

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

CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 13 MAY 2015

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS.....	3
2.	ATTENDANCE	3
3.	PRAYER	3
4.	PUBLIC QUESTION TIME.....	4
	Response to Previous Questions Taken on Notice.....	4
	Public Question Time	4
5.	ANNOUNCEMENTS WITHOUT DISCUSSION.....	4
	Announcements by the Presiding Member	4
	Announcements by other Members at the invitation of the Presiding Member	4
6.	APPLICATION FOR LEAVE OF ABSENCE.....	4
7.	PETITIONS AND PRESENTATIONS	4
8.	DISCLOSURE OF INTERESTS	4
9.	CONFIRMATION AND RECEIPT OF MINUTES	4
9.1	Minutes of the Council held on 22 April 2015	4
9.2	Minutes of the Meelup Regional Park Management Committee held 14 April 2015	5
9.3	Minutes of the Policy and Legislation Committee held 23 April 2015	5
	ADOPTION BY EXCEPTION RESOLUTION.....	6
10.	REPORTS OF COMMITTEE	7
10.1	Policy and Legislation Committee - 23/04/2015 - DELEGATION TO CHIEF EXECUTIVE OFFICER – APPOINTMENT OF BUSH FIRE CONTROL OFFICER	32
10.2	Policy and Legislation Committee - 23/04/2015 - PROPOSED DELEGATION TO MAYOR AND CHIEF BUSH FIRE CONTROL OFFICER JOINTLY TO VARY RESTRICTED BURNING TIMES.....	36
10.3	Policy and Legislation Committee - 23/04/2015 - MINOR UPDATING OF COUNCIL POLICIES FOLLOWING FURTHER REVIEW PROCESS.....	7
11.	PLANNING AND DEVELOPMENT SERVICES REPORT	14
	Nil	
12.	ENGINEERING AND WORK SERVICES REPORT	14
12.1	TENDER RECOMMENDATION - 02/15 CELL 1 BULK EARTHWORKS AT DUNSBOROUGH WASTE FACILITY	14
13.	COMMUNITY AND COMMERCIAL SERVICES REPORT	20
	Nil	

14.	FINANCE AND CORPORATE SERVICES REPORT	20
14.1	NEW ADMINISTRATION AND CIVIC CENTRE BUILDING PROJECT - EXPRESSIONS OF INTEREST EOI 01/15	38
14.2	BUSSELTON HISTORICAL SOCIETY AND BUSSELTON POTTERY GROUP LEASES.....	20
15.	CHIEF EXECUTIVE OFFICER'S REPORT	27
15.1	COUNCILLORS' INFORMATION BULLETIN	27
	ITEMS CONSIDERED BY SEPARATE RESOLUTION	32
16.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	46
16.1	PROCESS OF DETERMINATION OF SUCCESSFUL APPLICANTS FOR LOCKE ESTATE SITES.....	46
17.	CONFIDENTIAL REPORTS.....	51
	Nil	
18.	PUBLIC QUESTION TIME.....	51
19.	NEXT MEETING DATE	51
20.	CLOSURE	51

MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 13 MAY 2015 AT 5.30PM .

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member open the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Ian Stubbs Mayor

Members:

Cr Grant Henley
Cr John McCallum
Cr Tom Tuffin
Cr Rob Bennett
Cr Coralie Tarbotton
Cr Jenny Green
Cr Terry Best

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mrs Naomi Searle, Director, Community and Commercial Services
Mr Matthew Smith, Director, Finance and Corporate Services
Mrs Katie Banks, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Cr Gordon Bleechmore

Media:

“Busselton-Dunsborough Times”
“Busselton-Dunsborough Mail”

Public:

Nil

3. PRAYER

The prayer was not delivered as Reverend Andrew Broadbent from Busselton Uniting Church was an apology.

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

Nil

Public Question Time

Nil

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

Nil

Announcements by other Members at the invitation of the Presiding Member

Nil

6. APPLICATION FOR LEAVE OF ABSENCELeave of Absence**Council Decision****C1505/107**

Moved Councillor T Best, seconded Councillor J Green

That Leave of Absence be granted to Councillor Ian Stubbs - for the period of 5 June 2015, until 6 July 2015 inclusive.

CARRIED 8/0**7. PETITIONS AND PRESENTATIONS**

Nil

8. DISCLOSURE OF INTERESTS

Nil

9. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings****9.1 Minutes of the Council held on 22 April 2015****Council Decision****C1505/108**

Moved Councillor T Best, seconded Councillor J Green

That the Minutes of the Council Meeting held 22 April 2015 be confirmed as a true and correct record.

CARRIED 8/0

Committee Meetings9.2 Minutes of the Meelup Regional Park Management Committee held 14 April 2015**Council Decision****C1505/109**

Moved Councillor G Henley, seconded Councillor C Tarbotton

- 1) That the minutes of a meeting of the Meelup Regional Park Management Committee held on 14 April 2015 be received.
- 2) That the Council notes the outcomes of the Meelup Regional Park Management Committee meeting held on 14 April 2015 being:
 - a) The Committee noted the Environment Officer's report.

CARRIED 8/09.3 Minutes of the Policy and Legislation Committee held 23 April 2015**Council Decision****C1505/110**

Moved Councillor G Henley, seconded Councillor C Tarbotton

- 1) That the minutes of a meeting of the Policy and Legislation Committee held on 23 April 2015 be received.
- 2) That the Council notes the outcomes of the Policy and Legislation Committee meeting held on 23 April 2015 being:
 - a) The Delegation to Chief Executive Officer – Appointment of Bush Fire Control Officer item is presented to Council at item 10.1 of this agenda.
 - b) The Proposed Delegation to Mayor and Chief Bush Fire Control Officer Jointly to Vary Restricted Burning Times item is presented to Council at item 10.2 of this agenda.
 - c) The Minor Updating of Council Policies Following Further Review Process item is presented to Council at item 10.3 of this agenda.
 - d) The Locke Estate Selection Criteria item has been deferred until the May Policy and Legislation Committee meeting subject to the outcome of Councillor Tuffin's Notice of Motion on the process of determination of successful applicants for Locke Estate Sites which is presented for Council consideration at item 16.1 of this agenda.

