENT

- 5.1. The following price preference allowance will be applied on the value of tendered goods and services sourced from a Local Supplier.
 - a. Goods and Services - 10% allowance up to a maximum price reduction of \$50,000;
 - b. Construction (building) Services – 5% allowance up to a maximum price reduction of \$50,000;
 - c. Goods and services, including Construction (building) Services, tendered for the first time where Council previously supplied the Goods or Services – 10% allowance up to a maximum price reduction of \$50,000.
- 5.2. Only where the management or delivery of the majority of the tendered goods and services will be carried out from the Local Supplier's premises will the price preference apply.

- 5.3. The value of those goods and services claimed by the supplier may be adjusted during the tender assessment process if the value claimed is considered unreasonable or cannot be justified.
- 5.4. Price is only one factor that Council considers when evaluating a tender. There is nothing contained within this policy that compels Council to accept the lowest tender or any tender based on price offered

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government (Functions and General) Regulations 1996*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	08/11/2017	Resolution #	C1708/192

STAFF MANAGEMENT PRACTICE



City of Busselton
Geographic Bay

Staff Management Practice Name: Purchasing - Procurement Selection Criteria

Responsible Directorate: Finance and Corporate Services Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Staff Management Practice is to promote achievement of the most advantageous and best value for money outcome under the City's procurement processes by providing clear direction to staff in to the use of an appropriate range of selection criteria.

2. SCOPE

- 2.1. This Staff Management Practice is applicable to any RFT, EOI, PQS, or RFQ.

3. DEFINITIONS

Term	Meaning
EOI	An expression of interest process pursuant to a preliminary selection of tenderers process under Part 4 of the Regulations.
Management	Any employee who has a direct report.
Panel	A Panel of Pre-Qualified Suppliers established under the Regulations.
PQS	A Request for Applications to Join a Panel of pre-qualified suppliers.
SMP	Staff Management Practice.
RFQ	A request for a quotation.
RFT	An invitation to tender made under Part 4 of the Regulations.
Regulations	<i>Local Government (Functions and General) Regulations 1996.</i>
Response	A submission made by a respondent to an RFT, EOI, PQS, or RFQ.

4. RESPONSIBILITIES

- 4.1. Directors are responsible for:
 - a. Reviewing and endorsing this SMP as required;
 - b. Providing advice to the Chief Executive Officer as to the appropriateness of selection criteria.
- 4.2. Management are responsible for:
 - a. Implementing this SMP as part of their management responsibilities;
 - b. Ensuring all RFT / EOI / PQS / RFQ process and documentation aligns to this SMP.
- 4.3. Employees are responsible for:
 - a. Familiarising themselves with this SMP;
 - b. Adhering to this SMP when developing and implementing any RFT / EOI / PQS / RFQ process and documentation.

6.3 Attachment J Proposed SMP - Procurement Selection Criteria

- 4.4. Contract and Tendering Officer is responsible for:
 - a. Checking that all selection criteria used in any RFT / EOI / PQS / RFQ process and documentation aligns to this SMP;
 - b. Providing advice to employees as the application of this SMP.

5. ENABLING POLICY OR STRATEGY

- 5.1. This SMP enables effective operation of the City's Purchasing Policy and the following Chief Executive Officer's delegations:
 - a. LG3J - Tenders;
 - b. LG3K – Preliminary Selection of Tenderers;
 - c. LG3M – Establishment of panels of pre-qualified suppliers.

6. PRACTICE

- 6.1. All Responses are to be evaluated using a combination of compliance criteria, qualitative criteria and price (quantitative criteria); collectively these are referred to as selection criteria.
- 6.2. Each RFT / EOI / PQS / RFQ is to set out the selection criteria, with applicable qualitative criteria and price weighted to a total of 100%.
- 6.3. Compliance criteria are to be evaluated on a meets / does not meet basis.
- 6.4. Qualitative criteria are to be evaluated using the scoring method set out in in 6.11 and 6.12 of this SMP.
- 6.5. In preparing an RFT / EOI / PQS / RFQ employees are to determine the most appropriate selection criteria within the parameters of this SMP.

Compliance criteria

- 6.6. A Response must meet the stated compliance criteria in order for it to be further evaluated against the qualitative and quantitative criteria.
- 6.7. Provision of requested price information is to be applied as a compliance criteria to all Responses.

Price

- 6.8. Price is only one selection criterion. Price is to be weighted and assessed in conjunction with a range of qualitative criteria. Where appropriate, regard is to be given to the Regional Price Preference Policy.
- 6.9. Price is to be allocated a weighting within a range of 30% to 70%, having regard to the nature of the goods and / or services being procured.
- 6.10. Notwithstanding anything in this SMP, price is not a relevant criterion for assessing an EOI.

Qualitative criteria

- 6.11. The following qualitative criteria are to be applied to all Responses:
 - a. Relevant experience – minimum weighting of 5%
The respondent is to describe and demonstrate evidence of their experience in completing / supplying similar goods and / or services as outlined in the specification.

- b. Local benefit – fixed weighting of 5%
The respondent is to describe how they will contribute to the local community (social, economic, environmental, or other) over and above being a local supplier operating within the district.

6.12. One or more of the following additional criteria may be applied, with an appropriate weighting to be allocated by employees:

- a. Key personnel skills and experience
The respondent is to provide information outlining the skills and experience of the key personnel proposed to be allocated to the project / supply of the goods and / or services.
- b. Respondents Resources
The respondent should demonstrate their ability to supply and sustain the necessary resources to complete / supply the goods and / or services outlined in the specification. This could include reference to necessary plant and equipment, materials, or contingency measures or back up of resources (including personnel).
- c. Demonstrated Understanding
The respondent should detail their understanding of the specification and scope of work by outlining the process they intend to use to deliver on the requirements. This may include provision of a project schedule / timeline, the process for delivery of the goods and / or services, and any training processes that may be applicable.
- d. Warranty and Servicing
The respondent should detail the warranty periods and / or servicing arrangements offered for the goods and / or services outline in the specification.
- e. Creative Content
The respondent should demonstrate how they will provide suitable creative content associated with supply of the goods and / or services. This will generally be done in the form of a design concept.
- f. Occupational Health and Safety
The respondent should demonstrate evidence of appropriate safety management systems.

6.13. Attachment A sets out the details of each qualitative selection criterion to be considered when developing the selection criteria to be used for each RFT / EOI / PQS / RFQ.

6.14. Selection criteria for a RFT / EOI / PQS / RFQ must be approved by a Director before being used.

Scoring of qualitative criteria

6.15. Each qualitative criterion used is to be point scored with a score of between 1 and 5 applied, based on how well the evaluator feels that the submission meets the requirements of the criterion.

6.16. The following table outlines the scoring guide to be used:

Score	Description
0	No submission was received against this criterion.
1	The submission only marginally addresses the criterion. The evaluator is not confident that the respondent: <ul style="list-style-type: none"> • Understands the contract requirements covered by this criterion; and / or • Will be able to satisfactorily complete the contract requirements covered by this criterion; and / or • Will contribute to the local community.
2	The submission partially meets the criterion. The evaluator has some reservations that the respondent: <ul style="list-style-type: none"> • Understands the contract requirements covered by this criterion; and / or • Will be able to satisfactorily complete the contract requirements covered by this criterion to a reasonable standard; and / or • Will contribute to the local community other than in a minor way.
3	The submission meets the criterion. The evaluator is satisfied that the respondent: <ul style="list-style-type: none"> • Understands the contract requirements covered by this criterion; and / or • Will be able to satisfactorily complete the contract requirements covered by this criterion to a reasonable standard; and / or • Contributes to the local community.
4	The submission meets, and in some respects exceeds, the criterion. The evaluator is completely satisfied and confident that the respondent: <ul style="list-style-type: none"> • Understands the contract requirements covered by this criterion; and / or • Will be able to satisfactorily complete the contract requirements covered by this criterion to a high standard; and / or • Contributes in a significant way to the local community.
5	The submission meets, and significantly exceeds in all respects, the criterion. The evaluator feels the respondent is above and beyond any other respondent and will be able to complete the contract requirements to the highest possible standard and / or contributes in an exceptional way to the local community.

6.17. All scores greater or less than 3 should be accompanied by a comment in the evaluation sheet.

6.18. Comments made in the evaluation sheet must be appropriate for an external audience, as evaluation reports are likely to be made publicly available as attachments to Council Reports.

7. RELATED DOCUMENTATION

- 7.1. *Local Government (Function and General) Regulations 1996.*
- 7.2. Purchasing Policy.
- 7.3. Regional Price Preference Policy.
- 7.4. Delegation LG3J – Tenders.
- 7.5. Delegation LG3K – Preliminary Selection of Tenderers.

7.6. Delegation LG3M – Establishment of panels of pre-qualified suppliers.

8. REVIEW DETAILS

Review Frequency		3 yearly		
CEO Adoption	DATE		Responsible	Legal and Property Services
Last Reviewed	DATE	12 June 2018	Business Unit	

9. APPROVAL

BY CHIEF EXECUTIVE OFFICER:

ATTACHMENT A

SELECTION CRITERIA APPROVAL FORM

1. Allocate the price weighting
2. Allocate the weighting for Relevant Experience (note minimum 5%)
3. Select any optional criteria by inserting a desired weighting
4. Adjust by deleting or adding, as appropriate, to criterion details (a, b, c, d ...)
5. Ensure overall criteria weighting totals 100%
6. Seek Director approval

Quantitative Criteria	Weighting
Price Weighting (min 30% / max 70%): (Note not applicable for an EOI)	[insert %]
Qualitative Criteria	Weighting
Compulsory Criteria	
Relevant Experience Describe and demonstrate evidence of your experience in completing / supplying similar goods and / or services as outlined in the Specification. Provide information such as: <ul style="list-style-type: none"> a) Details of similar work b) The scope of the your involvement c) Details of the work outcomes d) Details of any issues that arose during the work and how these were managed Supply details in an attachment and label it “Relevant Experience”	[insert %]
Local Benefit Describe how you will contribute to the local community (social, economic, environmental, or other) over and above being a local supplier operating within the district. Supply details in an attachment and label it “Local Benefit”	5%
Optional Criteria	
Key personnel skills and experience Outline the skills and experience of the key personnel proposed to be allocated to the project / supply of the goods and / or services. Provide information such as: <ul style="list-style-type: none"> a) Curriculum vitae of key personnel including qualifications b) Key personnel experience in similar work c) The role of key personnel in the performance of the Contract Supply details in an attachment and label it “Key Personnel”	[insert %]

<p>Respondents Resources</p> <p>Demonstrate your ability to supply and sustain the necessary resources to complete / supply the goods and / or services outlined in the Specification. Provide information such as:</p> <ul style="list-style-type: none"> a) plant and equipment, b) materials, c) contingency measures or back up of resources (including personnel). <p>Supply details in an attachment and label it “Respondants Resources”</p>	<p>[insert %]</p>
<p>Demonstrated Understanding</p> <p>Demonstrate your understanding of the specification and scope of work by outlining the process you intend to use to deliver on the Requirements of the Specification. Provide information such as:</p> <ul style="list-style-type: none"> a) a summary of the scope of work b) a project schedule / timeline c) the methodology or process for delivery of the goods and / or services d) any training processes that may be applicable. <p>Supply details in an attachment and label it “Demonstrated Understanding”</p>	<p>[insert %]</p>
<p>Warranty and Servicing</p> <p>Detail the warranty periods and / or servicing arrangements offered for the goods and / or services outline in the specification.</p> <p>Supply details in an attachment and label it “Warranty and Servicing”</p>	<p>[insert %]</p>
<p>Creative Content</p> <p>Demonstrate how you will provide any relevant creative content associated with supply of the goods and / or services. This may be done in the form of a design concept.</p> <p>Supply details in an attachment and label it “Creative Content”</p>	<p>[insert %]</p>
<p>Occupational Health and Safety</p> <p>Demonstrate evidence of appropriate safety management systems. Provide information such as:</p> <ul style="list-style-type: none"> a) Site Safety Management Plans b) Hazard Identification processes c) Accident / Incident processes d) Risk Assessment processes e) Safety certifications <p>Supply details in an attachment and label it “Occupational Health and Safety”</p>	<p>[insert %]</p>

Panel Chair signature:

Director signature:

Date:



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3K	Regulations 21(1) and 23(3) of the Local Government (Functions and General) Regulations 1996	Chief Executive Officer	<p>Preliminary Selection of Tenderers</p> <p>Reg 21(1) – Whether to make a preliminary selection from amongst prospective tenderers</p> <p>Reg 23(3) – Assess expressions of interest and decide which are from persons capable of satisfactorily supplying the goods or services.</p>

Delegator

Council

Power/Duty

Regulation 21(1)

To exercise the local government’s powers and discharge the duties of the local government under Regulation 21 of the *Local Government (Functions and General) Regulations 1996* to decide whether to make a preliminary selection from amongst prospective tenderers by seeking expressions of interest with respect to the supply of the goods or services.