CARRIED 8/0

ADOPTION BY EXCEPTION RESOLUTION

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

Council Decision**C1505/111**

Moved Councillor J McCallum, seconded Councillor R Bennett



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

- 10.3 Policy and Legislation Committee - 23/04/2015 - MINOR UPDATING OF COUNCIL POLICIES FOLLOWING FURTHER REVIEW PROCESS
- 12.1 TENDER RECOMMENDATION - 02/15 CELL 1 BULK EARTHWORKS AT DUNSBOROUGH WASTE FACILITY
- 14.2 BUSSELTON HISTORICAL SOCIETY AND BUSSELTON POTTERY GROUP LEASES
- 15.1 COUNCILLORS' INFORMATION BULLETIN

CARRIED 8/0**EN BLOC**

10. REPORTS OF COMMITTEE

10.3 Policy and Legislation Committee - 23/04/2015 - MINOR UPDATING OF COUNCIL POLICIES FOLLOWING FURTHER REVIEW PROCESS

SUBJECT INDEX:	Policies and Procedures
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Community Services
ACTIVITY UNIT:	Governance Support Services
REPORTING OFFICER:	Community Development Officer - Naomi Davey Manager, Governance Services - Lynley Rich
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Current Meetings, Information Sessions and Decision-making Processes policy  Attachment B Current Meetings, Information Sessions and Decision-making Processes policy 

This item was considered by the Policy and Legislation Committee at its meeting on 23 April 2015, the recommendations from which have been included in this report.

PRÉCIS

The City's rolling review of Council policies continues via the Policy and Legislation Committee. This report presents two policies that have been thoroughly reviewed by the responsible officers. One, being the Meetings, Information Sessions and Decision-making Processes policy, has been assessed as requiring no change with the exception of updating terminology to City. The other Access and Inclusion policy has been updated to reflect the City's new Disability Access and Inclusion Plan. The operation of each policy has been examined in detail to ensure no other changes are required.

BACKGROUND

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby all policies of the Council will be reviewed, with the aim of determining the ongoing applicability of the policies, along with standardisation and reduction.

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.

Each policy referred to in this report has been developed in accordance with and reviewed cognisant of the relevant enabling legislation.

RELEVANT PLANS AND POLICIES

This report proposes the minor update of two existing policies of the Council.

FINANCIAL IMPLICATIONS

There are no financial implications arising from the review of these policies.

Long-term Financial Plan Implications

Not applicable.

STRATEGIC COMMUNITY OBJECTIVES

The ongoing review of Council policies helps achieve governance systems that deliver responsible, ethical and accountable decision-making.

RISK ASSESSMENT

Having a policy relating to any matter is an effective risk mitigation strategy and there are no risks remaining at a sufficient level for further individual assessment.

CONSULTATION

Not required.

OFFICER COMMENT

This report presents two policies that have been thoroughly reviewed by the responsible officers. The Meetings, Information Sessions and Decision-making policy has been assessed as requiring no change with the exception of updating terminology to City. While no substantial changes are recommended, the operation of the policy has been examined in detail to ensure no other changes are required.

The suggested amendments to the Access and Inclusion Policy are intended to incorporate the adoption of the City of Busselton Disability Access and Inclusion Plan (2014-18) and changes to the Disability Services Act (1993) to include the new outcome area relating to employment. The Policy was last updated in September 2011.

The City of Busselton Access and Inclusion Plan has been succeeded by the City of Busselton Disability Access and Inclusion Plan 2014-18. Whilst the plan's focus is on the access and inclusion of people with a disability, this policy continues to include and support cultural diversity inclusion. The City recognises the importance of people with a diverse background and has specific goals and objectives to promote their inclusion in the Social and Ageing Plan. The new outcome area relates to people with a disability having the same opportunity as other people to obtain and maintain employment with the City of Busselton.

CONCLUSION

The policies have provided consistent guidance to City decision-making processes and it is not considered that any major changes are required.

OPTIONS

The Committee may recommend and the Council may determine that a policy or policies are not required or that further changes are necessary.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The policies remain effective and the updated versions will take effect as soon as a decision is made by the Council.

Council Decision / Committee Recommendation and Officer Recommendation

C1505/112

Moved Councillor J McCallum, seconded Councillor R Bennett

That the Council:

1. Adopts the following updated Meetings, Information Sessions and Decision-making Processes policy:

005	Meetings, Information Sessions and Decision-making Processes	V3 Draft
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1. PURPOSE

A key role of a Local Government Councillor is to participate in the Local Government's decision-making processes at Council and Committee meetings. A key function of the organisation's CEO is to ensure that advice and information is available to the Council so that informed decisions can be made.

It is not always possible for all information that a Councillor may need to be able to fully and confidently participate in formal decision-making processes to be provided in the course of a formal meeting process. Therefore, the City utilises a range of mechanisms to ensure informed decisions can be made including workshops, briefing sessions, community access sessions and various electors' meetings in addition to its formal Council and Committee meetings.

This policy sets out the guidelines for the provision of information to Councillors and the Council and other matters relating to the various forums utilised.

2. SCOPE

This policy applies to all convened information sessions and formally-constituted meetings involving Councillors of the City of Busselton held in the course of carrying out the business of the local government.

3. POLICY CONTENT

3.1 Information Provision

All Councillors should have access to the same information when making decisions. Councillors' written questions of officers regarding agenda reports shall be circulated to all Councillors for information and the officer's response shall be circulated to all Councillors. Where a question cannot be sufficiently answered at any information session or meeting and further information is required to be provided by an officer, it shall be circulated to all Councillors.

3.2 Reports to Council or Committee

All reports shall include the details of the reporting officer/s and the options that may be available to the Council should it not agree with the officer's recommendation. All reports listed for consideration at a meeting are to be provided at the time of agenda distribution, unless they meet the criteria for a late item of urgent business for consideration by the Council or Committee.

Any officers' report shall not duplicate the subject of a motion of which a Councillor has given notice, and where this is unavoidable, the Councillor's notice of motion will take precedence in the order of business of the meeting.

3.3 Briefing Sessions and Workshops

It is usual for workshops and briefing sessions on a range of matters to be convened to provide information to Councillors to enable informed decisions to be made. Agenda briefing sessions are utilised to discuss matters that appear on the Council agenda, while other workshops and briefing sessions may be utilised for matters that will be determined by the Council at a later time.