Regulation 23(3)

To exercise the powers and duties of the local government under Regulation 23(3) of the *Local Government (Functions and General) Regulations* to assess expressions of interest that have not been rejected under sub-regulation (1) or (2) and decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for under Regulations 21(1) and 23(3) of the *Local Government (Functions and General) Regulations 1996*.

Regulation 21. Limiting who can tender, procedure for

- (1) *If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services.*

Regulation 23. Rejecting and accepting expressions of interest to be acceptable tenderer

- (1) ...
(2) ...
(3) *Expressions of interest that have not been rejected under subregulation (1) or (2) are to be considered by the local government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.*

Verification

Initial Council Resolution
C1606/139

Review Requirements

In accordance with the requirements of *Section 5.46(2)* of the *Local Government Act 1995*, at least once every financial year.



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3J	LGA - 3.57 Functions and General Regs 11, <u>13</u> , 14, 18, 20 and 21A	Chief Executive Officer	Inviting Tenders and Rejecting and Accepting Tenders

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Regulations 11, 13, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations* to:

- (1) Publicly invite tenders;
- (2) Determine the written criteria for deciding which tender should be accepted;
- (3) Reject, assess, decline to accept any tender or decide which tender to accept;
- (4) Enter into a contract for the supply of goods and services;

- ~~(3)~~(5) Vary requirements before entering into a contract; and/or
- (6) Vary a contract for the supply of goods and services.

In relation to the procurement of goods and services under an exception to the tender process, as provided for in regulation 11(2) of the *Local Government (Functions and General) Regulations*, to exercise the powers and discharge the duties of the local government to determine that an exception applies and enter into a contract for the supply of goods and services.

Conditions

The delegation is subject to:

- ~~a) Utilising the standard selection criteria as per Policy 031;~~
- ~~b) a) c~~ Complying with the requirements of the City's Purchasing Policy as it relates to tendering;
- ~~e) b) F~~ Following any applicable staff management practices and the City's operational processes and procedures for tender evaluation; and
- ~~d) c) Acceptance of a~~ tender is not to exceed a or contract value not exceeding of \$500,000.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act 1995* and part of Regulation 11, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.

Local Government Act Section 3.57. **Tenders for providing goods or services**

(1) 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 or services.

(2) Regulations may make provision about tenders.

Functions and General Regulation 11. **When tenders have to be publicly invited**

(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless subregulation (2) states otherwise.

~~**Functions and General Regulation 13.** **Requirements inviting tenders when not required to**~~

~~(1) If a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Division.~~

Functions and General Regulation 14. **Requirements for publicly inviting tenders**

(2a) If a local government –

(a) is required to invite a tender; or

(b) not being required to invite a tender, decides to invite a tender,

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

Functions and General Regulation 18. **Rejecting and accepting tenders**

(1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.

(2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.

(3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.

(4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.

(4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.

(5) The local government may decline to accept any tender.

(6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the

tender which it thinks it would be most advantageous to the local government to accept.

(7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

Functions and General Regulation 20. Variation of requirements before entry into a contract

(1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.

(2) If –

(a) the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or

(b) the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,

that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

(3) In subregulation (1) –

minor variation means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

Functions and General Regulation 21A. Varying a contract for the supply of goods or services

(1) If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless –

(a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or

(b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(i).

Verification

Recent Council Resolution
C1708/195

Initial Council Resolution
C1103/179

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Related Documents

Tender Register

Notes of recent alterations
<u>Amendments to remove condition referencing Council Policy with respect to selection criteria and instead reference staff management practices and operational procedures and to add in reference to Regulation 13 (June 2018)</u>
Inclusion of specific reference to various other administrative functions associated with the tender process by way of including reference to Regulations 20 and 21A. Regulation 20 enables the CEO to vary requirements prior to entering into a contract with the chosen tenderer. Regulation 21A enables the CEO to vary a contract for the supply of goods and services <i>(9 August 2017)</i>
Condition (b) reworded to require from the CEO to follow the City's internal operational processes and procedures for the purposes of tender evaluation <i>(9 August 2017)</i>
Conditions (b) and (c) reversed in order for the purposes of referencing the City's Purchasing Policy as the initial reference document, followed by operational processes and procedures <i>(9 August 2017)</i>

Formatted Table



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3J	LGA - 3.57 Functions and General Regs 11, 13, 14, 18, 20 and 21A	Chief Executive Officer	Inviting Tenders and Rejecting and Accepting Tenders

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under regulations 11, 13, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations* to:

- (1) Publicly invite tenders;
- (2) Determine the written criteria for deciding which tender should be accepted;
- (3) Reject, assess, decline to accept any tender or decide which tender to accept;
- (4) Enter into a contract for the supply of goods and services;
- (5) Vary requirements before entering into a contract; and/or
- (6) Vary a contract for the supply of goods and services.

In relation to the procurement of goods and services under an exception to the tender process, as provided for in regulation 11(2) of the *Local Government (Functions and General) Regulations*, to exercise the powers and discharge the duties of the local government to determine that an exception applies and enter into a contract for the supply of goods and services.

Conditions

The delegation is subject to:

- a) complying with the requirements of the City's Purchasing Policy as it relates to tendering;
- b) following any applicable staff management practices and operational procedures; and
- c) the tender or contract value not exceeding \$500,000.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act 1995* and part of Regulation 11, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.

Local Government Act Section 3.57.

Tenders for providing goods or services

- (1) 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 or services.
- (2) Regulations may make provision about tenders.

Functions and General Regulation 11.

When tenders have to be publicly invited

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless subregulation (2) states otherwise.

Functions and General Regulation 13.

Requirements inviting tenders when not required to

- (1) If a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Division.

Functions and General Regulation 14.

Requirements for publicly inviting tenders

- (2a) If a local government –
 - (a) is required to invite a tender; or
 - (b) not being required to invite a tender, decides to invite a tender,the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

Functions and General Regulation 18.

Rejecting and accepting tenders

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender.

(6)	<i>If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.</i>
(7)	<i>If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.</i>
Functions and General Regulation 20.	
Variation of requirements before entry into a contract	
(1)	<i>If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.</i>
(2)	If –
(a)	<i>the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or</i>
(b)	<i>the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,</i>
	<i>that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.</i>
(3)	<i>In subregulation (1) –</i>
	minor variation means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

Functions and General Regulation 21A.	
Varying a contract for the supply of goods or services	
(1)	<i>If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless –</i>
(a)	<i>the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or</i>
(b)	<i>the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(i).</i>

Verification

Recent Council Resolution
C1708/195

Initial Council Resolution
C1103/179

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Related Documents

Tender Register

Notes of recent alterations
Amendments to remove condition referencing Council Policy with respect to selection criteria and instead reference staff management practices and operational procedures and to add in reference to Regulation 13 (June 2018)
Inclusion of specific reference to various other administrative functions associated with the tender process by way of including reference to Regulations 20 and 21A. Regulation 20 enables the CEO to vary requirements prior to entering into a contract with the chosen tenderer. Regulation 21A enables the CEO to vary a contract for the supply of goods and services <i>(9 August 2017)</i>
Condition (b) reworded to require from the CEO to follow the City's internal operational processes and procedures for the purposes of tender evaluation <i>(9 August 2017)</i>
Conditions (b) and (c) reversed in order for the purposes of referencing the City's Purchasing Policy as the initial reference document, followed by operational processes and procedures <i>(9 August 2017)</i>



Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3K	Regulations 21(1) and 23(3) of the Local Government (Functions and General) Regulations 1996	Chief Executive Officer	<p>Preliminary Selection of Tenderers</p> <p>Reg 21(1) – Whether to make a preliminary selection from amongst prospective tenderers</p> <p>Reg 23(3) – Assess expressions of interest and decide which are from persons capable of satisfactorily supplying the goods or services.</p>

Delegator

Council

Power/Duty

Regulation 21(1)

To ~~Ex~~ercise the local government’s powers and discharge ~~the duties of the local government its duties~~ under Regulation 21 of the *Local Government (Functions and General) Regulations 1996* to decide whether to make a preliminary selection from amongst prospective tenderers by seeking expressions of interest with respect to the supply of the goods or services.

Regulation 23(3)

To ~~ex~~ercise the powers and duties of the local government under Regulation 23(3) of the *Local Government (Functions and General) Regulations* to ~~A~~assess expressions of interest that have not been rejected under sub-regulation (1) or (2) and decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

Conditions

~~In exercising the powers under this delegation the CEO must act in accordance with and utilise the evaluation methodology and selection criteria under the City of Busselton Tender Pre Selection Criteria Policy.~~

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for under Regulations 21(1) and 23(3) of the *Local Government (Functions and General) Regulations 1996*.

Regulation 21. Limiting who can tender, procedure for

(1) *If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services.*

Regulation 23. Rejecting and accepting expressions of interest to be acceptable tenderer

(1) ...

(2) ...

(3) *Expressions of interest that have not been rejected under subregulation (1) or (2) are to be considered by the local government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.*

Verification

Initial Council Resolution
C1606/139













Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Related Documents

~~City of Busselton Tender Pre-Selection Criteria Policy (Policy No 247)~~

6.4 AL FRESCO AREAS AND STREET ACTIVATION IN THE BUSSELTON CITY CENTRE (ESPECIALLY QUEEN STREET) - REPORT ON OUTCOMES OF RECENT CONSULTATION AND PROPOSED DIRECTION

SUBJECT INDEX:	Activity Centre Plan - Busselton
STRATEGIC OBJECTIVE:	Creative urban design that produces vibrant, mixed-use town centres and public spaces.
BUSINESS UNIT:	Planning and Development Services
ACTIVITY UNIT:	Strategic Planning & Development
REPORTING OFFICER:	Director, Planning and Development Services - Paul Needham
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Al Forno options  
	Attachment B 20-26 Queen Street proposal  
	Attachment C Al fresco examples  
	Attachment D Consultation Outcomes Report  
	Attachment E City Centre Aerial Photo  
	Attachment F Draft Policy  

PRÉCIS

The Council is asked to consider issues related to al fresco dining in the Busselton City Centre, Queen Street in particular, but not exclusively. The report follows and sets out the outcomes of recent consultation on those issues.

Because it is seen as a sound strategy in and of itself, and also appears to broadly reflect community views, it is considered that the Council should indicate broad support for facilitating more al fresco space in the City Centre, but mainly in a reversible and incremental/demand-driven fashion, even though that has to be at the expense of on-street parking that some in the community value. It is also considered that 'container' options for providing al fresco space should generally not be supported, but that the preferred form rather be in the form of timber decking or custom designed and built 'drop-in' structures.