The Council currently has a meeting cycle of formal Council meetings, preceded by various briefing sessions and workshops in the week before the meeting and on the day of the meeting. Agenda briefing sessions are held to provide Councillors with more information and to answer questions relating to matters on a formal agenda. They shall be conducted in an open and accountable manner, subject to the confidentiality provisions relating to agenda reports. In addition, while disclosure requirements only legally apply at formal meetings, it is noted that the Department of Local Government guidelines promote disclosure of interests at agenda forums as participation without disclosing an interest is ethically unacceptable. Interests shall therefore be disclosed at agenda briefing sessions.

Other briefing sessions and workshops are convened to offer the Councillors the opportunity to:

- Explore options and discuss ideas;
- Discuss future agenda items and strategic direction;
- To be briefed on key ongoing projects and have input prior to the allocation of significant resources in taking forward reports to the Council;
- Discuss grievances and concerns to be resolved where possible.

They may be relatively informal and not necessarily open to the general public due to the preliminary and exploratory nature of the discussions.

Formal decisions of the Council are only made during a formal Council meeting and therefore collective or implied decisions that bind the Local Government cannot be made during any briefing session or workshop.

3.4 Community Access Sessions

Community members are offered the opportunity to address the Councillors on items that are listed on an agenda or any other matter of local government business during specially convened Community Access Sessions. The CEO and Directors, or their representatives, are to attend Community Access Sessions.

3.5 Electors' and Special Electors' Meetings

Matters discussed at electors' meetings provide important input into Council decision-making processes. All annual meetings of electors and special meetings of electors shall be convened in City-owned buildings to ensure that the venue is appropriate for the conduct of such a meeting.

The CEO, or his representative, shall attend all meetings of electors and is requested to have Directors in attendance, such that wherever possible, electors can be provided with the information that they are seeking at the meeting.

3.6 Council and Committee Meetings

Council and Committee Meetings are conducted in accordance with the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the Shire of Busselton Standing Orders Local Law.

Formal decisions of the Council are made utilising the Council and Committee meeting process.

Policy Background

Policy Reference No. - 005

Owner Unit – Governance

Originator – Manager, Governance Services

Policy approved by – Council

Date Approved – For consideration

Review Frequency – As required

Related Documents –

Local Government Act 1995

Local Government (Administration) Regulations 1996

Department of Local Government Council Forums Guideline

Background/History - Initiated February 2011 to consolidate former policies:

005 – Electors’ and Special Electors’ Meetings;

246 – Governance Reform

230 - Elected Member Forums.

History

Council Resolution	Date	Information
		Version 3
C1107/230	27 July, 2011	Updated to include forum requirements Version 2
C1103/083	9 March, 2011	New Policy to replace two former policies. Version 1

2. Adopts the following updated Access and Inclusion policy:

235	Access and Inclusion	V2 Draft
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PURPOSE

The City of Busselton is committed towards creating and encouraging universally accessible and socially inclusive services, facilities and functions for all people within the community.

The purpose of this policy is to recognise that the whole of community are equally valued members of society and make a unique and valuable contribution to community well being, community vibrancy and way of life.

SCOPE

This Policy applies to all activities undertaken within the City of Busselton District, sets the stage for responding to diversity, and looks at ways that the City can ensure that both the disability, indigenous and culturally and linguistically diverse sectors are included in the broader community by increased communication and engagement practices.

POLICY CONTENT

Diversity in this context is characterised by people who either reside or are visiting from ethnic and indigenous backgrounds, from different countries, speak different languages, or who have differing levels of physical and intellectual abilities.

Access in this context refers to an individual's physical ability to get to, into, and around facilities. This access is created by removing structural barriers and including mechanisms to enable structural access.

Inclusion in this context refers to an individual's ability to participate as fully as possible in programs and services provided by organizations in an integrated and holistic manner that does not ostracise, embarrass or humiliate an individual.

This Policy will be realised through the City of Busselton Disability Access and Inclusion Plan, a legislative requirement of the Western Australia Disability Services Act (1994).

The vision for an accessible and inclusive community will concentrate on seven key areas:

1. Existing services
2. Access to buildings and facilities
3. Information and communication
4. Advice and services
5. Opportunities to make complaints
6. Opportunities to participate in any public consultation
7. Staff employment and training opportunities

The underpinning principals and values of this policy are:

- * A commitment to access and inclusion for all citizens in the delivery of services through leadership by adapting, changing and proactively seeking new opportunities;
- * A commitment to the progressive removal of physical and emotional barriers to access and inclusion in the following areas: physical access, communication, service provision and participation achieved through partnerships and communication;
- * A commitment to being accountable and in touch with relevant community matters by consulting and engaging people with differing physical and intellectual abilities, carers, advocacy groups, culturally and linguistically diverse groups and services providing agencies in the community.

The City of Busselton is committed to working in partnership with local community groups and businesses to facilitate the inclusion of people with a disability by the application of the Disability Access and Inclusion Implementation Plan.

Policy Background

Policy Reference No. 235

Owner Unit – Community Development

Originator – Community Development Officer

Policy approved by – Council

Date Approved – 28/06/2006

Review Frequency – As required

Related Documents – Access and Inclusion Plan
Background/History – Implemented 28 June 2006

History

Council Resolution	Date	Information
		Version 2
C1103/072	9 March, 2011	Reviewed by Council. No changes made.
C0606/211	28 June, 2006	Date of implementation. Version 1


CARRIED 8/0

EN BLOC

11. PLANNING AND DEVELOPMENT SERVICES REPORT

Nil

12. ENGINEERING AND WORK SERVICES REPORT**12.1 TENDER RECOMMENDATION - 02/15 CELL 1 BULK EARTHWORKS AT DUNSBOROUGH WASTE FACILITY**

SUBJECT INDEX:	Waste Management
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Operations Services
ACTIVITY UNIT:	Engineering and Works Services
REPORTING OFFICER:	Waste Coordinator - Vitor Martins
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Confidential Tender Evaluation and Recommendation Report Attachment B Cell 1 Bulk Earthworks Specification 

PRÉCIS

The City of Busselton invited RFT 02/15 Cell 1 Bulk Earthworks at Dunsborough Waste Facility and received 17 submissions. This report summarises the tender responses and makes recommendation to award the tender to the most appropriate contractor based on the submissions.