It is recommended that the Council adopt a draft policy that would provide for that, and also address and provide guidance on some of the more detailed issues that require consideration. Note that the policy is not proposed as a local planning policy, it is proposed as a Council policy, and would guide the City's property functions, not the City's planning (or other regulatory) functions. At this stage, it is recommended that the policy be adopted as a draft only, and that further consultation take place before the Council considers adoption of a final policy.

BACKGROUND

In recent times, the City has received several requests and proposals to accommodate al fresco areas associated with cafes/restaurants on Queen Street and/or premises where the owners are contemplating leases to cafes/restaurants. Because of the width and configuration of Queen Street (for most of its length), the only way that high usability al fresco areas can be accommodated is often through using space that is currently used for car parking. This can be seen by reference to the *Vasse Hotel*, which has an extensive al fresco area, but there is no on-street car parking in that section of the street.

Requests for al fresco areas that would require removal of car parking have been received from the proprietors of the *Al Forno* café/restaurant, in the section of Queen Street between Kent and Duchess Streets, and the owners of 20-26 Queen Street (which currently contains, amongst others, the *Dynasty Chinese* restaurant), in the section of Queen Street between Duchess and Adelaide Streets. Plans illustrating several options for provision of an al fresco area for *Al Forno* are provided as **Attachment A**. Plans for proposed modifications to 20-26 Queen Street, incorporating conversion of adjacent on-street car parking to al fresco area, are provided as **Attachment B**.

Over recent years, there have been informal discussions with several other proprietors and landowners. There has also been fairly consistent informal feedback from some in the general community and from many in the business community indicating that more should be done to facilitate and encourage al fresco and activation/activity in the City Centre generally. There are also concerns about car parking availability from some in the community, including from business owners.

The City and proprietor had spent some time investigating the options to accommodate an al fresco area for *Al Forno* (which currently has a small al fresco presence, consisting of tables and chairs on the footpath immediately in front of the premises). The City was looking to implement an option that would have involved the placement of a converted/adapted container, placed where there are currently parking bays adjacent to the pedestrian crossing point midway between Kent and Duchess Streets. The proposal would have involved the loss of two parking bays. It was expected that implementation would commence in late 2017. Because of the option being proposed, had it not been considered successful, it would have been relatively simple to remove the container.

Whilst in some other places, there are considered to be some successful and attractive container or other 'drop-in' al fresco arrangements, there are a number that City officers think are not particularly attractive. For that reason, it was envisaged that the first such proposal in Busselton would be best implemented by the City itself, rather than by a landowner or proprietor seeking the approval of the City to implement a proposal themselves. That was to ensure that the City would have direct control over the process and the design, and an essentially unfettered ability to remove the structure, should it be seen as appropriate to do so. Note that officers were of the view that the once preferred option for *Al Forno* required further refinement, and having given the matter further consideration, do not currently consider 'container' options are suitable for Queen Street, or generally in the City Centre more broadly.

Owing to concerns expressed by some other proprietors and landowners, the City decided not to proceed with the proposal in late 2017. Councillors requested that, before any further decisions were made, there be broader community consultation with respect to the value and priority to be attached to car parking relative to al fresco space on Queen Street generally. It was envisaged that the City would then consider the outcomes of that consultation and determine future strategy. This report provides the Council with information on the outcomes of recent consultation, undertaken using the City's *Your Say* platform, and proposes a future direction with respect to accommodating al fresco proposals within the City Centre in future, especially on Queen Street.

Some examples of different al fresco options are provided as **Attachment C**. Note that there are some that officers consider are good examples, and others that officers do not consider very successful. It also needs to be noted that the appropriateness and/or success of any option may depend upon the context.

STATUTORY ENVIRONMENT

Key statutory environment is set out in the City's *Activities in Thoroughfares and Public Places and Trading Local Law 2015* ('Thoroughfares Local Law') and town planning scheme, as well as in the *Land Administration Act 1997*. Those documents have been considered in the preparation of this report.

RELEVANT PLANS AND POLICIES

Relevant plans and policies include the City's *Economic Development Strategy 2016-2026* ('ED Strategy'), and *Local Planning Policy 4C: Busselton Town Centre Urban Design Provisions* (LPP4C). The ED Strategy identifies 'Place Making and Activation' as a key focus area, and sets out a number of related strategies, including 'Partner with business owners and managers to focus positive activity into streets and public spaces'. LPP4C identifies Queen Street as a 'Primary Street', and sets out that development on such streets should be 'highly activated' and that 'al fresco uses also encouraged'.

FINANCIAL IMPLICATIONS

There are no direct financial implications of the recommendations of this report. Depending on the direction that the Council chooses to take on these issues, there may be some financial implications, such as those associated with streetscape works that may be required to allow al fresco use of space currently allocated for car parking and/or with fees required to be paid by proprietors for use of road reserve (which is City land, although a very particular kind of City land) for al fresco trading.

Note that the Council has recently amended the guidelines of the Busselton and Dunsborough centres Façade refurbishment Subsidy Programme to include infrastructure associated with al fresco areas as eligible works. Under that Programme, funding of up to \$20,000 per project is available, up to maximum of 50% of the project cost above \$5,000 (for instance, the maximum funding available for a \$10,000 project is \$2,500, and the maximum funding available for a \$35,000 project is \$15,000). \$50,000 is allocated to that project in the City's current budget, and on an ongoing, annual basis as per the Long-Term Financial Plan.

It should be noted that the City's current schedule of fees and charges does not involve an ongoing fee for al fresco trading, with such fees having been removed in the adoption of the current financial year's fees and charges. Where the City is contemplating allowing landowners or proprietors to undertake streetscape works to convert car bays and/or place structures in existing car bays, there would be a capacity to require the costs of the work to be met by the proponent and/or charge ongoing licence fees.

On the basis of recent assessments of the market value of a licence for al fresco space, a value of around \$25-\$50/m²/annum is considered an indicative range for al fresco space on Queen Street. Given a parallel parking bay is around 15m² in area, that would equate to a licence fee of \$375-\$750 per annum for an al fresco area occupying the equivalent of one car parking bay.

Long-Term Financial Plan Implications

There are no Long-Term Financial Plan implications of the recommendations of this report.

STRATEGIC COMMUNITY OBJECTIVES

The recommendations of this report reflect Community Objective 2.3 of the *Strategic Community Plan 2017*, which is 'Creative urban design that produces vibrant, mixed-use town centres and public spaces'.

RISK ASSESSMENT

An assessment of the risks associated with implementation of the officer recommendation has been undertaken using the City's risk assessment framework. Risks are only identified where the residual risk, once controls are identified, is 'medium' or greater.

Because the recommendation is for the adoption of a draft policy, which would then be subject of further consultation, the key risks with the draft policy are reputational. Given that the draft policy is, at least to some degree, reflective of community views, there is not considered to be a significant reputational risk.

CONSULTATION

Using the *Your Say* platform, the City ran an online survey seeking community views and information on a range of questions related to whether the City should support more al fresco areas on Queen Street, and, in particular a final question asked participants to indicate whether having more al fresco dining options or preserving on-street car parking was more important. The survey was promoted through various social media channels (Facebook, Twitter and Instagram), the City's electronic newsletter (*Bay to Bay*), notices in the *Busselton-Dunsborough Times*, as well as coverage in local media, both newspaper and radio. Hard copy versions of the survey were also provided through the Busselton Visitor Centre, with hard copy responses being entered into the *Your Say* platform by City staff (there were a total of 12 surveys entered in this way).

A summary of the outcomes of the survey is provided as **Attachment D**. Of the 373 responses to the final question, 269 (72.1%) indicated that al fresco was more important, with 104 (27.9%) indicating that parking was more important. Of the survey respondents, 81 (21.7%) identified themselves as being a property or business owner in the City Centre. If those responses were looked at on their own, 63% indicated that al fresco was more important, and 37% that parking was more important.

Given the scale and nature of the response, it is considered that there can be a reasonable degree of confidence that a significant portion of the community think that facilitating more al fresco is more important than preserving on street parking, although in a general sense, that does not necessarily translate into support for any particular proposal. The survey, as with any survey of this kind, represents a relatively small sample of the community. The sample does, however, look to be a fairly demographically balanced and representative sample, from both an age and residential status perspective (i.e. whether they are permanent or part-time residents).

Before the Council determines its final direction on this issue, it is considered that further consultation should take place – in particular in relation to a proposed draft policy. The draft policy presented for the Council's consideration seeks to address some of the detailed questions that may arise, and the consultation process could provide for further refinement of the policy direction. It is envisaged that consultation on the draft policy would involve a further online survey, hard copy survey options, as well as targeted consultation with the Busselton Chamber and through the City's Economic Development Taskforce and related groups.

OFFICER COMMENT

Broadly, officers are of the view that the City should be facilitating more al fresco space on Queen Street, but mainly in a reversible and in an incremental/demand-driven fashion, even though that has to be at the expense of on-street parking that some in the community value. In fact, from a broader urban design perspective, it is considered that the removal of some on-street parking and expansion of space for pedestrians may be a desirable thing in some locations, *even if the parking was not to be replaced by al fresco space*, although that is not proposed in this report. The rationale for those views is outlined and discussed below.

It is considered that a successful Busselton City Centre into the future will require an increase in the number and proportion of cafes, restaurants and/or bars. Most growing and successful centres have a significant proportion of such businesses, and most shopping centre managers and developers have been focused in recent times on attracting more of those kinds of businesses, and other businesses that provide entertainment and 'experience'.

This in fact extends to the Busselton Central owners (whose expansion plans have a significant focus on café/restaurant/bar floor space, and associated al fresco areas) and the developers of the 'West Street' site (who are seeking to accommodate 'active' uses, including café/restaurant/bar offerings).

Whilst cafes, restaurants and the like and associated al fresco are not the only way to activate streets and centres, there are very few examples of centres that have become highly activated and vibrant without a significant café, restaurant and/or bar presence (noting that these are not fixed, discrete groups or classifications, but form part of a continuum) on their 'main street'. Examples of towns/centres with main streets activated in this way include Byron Bay, Noosa and, 'closer to home', even Dunsborough has a greater proportion of these kinds of businesses and associated al fresco (and there is potential to add to that, especially adjacent to Lions Park, action related to which is being progressed at present).

In terms of retail spend generally, turnover in WA has not grown consistently for a number of years, and has in fact experienced regular month on month declines over some periods, even when seasonally adjusted figures are looked at. The one area of spend that has experienced significant and fairly consistent growth is the 'cafes, restaurants and takeaway food' category. Most other parts of Australia have not experienced a 'post-mining boon slowdown' in recent years like WA has, and there has been growth in retail sales overall, but even in those states, like New South Wales, the rate of growth in the 'cafes, restaurants and takeaway food' category has been substantially greater than the overall rate of spending growth. Also of note in the Busselton context is that a significant proportion of the food and beverage spend, especially the visitor spend, takes place outside the City Centre, at wineries, breweries and/or restaurants in rural areas; whilst that is a strength of the region, it also means that the City Centre has not developed as an attractive destination for visitors to the extent that might otherwise be expected and would be desirable. There is seen to be potential to shift the balance over time more towards the City Centre. Given the above, it is seen as appropriate that the City, to the extent that it can and using the tools available to it, facilitate expansion in the number and scale of café/restaurant/bar premises on Queen Street.

An al fresco presence is often important to successful cafes, restaurants or bars in several respects. Firstly, it provides those businesses with a highly visible street presence, making people aware of the business. Secondly, it provides additional capacity for the business. Thirdly, and in many ways most importantly, in a place like Busselton, where some of the main attractions for both residents and visitors centre around the outdoor lifestyle, it provides an opportunity for people to eat, drink and socialise outdoors. The environment and ambience is often just as important as the food in determining where and whether people choose to eat, drink or socialise in a public setting.