BACKGROUND

The objectives of this Request for Tender are to appoint a suitably qualified contractor for the undertaking of bulk earthworks (cut, fill and on-site transportation of spoil and surplus cut materials) at Dunsborough Waste Facility for the purposes of preparing the first of the lined cells for waste disposal.

This Request for Tender specified the requirements of the City and invited suitably qualified and experienced respondents to submit bids to enter into a Contract for the bulk earthworks, in accordance with the engineering specifications set out in the request for tender.

The requirements for bulk earthworks include:

- Project management.
- Mobilisation and demobilisation of plant and equipment.
- Preparation of stockpile area.
- Building of haul road.
- Building of stormwater channel.
- Earthworks (clearing, stripping, cut, fill, and delivery of soil/surplus cut to stockpile).

A total price was sought from each tenderer for the project, with the exception of site clearing and stripping, waste Removal (if waste is encountered during excavation) and intermediate cover for soil to be spread. These were listed in the tender document as "Rate Only", and tenderers were required to submit their bids per square metre (or cubic metre) for each of these items, with total price to be determined following a survey.

The successful tenderer will be reporting to Oliver Darby, Director Engineering & Works Services to fulfil the requirements as described in this report.

The contract will be a construction contract only. Previously the City of Busselton engaged Bowman & Associates to complete the engineering specifications for the bulk earthworks and related works within the scope of the contract. Bowman will continue to be employed to sign off on portions of the work at specific hold points to ensure the work has been completed in accordance with the design specifications.

Subsequently, the request for tender for the construction of Cell 1 bulk earthworks was advertised from 21 February 2015 for a period of three (3) weeks, closing on the 13 March 2015. This included advertising on the West Australian (21/02/2015), on the Council for Community (25 February 2015 and 4 March 2015), on the City's website and the City's front counter Notice Board, from 21 February to 13 March.

The City received 51 requests for the tender documents and received seventeen (17) tender responses. A tender evaluation panel was formed to evaluate all tenders submissions and prior to the evaluation meeting, each panel member was provided with a copy of each submitted tender and a copy of the Evaluation Score sheet and Panel Guide. Each panel member then scored each tender, with the scores being averaged to determine a final score.

The Evaluation Panel met on 9 April and 20 April to discuss and evaluate each tender submission. The basis for the scoring and rationale for each score was discussed and final comments for the averaged scores agreed upon.

A rating scale of zero to five (0 – 5) was used for evaluating each Tender Submission in accordance with the Qualitative Criteria, with 0 being lowest and 5 being highest. The scoring has taken place in accordance with the RFT – Evaluation Scoring Guide and Procedural Fairness Guidelines as published by WALGA.

A comprehensive summary of these responses and pricing schedules has been included in the confidential attachment.

STATUTORY ENVIRONMENT

Section 3.57 of Local Government Act 1995 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 and services".

Part 4 (Tenders) of the Local Government (Functions and General) Regulations 1996 require that tenders be publicly invited for such contracts where the estimated cost of providing the total service exceeds \$100,000.

Compliance with the Local Government Act 1995 section 3.57 is required in the issuing and tendering of contracts.

Environmental Protection Act 1999 requires a Works Approval for construction of prescribed premises that deal with waste, including waste landfills.

RELEVANT PLANS AND POLICIES

The Capes Region Organisation of Councils Strategic Waste Management Plan includes expansion of the existing waste landfill at Dunsborough Waste Facility. Cell 1 is the first cell to be built in accordance with the planned expansion footprint.

The City's purchasing, tender selection criteria, occupational health and safety and engineering technical standards and specifications, were all relevant to this tender and have been adhered to in the process of requesting and evaluating tenders.

FINANCIAL IMPLICATIONS

The total budget for the Cell 1 project is \$700,000. To date \$11,560 has been spent on the detailed design leaving a balance of \$688,440.

The tender contract value will be \$ 474,253.28 (excluding GST) plus “Rate Only” items.

There will, however, be additional costs for Bowman & Associates and other supervisory works which will be required to be spent against this budget. This figure cannot be specified at this point but is expected to be in the region of \$30,000.

The above figure does not include any provisional sums or variations. Due to the nature of these works there is the potential of unforeseen elements which may require a variation to be paid to the contractor.

It is expected that any variation will be paid from the \$650,000 budget line item, but will not exceed the budget.

Given the proposed preliminary construction program – with 6-week duration, there is the potential that part of this budget will have to be re-listed to next financial year. However, this does not have a significant financial implication, as this project is to be funded from the Waste Plant and Infrastructure Reserve.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

Cell 1 construction is consistent with the following City of Busselton’s strategic objective:

- 2.3 Infrastructure Assets that are well maintained and responsibly managed to provide for future generations.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officers recommendation has been undertaken using the City’s risk assessment framework. The assessment sought to identify ‘downside’ risks only rather than ‘upside’ risks and where the risk, following implementation of controls has been identified as medium or greater are included below;

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
The contractor fails to complete the works by the end of the financial year	Close site supervision and communication. Weekly project meetings.	Minor	Likely	Medium
The costs associated with the construction is over the Council endorsed budget due to variations to the contractors scope of work	Weekly project meetings and supervision to monitor progress and any variations to scope.	Moderate	Unlikely	Medium

The contractor fails to undertake the earthworks in accordance with the specifications.	Supervision has been contracted to provide sign off on construction in accordance with design and specified hold points.	Moderate	Unlikely	Medium
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CONSULTATION

Nil

OFFICER COMMENT

The tender assessment was carried out by a tender review panel consisting of Vitor Martins, Waste Coordinator, Allan Miller, Waste Management Officer and Iain Mason, Contract and Tendering Officer. Tender submissions were received from the following organisations:

- Mine Site Construction Services
- Industrial Road Pavers
- Leeuwin Civil
- Charles Hull Contracting Company
- Prime Earthmoving
- Neo Infrastructure
- All West Plant Hire
- BMD Constructions
- Multiplant
- Carbone
- VMS
- Dig Deep
- Geographe Civil
- Griffin Civil
- Canning Vale Earthmoving
- Coalcliff Plant & Hire
- Advanced Mining and Civil

All tenders except one were found to comply with the terms and conditions and mandatory requirements of the RFT. Accordingly, each compliant tender was scored according to the qualitative criteria endorsed by Council and included in the tender documentation as follows:

Criteria Weighting

- | | | |
|-----|----------------------------|-----|
| (a) | Relevant Experience | 10% |
| (b) | Tenderer's Resources | 10% |
| (d) | Demonstrated Understanding | 10% |

Price was worth the remaining 70% of the evaluation criteria weighting and therefore formed a critical aspect in determining who the job would be awarded to.