Unfortunately, as has already been noted, due to the width and configuration of Queen Street, there is simply not enough space to have traffic lanes, sufficient footpath width/pedestrian space, on-street car parking and high usability al fresco. One-way traffic, even were it considered desirable, could not address this issue on its own; at least some on-street parking capacity would also need to be lost. Converting Queen Street to a functioning one-way street for most, or even a significant portion of its length, would also involve several million dollars' worth of streetscape works. Similarly, converting Queen Street to a pedestrian only space, even were it considered desirable, would also involve several million dollars' worth of streetscape works; and whilst it would undoubtedly provide sufficient space for al fresco and pedestrian movement, it would also involve removal of on-street parking by its very nature. It is not considered that pedestrianisation would make sense for any section of Queen Street at any time in any reasonably foreseeable future.

The experience of pedestrian malls in regional centres has more often than not been unsuccessful, with places like Townsville, which introduced malls in the 1980s or 1990s, in some cases earlier, looking to reintroduce vehicle traffic. Even in metropolitan locations, some malls have not been terribly successful. The City of Fremantle is thought to be considering the reintroduction of some traffic into the High Street Mall.

The contrast between the 'Cappuccino Strip' on South Terrace, which has vehicle traffic, with the adjacent, pedestrianised, High Street Mall is instructive (although the nearby pedestrianised section of Henderson Street, adjacent to the Fremantle Markets, is rather more successful).

The reasons for the success or otherwise of a mall or of urban design generally can often be very subtle, and are not always able to be analysed in any quantitative or entirely 'objective' sense. One of the reasons that malls may not be successful, however, is the activity either side of and on the street is not actually sufficient to 'fill' the space, so the centre of the street can feel like a 'no man's land'. There can then be an attempt to 'fill the space', but this is difficult to do sensibly and consistently in many instances. The space can then either simply feel 'empty', or get 'filled' by things that are not very desirable. Malls and one way systems, whilst reducing traffic in one location, also necessarily increase traffic in other locations, unless they are in the centre of dense, largely pedestrianised precincts, that would usually also be well served by public transport.

At some point, one way traffic on a portion of Queen Street, perhaps from Prince or Kent Streets, through to perhaps Duchess or Adelaide Streets, may make sense. That is not because two-way traffic is problematic *per se*, but rather because, regardless of whether or not parking space is lost to make way for al fresco space, unless there is neither parking nor al fresco space, at a certain level of pedestrian traffic, in the context of Queen Street, and its 20 metre road reserve, the width of the footpaths on either side becomes insufficient for a high amenity pedestrian experience. If all of the on-street parking was removed from a section of street, or even from just one side of a street, it would also be possible to have a street in which the footpath is located adjacent to the roadway, and the al fresco space is located adjacent to the buildings, rather than the other way around. That kind of arrangement is also more useful for some other kinds of street activation, such as trade displays associated with shops. Whilst these are ideas that may be considered further as part of future planning, they are outside the scope of this report.

Returning to al fresco provision in Busselton in the current environment, requiring al fresco space to be provided on private land is also generally not workable in the City Centre, as there is rarely sufficient space to do so and the buildings are usually not configured for the purpose. Understandably, both landowners and tenants are often reluctant to substantially redevelop or retro-fit existing buildings to accommodate al fresco on private land. Conversion of parking bays to al fresco space, on the other hand, can conceivably and usefully be done in an incremental fashion, at relatively low cost, and can in fact be done in some ways that are relatively easily reversible.

The rationale then for the officer view that the City should be facilitating more al fresco space on Queen Street, but mainly in a reversible and in an incremental/demand-driven fashion, even though that has to be at the expense of on-street parking that some in the community value, is fundamentally as follows –

- It is generally not possible to provide additional and high usability al fresco space on Queen Street without occupying space currently used for on-street car parking bays (noting there are some issues to consider in terms of how that is done, including whether it can be done seasonally or with arrangements that vary through the day, and those issues are outlined and discussed further later in this report);
- A successful Busselton City Centre into the future will require an increase in the number and proportion of cafes, restaurants and/or bars, including and especially on the 'main street' (i.e. Queen Street);
- Providing more al fresco space will help to facilitate that increase, in fact it is highly likely to be critical to that occurring;

- Even then, that increase will only occur gradually and incrementally, and to avoid unnecessarily removing on-street car parking bays ahead of demand, it is best to also facilitate *al fresco* conversion of car parking bays in an incremental/demand-driven fashion; and
- Given that not all café, restaurant or bar businesses will continue indefinitely, it makes sense to consider *al fresco* options that are reversible and non-permanent.

Before moving on to set out what is proposed as a way forward, it is worth addressing some of the concerns and critiques that have been raised by some in the community. The following concerns/critiques have been identified –

- *Loss of on-street car parking capacity may affect viability of existing businesses.* As a proportion of the overall parking supply in the City Centre, the on-street car parking on Queen Street is a very small proportion. This is illustrated on the aerial image provided as **Attachment E**. The loss of a substantial portion of the on-street bays on Queen Street would not have a significant impact on car parking supply across the City Centre as a whole. From a business perspective, though, not all car parking will be equal, and parking immediately adjacent to the business will have more value than parking further away. It is considered by officers, though, that removing car parking in an incremental, demand-driven and reversible fashion will mean that parking supply would only be slowly reduced, with each reduction having very limited impact, but that the progressively greater activation of the City Centre will more than compensate over time (in terms of the overall trading environment). It should be noted that, if on-street parking capacity is to be reduced, it would be reasonable to ensure that ACROD bays were retained as long as possible, or even indefinitely. Parallel parking bays, such as those on Queen Street, though, are not well suited as ACROD bays, which are better accommodated as angled or perpendicular bays, such as those that exist on parts of Kent and Prince Streets especially.
- *Allowing use of *al fresco* space without payment is a subsidy of a particular business, arguably at the expense of other businesses.* This is correct to some extent, although it may in practice be ameliorated by broader benefits. If the aim is to encourage an activity that is seen as desirable, then, there are considered to be benefits in not requiring payment, as any payment would act as a disincentive. The provision of more *al fresco* is considered a form of activity that should be incentivised. There are, however, seen to be legitimate arguments against providing space without payment indefinitely. This issue is returned to later in this section of the report.
- *The City has no overall strategy for *al fresco* or the City Centre more generally.* Council has resolved to prepare ‘Activity Centre Plans’ (ACP) for both the Dunsborough Town Centre and Busselton City Centre. Earlier this year, the Council formally resolved to commence the Dunsborough project, and it is envisaged that the Busselton project would commence in the next 12-18 months, depending on workload and priorities. ACP’s, though, are fundamentally statutory planning tools, not broader activation or town centre management plans. It is the observation of officers that successful town/city centre activation has often not been a result of implementation of detailed plans, but rather has been the outcome of an interplay between market forces, community and business initiative, and supportive and engaged local governments. In fact, some overall town centre plans or similar, often look to be after the fact reconstructions of strategies that have in fact developed in fairly ‘organic’ fashion. Whilst there is considered to be a need for continued engagement with respect to the future of the City Centre and more planning, there is not considered to be a need to have a detailed plan before making decisions about allowing an incremental, demand-driven and reversible decision to facilitate *al fresco* dining.

- *The City has not set out how it will ensure businesses with al fresco areas are open in the evening or on the weekend, Sundays especially.* It is considered that the City could condition al fresco permits or similar to require that businesses are open, but the City has not done that with any of the existing business with on street al fresco, such as the *Vasse Hotel* or *More Café*. This issue is returned to later in this section of the report.

There have been some suggestions that the apparent conflict between the desire of some businesses to have al fresco areas and the desire of others to retain on-street parking could be resolved through allowing on-street parking during the day, which can then be used as al fresco space in the evening. There are also some variations on this idea, such as having car parking during the week and al fresco on the weekend. There are some places where this kind of arrangement has been successful. There may also be some circumstances in which it could work in the Busselton context. As a general principle or policy, though, it is not considered appropriate to the Busselton context. The reasons for that are set out below.

Firstly, if the café, restaurant or bar was open when the al fresco area was not in use, the chairs, tables and other things needed to set up the al fresco area would need to be stored somewhere during the day (or during the week, as relevant) in a fashion that still allowed the business to operate. In most instances, the necessary storage space will not be available. Secondly, the configuration of car parking bays on Queen Street, with a mountable kerb at the edge of the footpath, and the car parking surface consisting of asphalt, is not suited to a high amenity al fresco environment. Further, there would be safety concerns, as engineering advice indicates that, unless al fresco areas are approximately 600mm or more from the traffic lane, easily removable bollards would be required. Thirdly, whilst Busselton's climate is relatively dry and mild, having an ability to provide some weather protection will facilitate greater use of al fresco areas, and these kind of temporary arrangements are not well suited to providing weather protection, certainly not beyond that which can be provided with umbrellas or similar. Fourthly, car parking supply issues are not considered to be sufficiently great to warrant the complexity of this kind of approach. Finally, the City Centre is relatively busy and activated during the daytime in the week, and if the intention is to increase the presence of cafes, restaurants and bars, that will be helped if al fresco areas are in place, and open and operating when the City Centre is already busy.

Given the above, the following is proposed as a way forward on this issue –

- Adopt a Council policy setting out the approach (and a draft policy is provided as **Attachment F**);
- That policy would support removal of car parking to accommodate more al fresco space on Queen Street, but mainly in a reversible and in an incremental/demand-driven fashion;
- That would occur 'out the front' of the premises, or as close as possible to the premises, other than where there are banks or similar premises with very little street engagement or activation, where it could occur in those locations too, associated with businesses nearby but not adjacent to the location;
- The preferred form of al fresco would either be decking placed over car bays or a custom designed and built 'drop-in' structure (with bollards installed separating the al fresco area from the traffic lane), but not in the form of converted containers, with the design compromise that entails;
- The costs of providing such space be met by the proponent (proprietor and/or landowner), although as per currently, proposals can be subject of applications for funding under the City's façade upgrade subsidy programme;

- The land be provided at no cost for up to two years (i.e. sufficient time to assess the success or otherwise of the initiative, by both the proponent and the City), but that a licence fee apply thereafter, and subject to conditions requiring minimum trading periods, which are to include two or more of Saturdays 3pm-6pm, Sundays 9am-2pm, or three weeknights until 8.30pm, for a minimum of six months of the year (and that existing al fresco permits be transitioned to these arrangements); and
- The proponent shall be responsible for removal and decommissioning of al fresco infrastructure that is no longer required or supported; and
- The above should be reflected as necessary in a two to five year term (reflective of the level of up-front investment) licence agreement between the City and the proponent.

It is envisaged that the Policy, if adopted, would be subject of review as part of the preparation of the Busselton City Centre Activity Centre Plan, and that provision of similar guidance for other parts of the City Centre would also be considered at that time. It is also envisaged the policy may in future be integrated with broader policy related to management of City property, especially management of commercial activity on City property.

CONCLUSION

It is seen as important that the Council establish its direction on this issue, such that landowners, proprietors and officers can develop and consider proposals with some confidence. For the reasons set out in the report, it is considered that the Council should adopt a policy to support more al fresco space on Queen Street especially, but mainly in a reversible and in an incremental/demand-driven fashion. Further consultation is, though, seen as appropriate before the final direction is determined.