The net tendered price was scored using the 'Average Based Scoring Method' recommended by WALGA in the 'Local Government Purchasing and Tender Guide'.

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

The Regional Price Preference has been applied to both Leeuwin Civil and Prime Earthmoving.

Given the evaluation undertaken, the panel recommends Leeuwin Civil as the preferred tenderer, on the basis that it provides overall best value for money once Regional Price Preference is applied.

In addition, the City is familiar with the work of Leeuwin Civil, which is a local company that has worked for the City on several occasions, and is satisfied with the demonstrated quality of their previous work.

The recommended tenderer has indicated it is able to start work at Dunsborough within a month and can complete the job by the end of spring 2015, in time for the cell to be lined during the summer of 2015-16.

The Vidler Rd waste facility is subject to license conditions which are administered via the Department of Environment Regulation (DER). The construction of the cells and the excavation of the cells are subject to receiving a works approval. The works approval has been applied for and is expected to be received shortly. However the award of the tender will be subject to the receipt of the works approval and this report seeks to commence works upon notification.

CONCLUSION

The tender evaluation panel have completed their assessment in line with the City's tender process and subject to the receipt of the works approval from the DER, officers now recommend the Council award RFT 02/15 Cell 1 Bulk Earthworks at Dunsborough Waste Facility to Leeuwin Civil.

OPTIONS

The Council may consider the following alternate options:

1. The Council may choose not to accept the Officer Recommendation and award the Tender to an alternate tenderer. In the view of the Officers this would result in a Tender being awarded to a tenderer that has not presented the "best value" for money offer.
2. The Council may choose not to accept the Officer Recommendation and not award the tender. This would mean going back out to tender, resulting in significant delays to the contract award and potential significant delays to the Dunsborough Waste Facility landfill expansion project, which in turn, would represent a corresponding delay in obtaining landfill airspace and waste disposal capacity.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The award of the tender can be made subject to the receipt of the works approval and after the Council has endorsed the Officer's recommendation. Subject to finalisation of a number of minor contractual points, the successful tenderer will receive formal written notification within seven (7) days of the receipt of the works approval and on the basis that the Council endorses the officer's recommendation. All unsuccessful tender applicants will also be notified at this time.

Council Decision and Officer Recommendation**C1505/113**

Moved Councillor J McCallum, seconded Councillor R Bennett

That the Council:


1. Award tender RFT 02/15 – Cell 1 Bulk Earthworks at Dunsborough Waste Facility to Leeuwin Civil for the contract sum of \$474,253.28 (excluding GST), in addition to the items which have been priced by the tenderer as "Rate Only", which can only be given a total dollar value following survey.
2. Award of tender RFT02/15 – To be subject to the receipt of the works approval from the Department of Environment and Regulation.

CARRIED 8/0**EN BLOC**

13. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

14. FINANCE AND CORPORATE SERVICES REPORT**14.2 BUSSELTON HISTORICAL SOCIETY AND BUSSELTON POTTERY GROUP LEASES**

SUBJECT INDEX:	Agreements and Contracts
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Finance and Corporate Services
REPORTING OFFICER:	Property Coordinator - Ann Strang
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Parcels of Land occupied by the Historical Society and Pottery Group 

PRÉCIS

The City currently leases portions of the Old Butter Factory building to the Busselton Historical Society Inc. ("the Historical Society") for the purpose of a museum and the Busselton Pottery Group Inc ("the Pottery Group"). The Pottery Group lease expires shortly and the Historical Society lease continues on a holding over provision, allowing the lessee to remain in occupation on a month by month basis.

The purpose of this report is to make recommendations to Council on the proposed lease to each party together with the future management of the Old Butter Factory and the surrounding areas.

BACKGROUND

The Old Butter Factory building is situated on Lots 1 and 2, Peel Terrace, Busselton being freehold land owned by the City of Busselton. The site has significant heritage value, in-particular the Old Butter Factory building itself, the boiler house and the smoke stack. These buildings are listed with the Heritage Council of WA. The surrounding parcels of land include Lot 328, Peel Terrace, also freehold land owned by the City, a portion of Reserve 35490 and the adjacent Unallocated Crown Land (UCL).

The Historical Society and the Pottery Group have leased their respective portions of the Old Butter Factory building for over 40 years. Both parties share certain areas within the grounds for access, parking and ablution facilities. The respective leased, shared use areas, affected portions of the Reserve and the UCL are shown on the plan attached.

The Pottery Group currently occupies the area shown hatched red on Attachment A. Their lease is due to expire on 30 June 2015 and the City has received a formal request from the group to renew their lease for a further 10 years. The proposal is detailed in the officer comment section of this report.

The Historical Society operates the museum from a portion of the Old Butter Factory building. They also utilise the land surrounding the Old Butter Factory, being a combination of Lot 328 Peel Terrace, freehold land owned by the City, part of Reserve 35490 and UCL. The museum grounds contain a number of buildings and improvements, including the machinery display shed, the old school house and the group settlement house for the purpose of displaying items of historical interest.

In 1996 the Council resolved (C961/0551) to support the portion of Reserve 35490 (shown shaded yellow on the attached plan) being utilised by the Historical Society for the purpose of constructing a carriage shed for displaying their collection of horse drawn carts. This approval was subject to changes being made to the zoning and land use. The changes to zoning and land use were made but a power to lease the Reserve was not obtained at the time.

The Reserve is vested with the City of Busselton for the designated purpose of "Recreation and Drainage" but without power to lease, there are no formal arrangements in place for the Historical Society's occupation of this land.

The group settlement house is situated on a portion of UCL (shown shaded blue on the attached plan). The Historical Society has occupied this land for many years, however, similarly, until the City are granted vesting of this portion of UCL it is not possible to enter into formal agreements for its use and occupation.

The areas shared by the Historical Society and the Pottery group are shown edged and hatched in green on the attached plan and include shared car parking, access ways and the ablution block. All the shared use areas are on land owned freehold by the City. As both groups are happy for the shared use to continue it is proposed that a licence for non-exclusive use can be entered into alongside the individual leases.

City officers have discussed the future management of both the UCL and the Reserve with the Department of Lands (DoL). The potential for the City to buy the land from the State, was previously discussed however it has been identified that combining the UCL and the portion of Reserve 35490 would be a more viable option for the City. The DoL have advised that they would support the creation of a new Reserve vested to the City with the power to lease. Should the Council support this recommendation, the City would then be in a position to enter into a lease with the Historical Society for the whole of the land they currently occupy and a licence of the shared areas.

A report was put to the Council in December 2014 in relation to fire management safety concerns which impacted on the Historical Society's use of the upper floor of the Old Butter Factory building. Councillors may recall that there was in effect a conflict between the requirement for works to be done to make the Old Butter Factory upper floor compliant with appropriate fire safety standards and obligations not to impact upon the structure of the building under the Conservation Management Plan which has been adopted in respect of the Old Butter Factory. In relation to this issue, the Council resolved the following (C1412/336):

That the Council:

1. *Not to allow public access to the upper floor of the Old Butter Factory after 25 December 2014;*
2. *Subject to resolution 3, to allow the lessee, Busselton Historical Society, to use the upper floor of the Old Butter Factory for storage and a workroom for members/volunteers;*
3. *To authorise the Chief Executive Officer to determine and impose conditions in relation to the use of the upper floor to ensure compliance with safety and statutory requirements;*
4. *To authorise the Chief Executive Officer to alter the current monthly tenancy arrangements with Busselton Historical Society in relation to the Old Butter Factory to implement resolutions 1, 2 & 3 above;*
5. *To engage a heritage consultant and fire engineer to review the Building Report in line with Section 8.5.2.1 of Policy 5.3 4 of the Conservation Plan and to investigate alternative solutions providing for public use of the upper floor of the Old Butter*

Factory and the impact of associated works on significant building fabric and to prepare a detailed report for Council consideration.

The City and the Historical Society entered into an agreement in February 2015 relating to the restrictions on the use of the upper floor of the Old Butter Factory as required under parts 1, 2, 3 and 4 of the above resolution. A consultant has also been engaged in relation to part 5 of the resolution to endeavor to come up with an alternative solution providing for public use of the upper floor of the Old Factory Building in a safe manner.

STATUTORY ENVIRONMENT

When disposing of property whether by sale, lease or other means, a Local Government is bound by the requirements of section 3.58 of the Local Government Act. However 3.58 (5) (d) provides exemptions to this process under Regulation 30 (2) (b) (i) & (ii) of the Local Government (Functions & General) Regulations.

This section states “disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the members of which are not entitled to receive any pecuniary profit from the body’s transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act.” The constitutions of both the Historical Society and the Pottery Group are such that this exemption applies.

The Historical Society occupy Lots 1 and 2, Peel Terrace, Busselton and Lot 328, Peel Terrace, Busselton all being freehold land owned by the City of Busselton. There is a memorial lodged on the title under the Heritage of Western Australia Act 1990, which requires the City to preserve and maintain the site.

The other parcel of land occupied by the Historical Society is a portion of Reserve 35490. This is Crown Land vested with the City for the designated purpose of “Recreation and Drainage”. The City does not have the power to lease this parcel of land.

The portion of land occupied by the Busselton Pottery Group Inc is located on freehold land owned by the City of Busselton being Lot 2 Peel Terrace, Busselton. As the City owns the land occupied by the Pottery Group and the group is exempt from the requirements of section 3.58 of the LGA, the City can enter into any term of lease subject to the approval of Council.

RELEVANT PLANS AND POLICIES

The Old Butter Factory building, the boiler house and smoke stack are registered with the Heritage Council of WA. The City’s obligations in relation to the maintenance and repair of heritage buildings are set out in the Conservation Management Plan prepared in April 2014. The plan provides schedules for conservation works, maintenance and other conservation actions. The primary responsibility for these actions currently rests with the City, with some responsibilities delegated through existing leases. Given their heritage value it is proposed that the structural components of these buildings continue to be maintained by the City.

Policy 029 Building Insurance adopted by Council on 24 July 2013 (C1307/192) provides for an exemption for not for profit community and sporting groups leasing City owned or managed buildings that are listed with the Heritage Council of WA with conservation plans. A concession of 50% of the building insurance premium is to be applied.

FINANCIAL IMPLICATIONS

The rent charged to community and sporting groups leasing City owned land and/or buildings is currently \$200.00 per annum (inclusive of GST) reviewed annually by CPI. It is proposed that this annual rent be charged to the Historical Society and the Pottery Group.

As detailed above the City has certain obligations in relation to maintaining the structural integrity of several heritage buildings located on site in so far as it relates to the heritage value of the same. The lessees in each case will be required to undertake general maintenance matters and pay costs associated with services and outgoings while the City maintains the structural components of the Old Butter Factory building, the boiler house and smoke stack. This has been the case throughout the term of their existing leases and therefore will have no impact on the City's current financial obligations in terms of maintenance.

The City has recovered the building insurance costs from both parties in the past in accordance with the Council Policy 029. The concession that has been granted will continue to apply whilst the policy remains in place.

The survey costs associated with combining the UCL and the portion of Reserve occupied by the Historical Society is estimated to be within the allocation made in the 2014/15 financial year budget.

Long-term Financial Plan Implications

In the last four years the City has invested a substantial amount of funds in the Old Butter Factory building and surrounds. In August 2012, the Council resolved (C1208/244) to undertake capital works on the Old Butter Factory building funded through the Building Reserve Fund. Although this work has been completed, funding for ongoing maintenance works is included in the Long Term Financial Plan and so the recommendation that the City to continue to maintain the structural component of the buildings is consistent with this.

STRATEGIC COMMUNITY OBJECTIVES

The request to enter into leases with both the Historical Society and the Pottery Group is consistent with the City of Busselton Strategic Community Plan 2013, namely objectives 2.1 and 2.3:

Key Goal Area 2 - Well planned, vibrant and active places:

- 2.1 A City where the community has access to quality cultural, recreation and leisure facilities and services;
- and
- 2.3 Infrastructure assets that are well maintained and responsibly managed to provide for future generations.

RISK ASSESSMENT

There are no identified risks associated with the officer recommendation, which serves to mitigate the risks associated with there not being a lease in place and / or a lease in place which reflects occupation and usage of the land.