OPTIONS

The options available to the Council are fundamentally as follows –

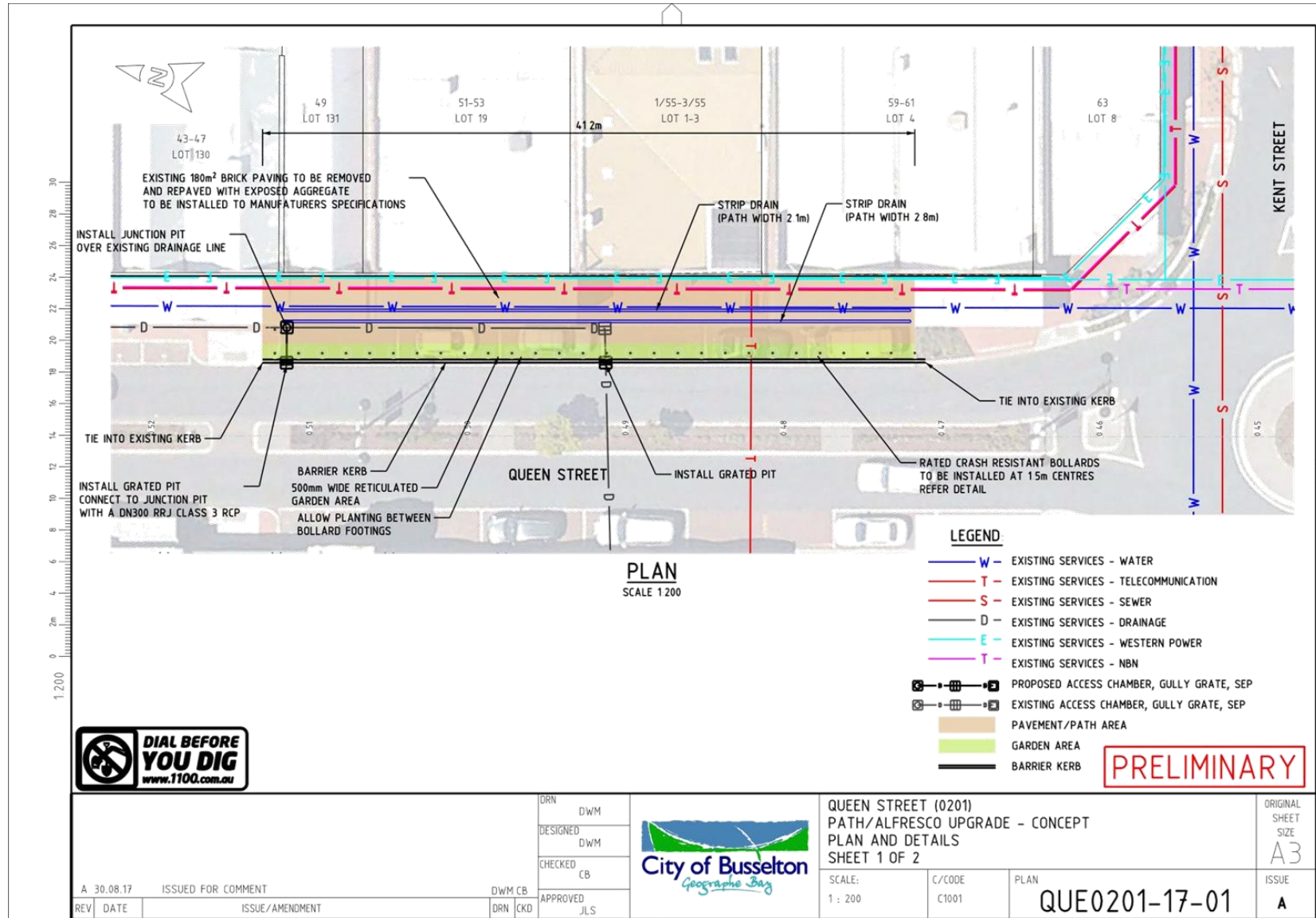
- Not adopt a policy, and assess al fresco proposals on a case-by-case basis; or
- Adopt the draft policy without prior consultation; and/or
- Adopt the draft policy, subject to modifications.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

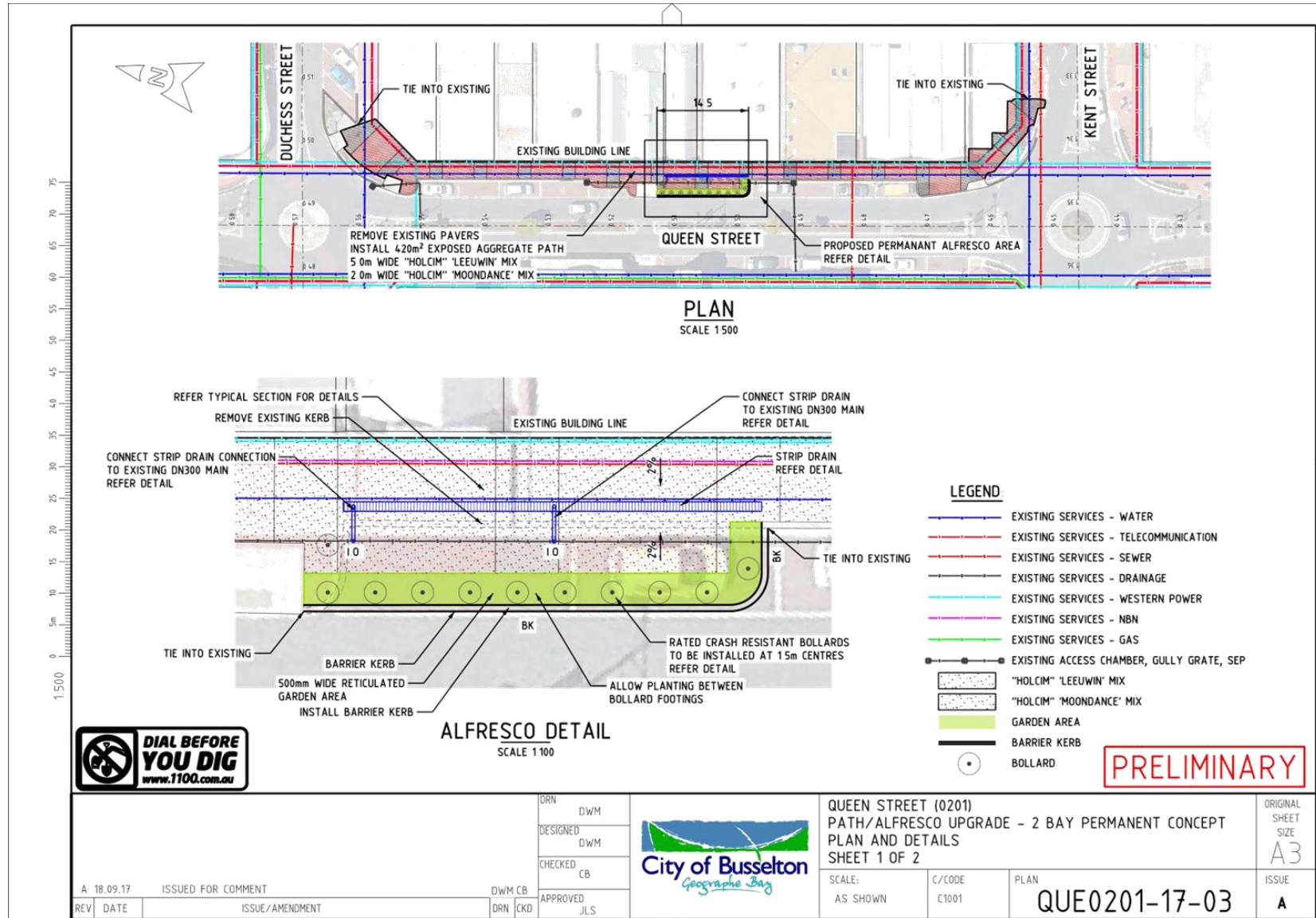
Should the Council support the officer recommendation, it is expected that consultation would commence within one month, run for approximately one month, with a further report to the Council (via the Policy & Legislation Committee), 4-6 weeks later.

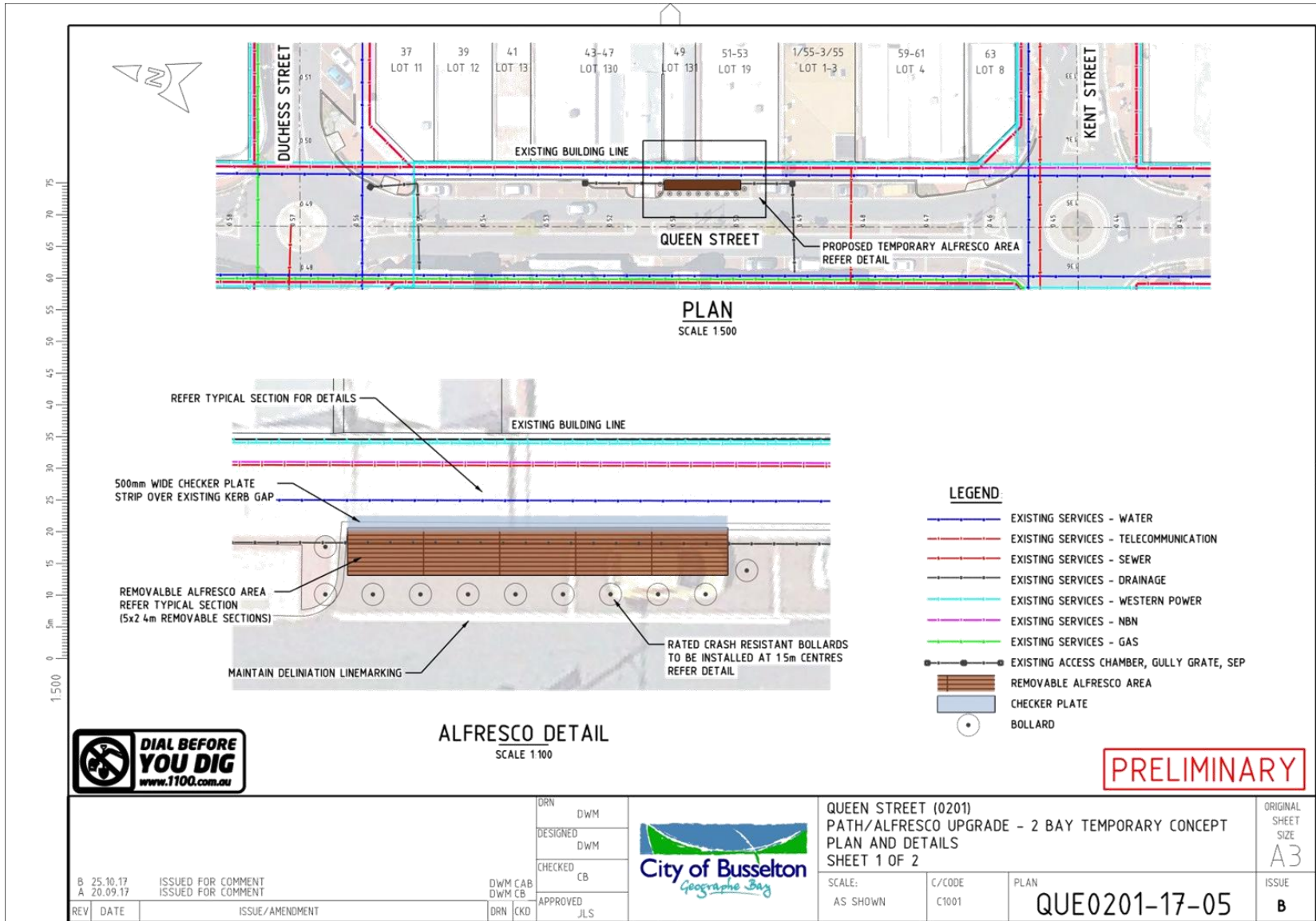
OFFICER RECOMMENDATION

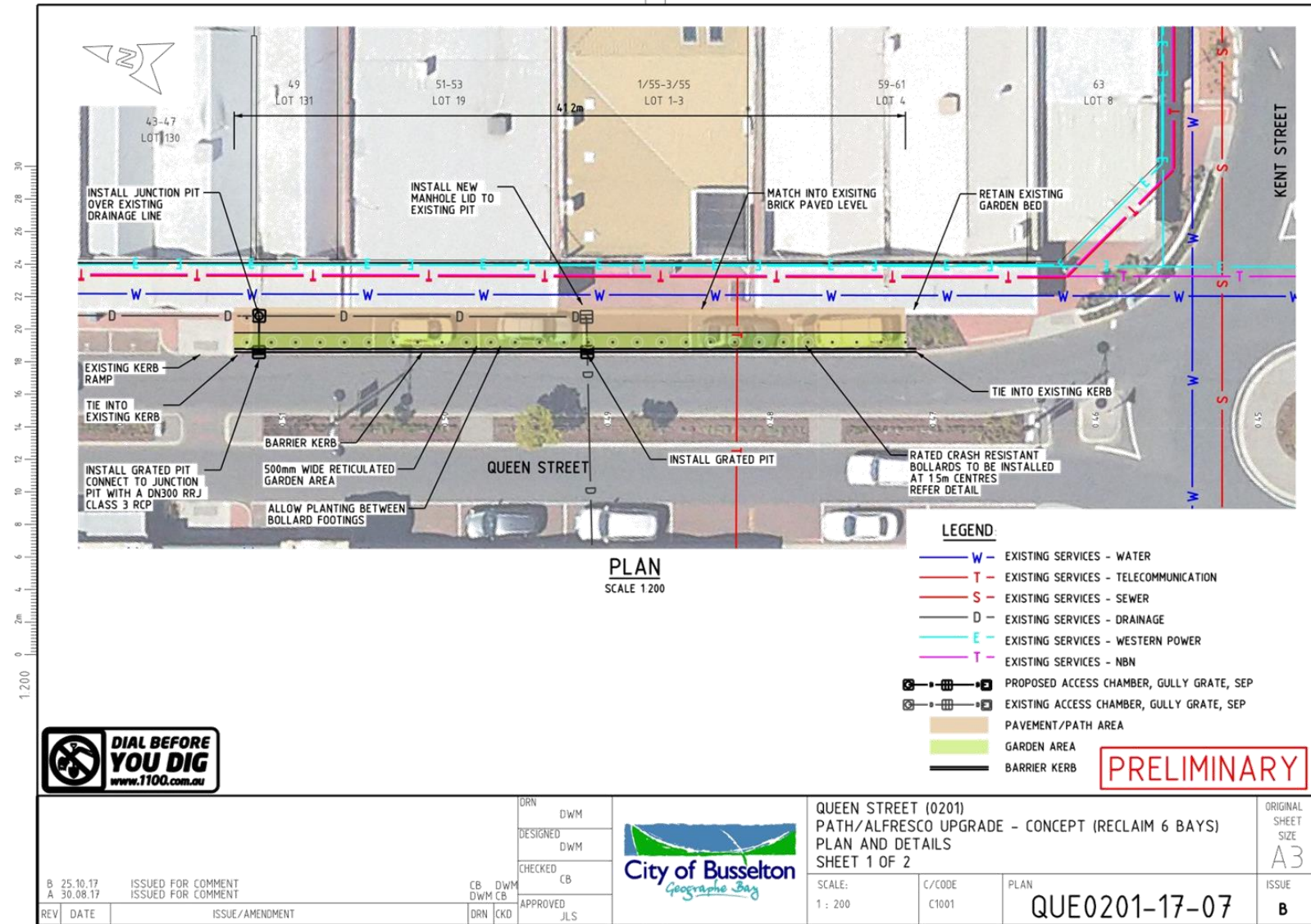
That the Council adopt the attached draft Policy for consultation purposes (Attachment F to the agenda report – *Al Fresco Dining in the Busselton City Centre*).



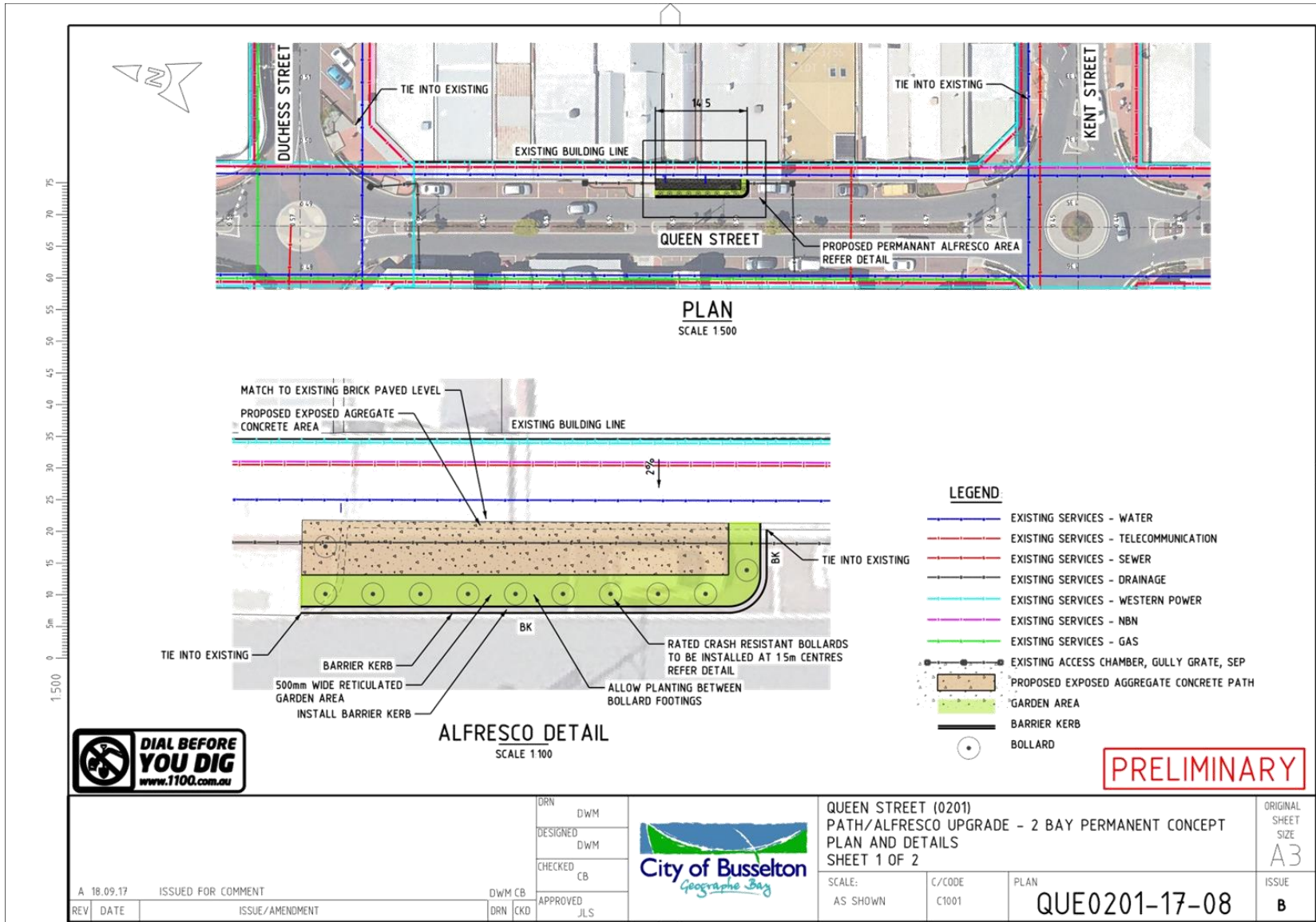
A 30.08.17 ISSUED FOR COMMENT		DRN DWM		QUEEN STREET (0201) PATH/ALFRESCO UPGRADE - CONCEPT PLAN AND DETAILS SHEET 1 OF 2		ORIGINAL SHEET SIZE A3	
REV	DATE	ISSUE/AMENDMENT		DWM CB	SCALE: 1: 200	C/CODE C1001	PLAN QUE0201-17-01
				DRN CKD	APPROVED JLS		ISSUE A







B 25.10.17 A 30.08.17		ISSUED FOR COMMENT ISSUED FOR COMMENT		CB DWM DWM CB			QUEEN STREET (0201) PATH/ALFRESCO UPGRADE - CONCEPT (RECLAIM 6 BAYS) PLAN AND DETAILS SHEET 1 OF 2		ORIGINAL SHEET SIZE A3	
REV	DATE	ISSUE/AMENDMENT	DRN	CKD	APPROVED		JLS	SCALE:	C/CODE	PLAN
							1: 200	C1001	QUE0201-17-07	B