CONSULTATION

The Historical Society are looking to enter into a new lease that will reflect their current land use while the Pottery Group has formally requested a lease renewal for the premises they currently occupy.

Other than the obligations the City will have in relation to maintenance of the structural components linked to the heritage aspect of the buildings, the proposed new leases will be consistent with the terms and conditions of the City's current standard community and sporting group lease. The groups have indicated their willingness to enter into a lease on such terms and conditions, acknowledging that there will be a minimal increase in the annual rent charged as compared to their current leases and that the annual rent will be increased by CPI.

The DoL have advised that they are supportive of the UCL that is currently occupied by the Historical Society being vested with the City of Busselton but require formal Council approval to progress this.

OFFICER COMMENT

The Pottery Group become incorporated in 1975. Early members converted the engine room of the Old Butter Factory into a pottery studio and have been in occupation since. The club holds workshops and social activities from the premises. The club also holds an annual exhibition in January during the Festival of Busselton. They open to the public twice a week, but members visit the premises regularly outside of these times to create new pieces or check on the progress of their work.

The Pottery Group are keen to remain in occupation of their current leased premises and have requested a further 10 year lease term. Cognisant of the terms offered in recent times to other not for profit sporting and community groups, and in order to remain consistent, it is however recommended that the City enter into a 5 year lease with a further 5 year option. It is also proposed to alter the terms of the standard community group's lease to reflect the obligations of the City to maintain the structural integrity of the heritage listed buildings that form part of the lease.

The Historical Society are also keen to formalise their tenure of the land and buildings that they currently occupy. Their lease term has expired and they remain in occupation under the holding over clause of that lease. To enable the City to grant a lease over all of the land and buildings occupied by the Historical Society the management of the UCL and the power to lease both the UCL and the developed portion of Reserve 35490 must be obtained from the Minister for Lands.

The land rationalisation process as described in the previous paragraph is likely to take some time to finalise. While this cannot be guaranteed, it is hoped that within that time the work associated with determining an appropriate alternative solution to provide for the fire safety of the upper floor of the Old Butter Factory building in a manner that is consistent with both regulatory and Conservation Management Plan requirements will have been completed. The City could then confidently enter into a new lease with the Historical Society.

If the issues relating to fire safety of the upper floor are not resolved by the time the land rationalisation matters are finalised, the City can still enter into a new lease at that time with the Historical Society, albeit it may need to have some particular provisions dealing with use of the upper floor.

CONCLUSION

The Historical Society and the Pottery Group complement each other providing a varied cultural experience for visitors to the district. They are well respected and play an important part in the preservation of historical artefacts and the cultural fabric of the City.

Both groups moved into the Old Butter Factory in 1975 and have been operating successfully from this site since. For these reasons it is recommended that the Council supports their continued use of this site into the future.

If Council are supportive of including the section of UCL within Reserve 35490 and accepting a management order with power to lease, the City can enter into a new leases with the Pottery Group and the Historical Society that properly reflect the extent of the land and buildings they are utilising.

OPTIONS

1. The City could seek to acquire the UCL and the portion of Reserve 35490 occupied by the Historical Society from the State, freehold. A valuation obtained some time ago indicated the value to be \$25,000; a more up to date valuation would need to be obtained however. If this was the Councils preferred option, the costs associated with the purchase would need to be presented for consideration as part of the 2015/16 budget deliberations. This option is not recommended as security of tenure of the land could be granted without this additional expense should the Council support the officer recommendation.
2. Council can resolve to enter into a different term of lease with the Pottery Group.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If the Council endorse the officer recommendation in relation to the Pottery Group, a lease would be forwarded to the Pottery Group prior to their lease expiring. It is anticipated that signing of the lease would be on or before the 30 June 2015.

If the Council endorses the officer recommendation in respect of amalgamation of the crown land, the necessary process for this will be actioned immediately following the resolution of Council. This process is likely to take several months. When finalised, a report will be put to the Council proposing that a new lease be entered into with the Historical Society.

Council Decision and Officer Recommendation

C1505/114 Moved Councillor J McCallum, seconded Councillor R Bennett

That the Council:

1. Enter into a lease with the Busselton Pottery Group Incorporated for the occupation of a portion of Lot 2, Diagram 1723, Volume 1375, Folio 11, Peel Terrace, Busselton as shown edged and hatched red on Attachment A subject to the following:
 - a) The term of the lease to be 5 years commencing 1 July 2015 with a 5 year option;
 - b) The annual rent to be the nominal rental of \$200.00 inclusive of GST and is to be increased annually by CPI;
 - c) The lease will be consistent with the City's standard community and sporting group lease altered to reflect the obligations of the City to maintain the structural integrity of the heritage listed building that forms part of the lease;




- d) the inclusion of a licence for non-exclusive use of the shared use areas as shown hatched green on Attachment A; and
 - e) All the costs of the preparation of the lease are to be met by the lessee.
2. Request the Minister for Lands to excise a portion of Reserve 35490 and combine the unallocated crown land as shown shaded yellow and blue respectively on Attachment A as a separate reserve under City management with the power to lease.

CARRIED 8/0

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15. CHIEF EXECUTIVE OFFICER'S REPORT

15.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors' Information
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Executive Services
ACTIVITY UNIT:	Executive Services
REPORTING OFFICER:	Reporting Officers - Various .
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Financial Assistance Grants to Local Government 
	Attachment B Planning Applications Received 1 to 15 April, 2015 
	Attachment C Planning Applications Determined 1 to 15 April, 2015 

PRÉCIS

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

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

INFORMATION BULLETIN

15.1.1 Community Sporting and Recreation Facility Fund grant

Correspondence has been received from Hon Barry House, President of the Legislative Council, Member for the South West Region:

"I write to congratulate the City of Busselton on its successful application for a Community Sporting and Recreation Facility grant.

The \$542,313 grant you will receive for the construction of a new sports pavilion at Barnard Park is one of 38 grants across the State. In all, \$14.93 million was allocated.

Through the provision of these facilities, this funding will support a range of initiatives which encourage people to be more active. I look forward to seeing the playing fields make a big difference to the people of Busselton, through the benefits that come from increasing participation in sport and recreation.

Congratulations once again on your successful application. Please let me know if there is anything I can assist with on this or any other matter."