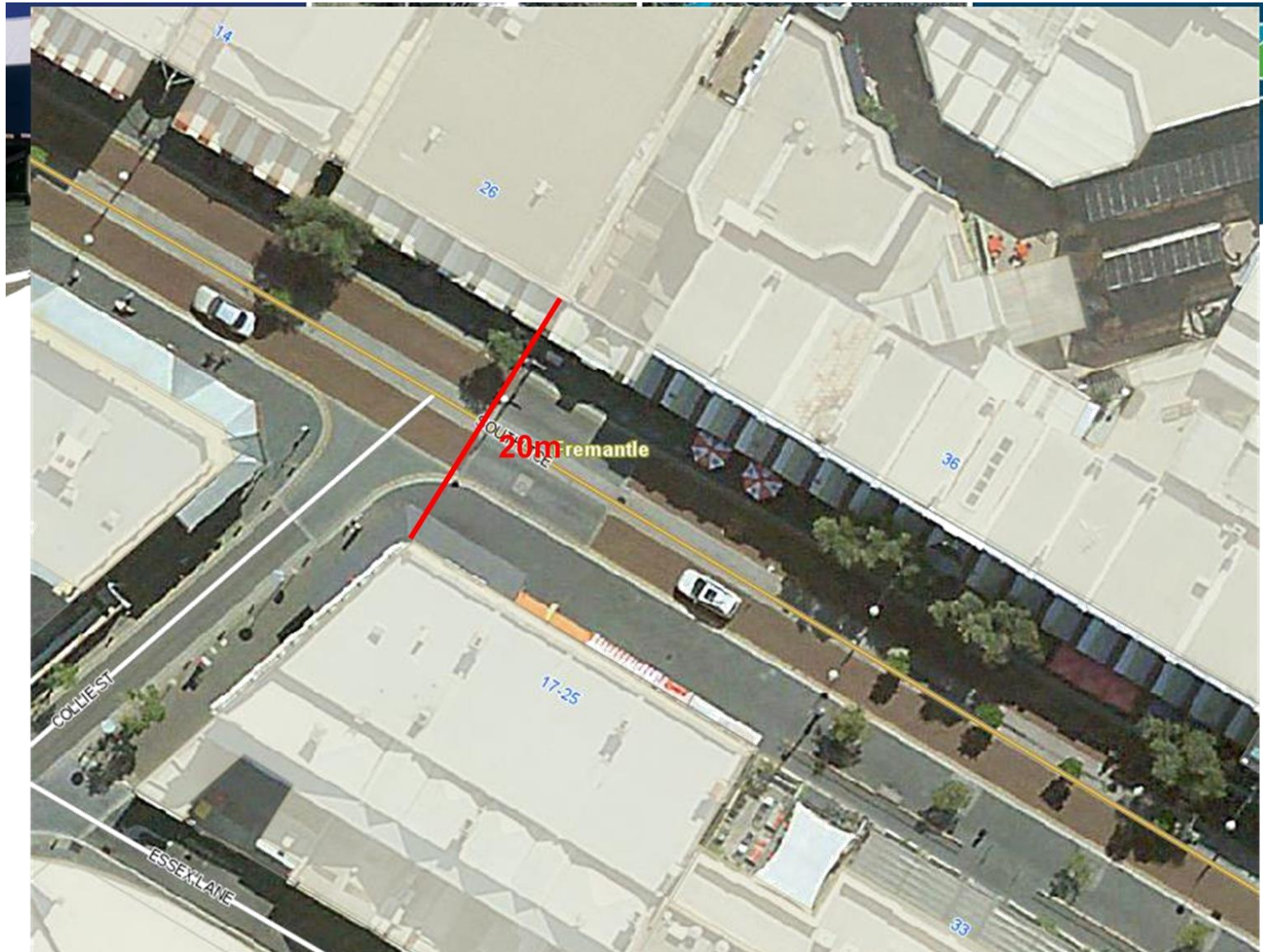


DRAFT - 6/03/18

















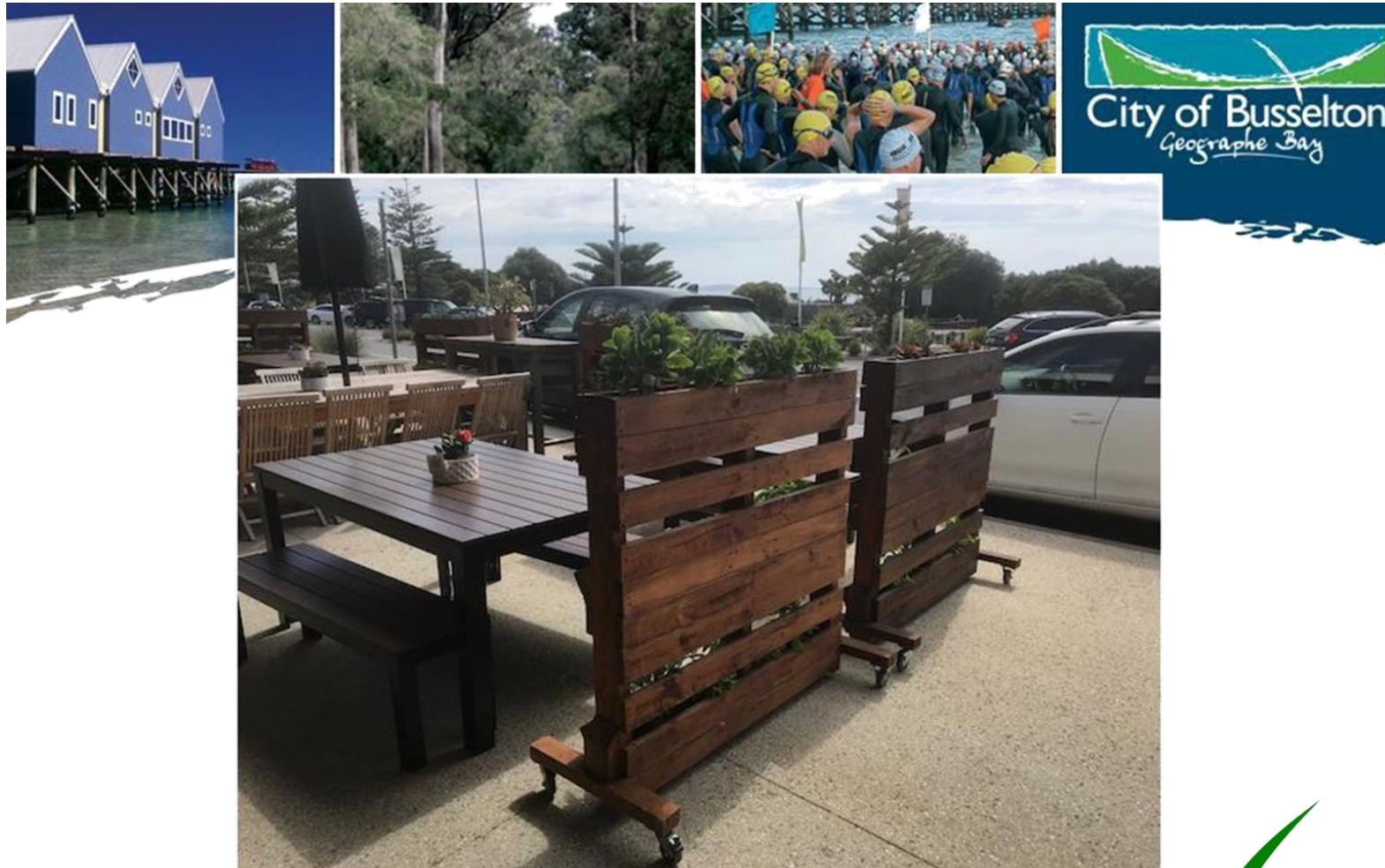






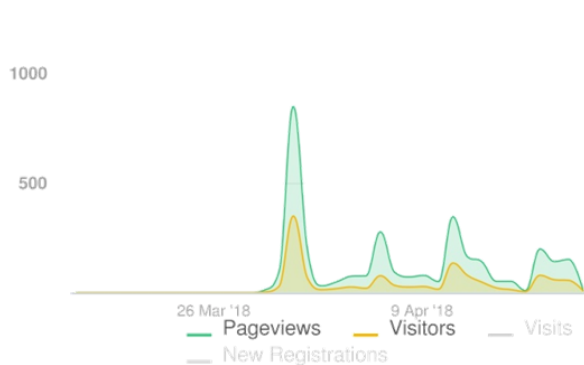








Visitors Summary



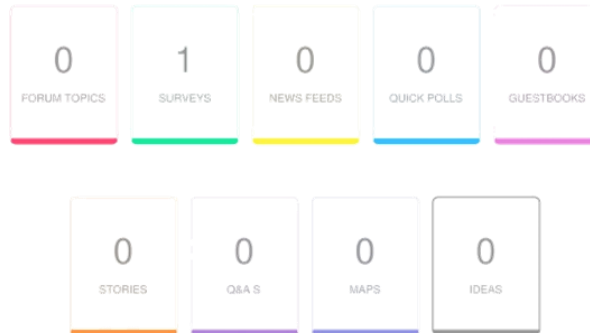
Highlights

TOTAL VISITS	1.3 k	MAX VISITORS PER DAY	349
NEW REGISTRATIONS	214	ENGAGED VISITORS	361
		INFORMED VISITORS	830
		AWARE VISITORS	1.1 k

Aware Participants		Engaged			
1,149		361			
Aware Actions Performed	Participants	Engaged Actions Performed	Registered	Unverified	Anonymous
Visited a Project or Tool Page	1,149	Contributed on Forums	0	0	0
Informed Participants	830	Participated in Surveys	361	0	0
Informed Actions Performed	Participants	Contributed to Newsfeeds	0	0	0
Viewed a video	0	Participated in Quick Polls	0	0	0
Viewed a photo	0	Posted on Guestbooks	0	0	0
Downloaded a document	0	Contributed to Stories	0	0	0
Visited the Key Dates page	18	Asked Questions	0	0	0
Visited an FAQ list Page	28	Placed Pins on Maps	0	0	0
Visited Instagram Page	0	Contributed to Ideas	0	0	0
Visited Multiple Project Pages	473				
Contributed to a tool (engaged)	361				

Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

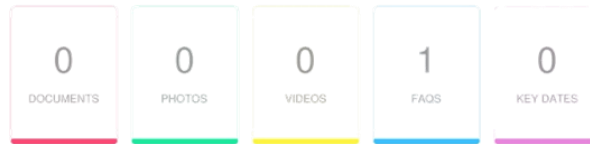
ENGAGEMENT TOOLS SUMMARY



Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Survey Tool	Alfresco or Parking Survey	Archived	842	361	0	0

Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

INFORMATION WIDGET SUMMARY



Widget Type	Engagement Tool Name	Visitors	Views/Downloads
Faqs	faqs	28	28
Key Dates	Key Date	18	19

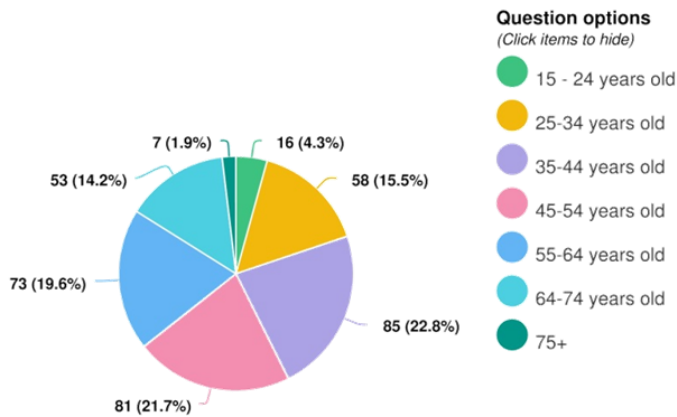
Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

ENGAGEMENT TOOL: SURVEY TOOL

Alfresco or Parking Survey

VISITORS 842	CONTRIBUTORS 361	CONTRIBUTIONS 373
---------------------	-------------------------	--------------------------

What is your age?



(373 responses, 0 skipped)

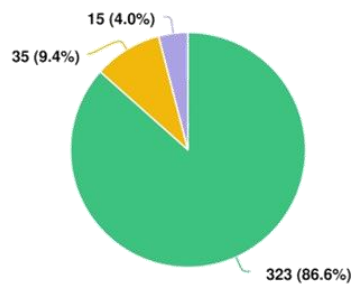
Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

I identify myself as:

Question options

(Click items to hide)

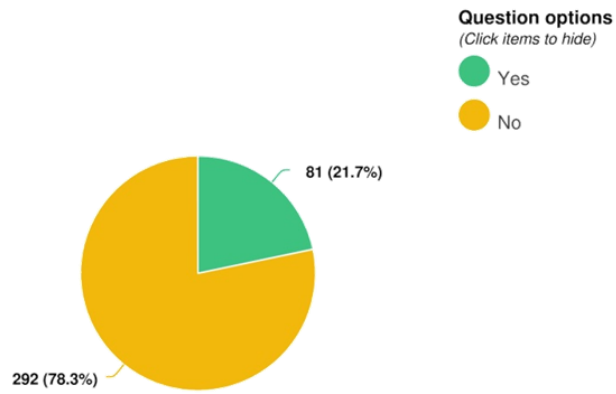
- A full-time resident of the City of Busselton
- A part-time resident of the City of Busselton
- A visitor to the City of Busselton



(373 responses, 0 skipped)

Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

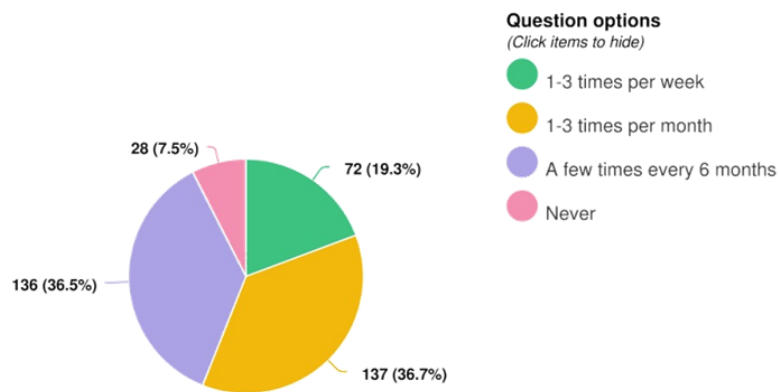
Are you a property or business owner in the Busselton CBD?



(373 responses, 0 skipped)

Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

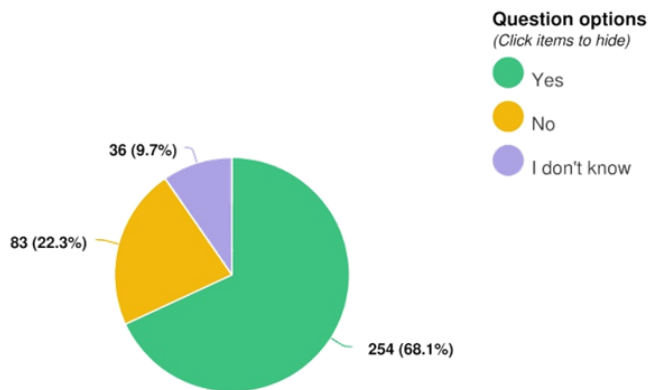
How often do you currently dine or drink in an al fresco setting within the City of Busselton?



(373 responses, 0 skipped)

Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

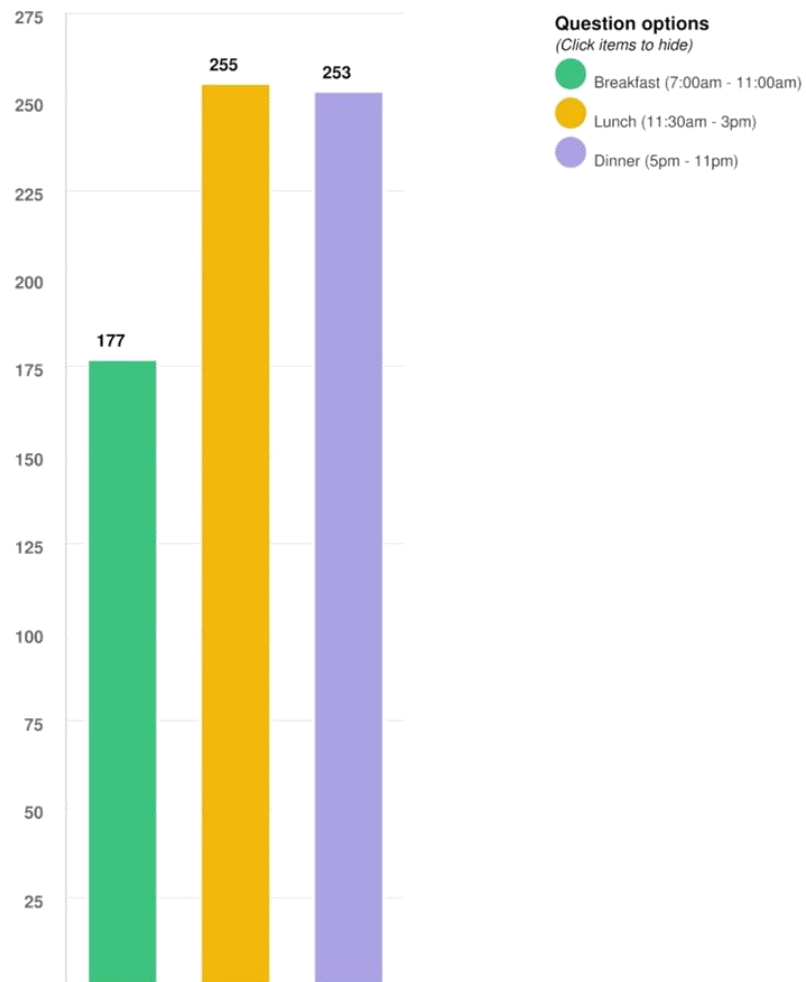
If there were more al fresco dining and drinking options on Queen Street, would you frequent these areas more often than you currently do?



(373 responses, 0 skipped)

Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

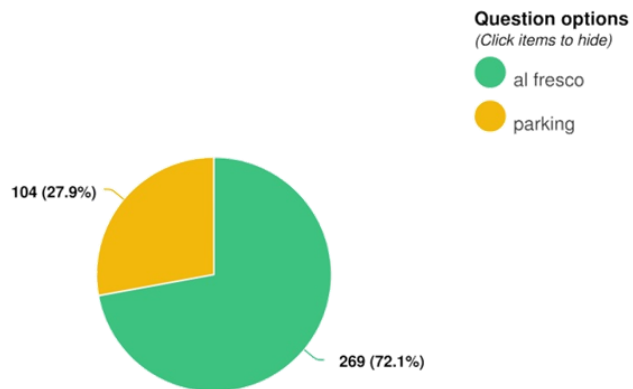
If more al fresco options were introduced to Queen Street, which meals or time periods would you be most likely to use the al fresco setting for?



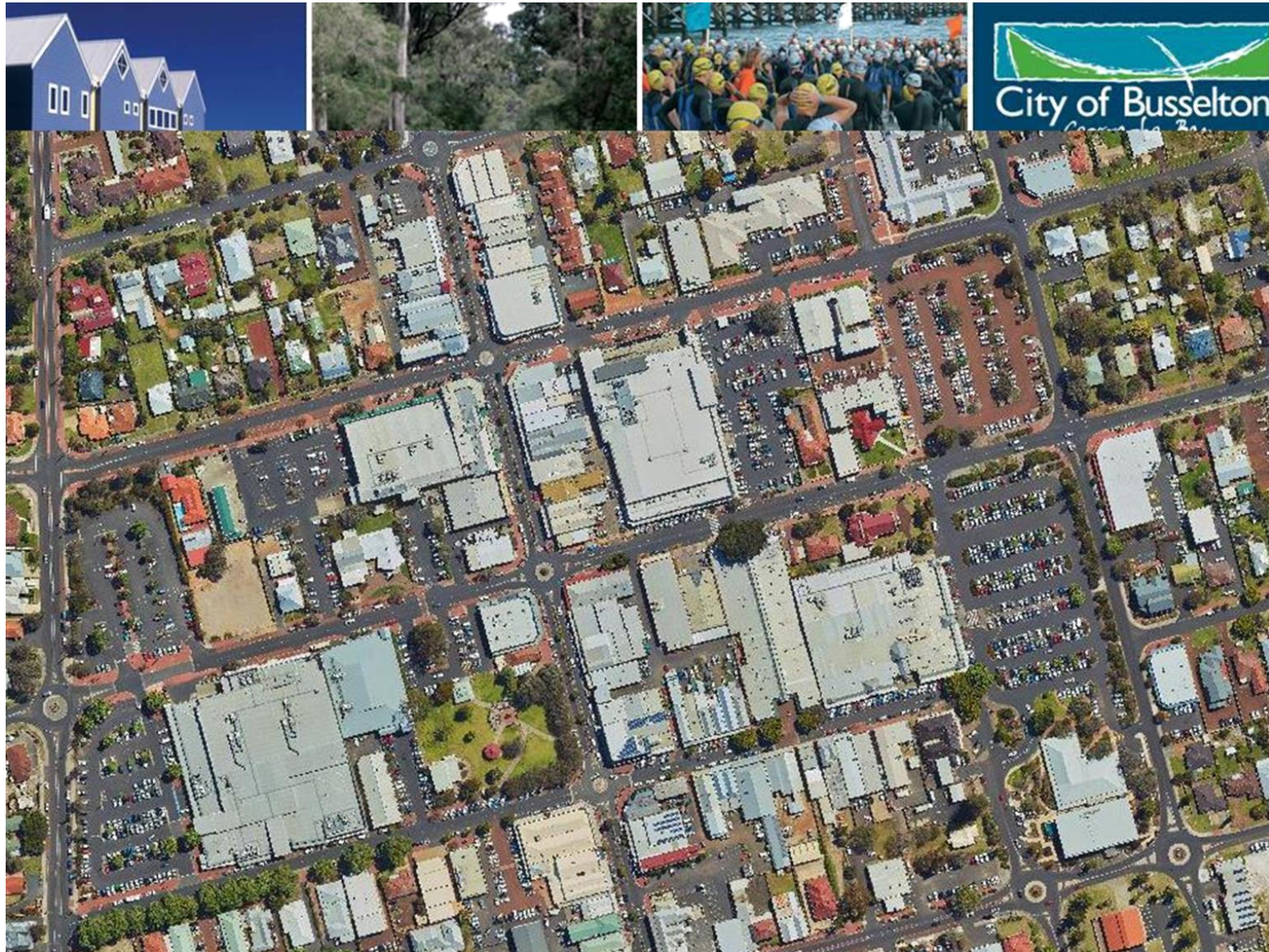
Optional question (373 responses, 0 skipped)

Your Say Busselton : Summary Report for 01 March 2018 to 19 April 2018

What is more important to you, having more al fresco dining options on Queen Street,
or preserving on-street parking?



(373 responses, 0 skipped)



COUNCIL POLICY



Council Policy Name: Alfresco Trading in the Busselton City Centre

Responsible Directorate: Planning and Development Services Version: Draft

1. PURPOSE

1.1. This Policy supports the activation and sustainability of the Busselton City Centre through facilitating an expansion in the number and scale of al fresco areas associated with cafes, bars and restaurants.

2. SCOPE

2.1. This Policy is applicable proposals for al fresco trading in the Busselton City Centre, on the road reserve (i.e. it does not relate to private property or other local government land).

2.2. The Policy guides the exercise of the City’s property functions, and guides how City land will be managed, the policy is not a local planning policy or policy that guides the City’s other regulatory functions. In exercising those other functions, however, the City will be conscious of this policy and its purpose.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy entitled “Alfresco Trading in the Busselton City Centre”

4. STRATEGIC CONTEXT

4.1. This Policy links to Key Goal Area 2 (Places and Spaces) of the City’s Strategic Community Plan 2017 and specifically the following Community Objective/s:

- a. 2.3: Creative urban design that produces, vibrant, mixed-use town centres and public spaces.

5. POLICY STATEMENT

5.1 The Council generally supports removal of car parking to accommodate more al fresco space on Queen Street, but mainly in a reversible and in an incremental/demand-driven fashion.

5.2 Al fresco space should generally be provided ‘out the front’ of the associated premises, or as close as possible to the premises, other than where there are banks or similar premises with very little street engagement or activation, where it could also occur in those locations , associated with businesses nearby but not adjacent to the location.

5.3 The preferred form of al fresco is decking placed over car bays, or a custom designed and built ‘drop-in’ structure, with bollards installed separating the al fresco area from the traffic lane, but not in the form of converted or adapted sea containers.

5.4 The costs of providing al fresco space be met by the proponent (proprietor and/or landowner), proposals can be subject of applications for funding under the City’s façade upgrade subsidy programme.

- 5.5 The land on which the al fresco space is to be provided is at no cost for up to two years, but a licence fee shall apply thereafter.
- 5.6 A licence agreement will be subject to conditions requiring minimum trading periods, which are to include two or more of Saturdays 3pm-6pm, Sundays 9am-2pm, or three weeknights until 8.30pm, for a minimum of six months of the year (and existing al fresco permits shall be transitioned to these arrangements).
- 5.7 The proponent shall be responsible for removal and decommissioning of al fresco infrastructure that is no longer required or supported.
- 5.8 Prior to the commencement of works, the proponent shall enter into a licence agreement with the City, for an initial two to five year term (with the term to be reflective of the level of up-front investment), with further licences generally for five year terms, if a further term is considered appropriate by the City.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Town planning scheme and related legislation, regulations and policy.
- 6.2. Building Act and related regulations.
- 6.3. Public Health Act and related regulations.
- 6.4. Local Government Act and related regulations, notably the City’s Property Local Law and Thoroughfares Local Law.
- 6.5. Busselton City Centre Conceptual Plan.
- 6.6. City of Busselton Economic Development Strategy.

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	N/A	Resolution #	N/A

7. **GENERAL DISCUSSION ITEMS**

8. **NEXT MEETING DATE**

Tuesday, 24 July 2018

9. **CLOSURE**