15.1.2 Letter of Thanks - South West Dance Festival – Busselton Old Time Dance

Correspondence has been received from Rose Pether, Busselton Old Time Dance:

“A big thank you from all our members from the Old Time Dance for the City's kind donation from the Fund.

The City's donation has made it possible for us to have a very successful Festival.

The amount donated to Royal Flying Doctors Service this year was \$2,000.00 and to this date we have donated \$28,200.00

Our sincere thanks for your continual support.”

15.1.3 Current Active Tenders (08/04/2015)

RFT25/14 Busselton Foreshore Development – Lighting and Small Power

The City of Busselton invited tenders for the design, supply and installation of electrical lighting and small power for the Busselton Foreshore development. The Tender was advertised on 22 November 2014 and closed on 31 March 2015, the City received one (1) submission. The submitted tender has been evaluated by the City's tender evaluation panel and the tender was awarded under CEO delegation to BSEWA.

RFT01/15 Supply and Delivery of one (1) Self-Propelling Large Area Rotary Mower

The City of Busselton invited tenders for the supply and delivery of one (1) self-propelling large area rotary mower to replace the City's existing broad acre mower. The tender was advertised on 24 January 2015 and closed on 10 February 2015. Two (2) submissions were received. The contract was awarded to T-Quip under CEO delegation on 10 March 2015 with the mower to be delivered to the City by 8 June 2015.

RFT02/15 Cell 1 Bulk Earth Works

The City of Busselton invited tenders to undertake the bulk earthworks for Cell 1 of the new waste landfill site at the existing Dunsborough Waste Facility. The new waste landfill development will comprise of the construction of an additional 1 to 5 cells which will be built in a phased approach in accordance with existing plans. The tender was advertised on 21 February 2015 and closed on 13 March 2015. Seventeen (17) submissions were received. The tenders have been calculated and the Evaluation Panel's recommendations are the subject of item 12.1 on this agenda.

RFT03/15 Busselton Foreshore – Pump Station, Tank and Iron Filter Construction.

The City of Busselton invited tenders for the construction of a new pump station, storage tank, iron filter and associated electrical connections. The tender was advertised on 21/22 March 2015 in the West Australian and on 27 March 2015 in the Busselton Dunsborough Times. The Tender closed on 14 April 2015. The City received eight (8) submissions, which are currently being evaluated.

15.1.4 Letter of thanks - 2015 Club Marine Geographe Bay Raceweek Regatta

Correspondence has been received from Suzi Kent, Event Manager, Club Marine Geographe Bay Raceweek to Mayor Ian Stubbs:

“The Committee of Club Marine Geographe Bay Raceweek would like to thank you and the City of Busselton team for your support of the 2015 Club Marine Geographe Bay Raceweek Regatta.

This year saw over 50 yachts compete in the event and with near perfect conditions for sailing and great community participation in the off water Social program. The event has been proclaimed by

many of the participants as "the best Raceweek to date" and we hope to continue this trend over the coming years.

Some of our initiatives this year included an Opening Concert, VIP Cruise, Cabaret evening, Ladies Luncheon hosted by Celebrity Chef, Mr Don Hancey and a Presentation Dinner with Closing Concert. The City was represented at all of these events by way of signage and verbal recognition and we hope our representation of the City has made your efforts of supporting this event worthwhile.

Club Marine Geographe Bay Raceweek could not continue without the generous support of our partners and sponsors and we value the relationship we have built with the City and hope that Raceweek becomes an event of national importance in the coming years for the benefit of the City and the sport of Sailing as a whole.

We thank you again for your generosity and look forward to working with you in 2016."

15.1.5 Department of Aged Housing Contract Review 2015 – City of Busselton

Correspondence has been received from Steve Carroll, Principle Contract Administrator, Department of Housing:

Thank you for taking the time to assist us in completing our annual review of the City of Busselton. We appreciated your assistance providing information, meeting with our team, answering our questions and showing us through your properties.

We are pleased to advise our review has assured the Department that the City of Busselton is meeting its contractual obligations with the Department. The Department appreciates that the City made efforts to comply with the Joint Venture Agreement and the requirements under the Residential Tenancies Act (RTA) 1987.

Thank you for your ongoing assistance and excellent work with the community. We will contact you in approximately 12 months to undertake a similar review.

15.1.6 Western Australian Consumer Protection Awards 2015

Correspondence has been received from Hon. Michael Mischin MLC, Attorney General; Minister for Commerce:

"Congratulations once again on being shortlisted as a finalist in the Kidsafe WA Award category of this year's Consumer Protection Awards.

As I mentioned in my speech at the presentation ceremony, despite primary responsibility for product safety having been transferred to the Commonwealth Government, it is important for us to maintain local attention to this area, particularly on children's safety. Our commitment to children's safety in Western Australia is strongly aided by the work of local government authorities like yours.

The City of Busselton's Safe to Skate injury prevention program offering free workshops to raise safety awareness and develop the skills of young people who ride, scoot and skate is truly commendable.

I wish your city's Youth Development Services Team the best in its future endeavours."

15.1.7 Financial Assistance Grants to Local Government

Correspondence has been received from the Australian Local Government Association and Western Australian Local Government Association and is provided at attachment A.

15.1.8 Development Assessment Panel opt-in and mandatory thresholds changes

A media statement has been received from Hon John Day BSc BSc MLA:

“Regulations to make Development Assessment Panels (DAPs) more flexible come into effect on May 1.

Applicants can now choose to have development applications valued between \$2 million and \$10 million determined by a DAP (previously \$3 million to \$7 million), and \$2 million to \$20 million in the City of Perth.

The mandatory threshold is now \$10 million and above, increased from \$7 million, and the City of Perth threshold is \$20 million and above.

Planning Minister John Day said the new thresholds would create a more flexible and transparent planning system.

“By adjusting these thresholds, the planning system is providing applicants with more flexibility to choose whether their application is determined by a DAP or the relevant local government,” Mr Day said.

“At a community level, the reduction of the opt-in threshold recognises that some smaller priced developments may benefit from being reviewed by an independent panel.

“Similarly, increasing the mandatory thresholds will allow applications which would have previously been required to be determined by a DAP to be determined by the local government.”

The regulations will also allow local governments to refer an otherwise excluded multiple or grouped dwelling proposal to a DAP for determination, if it falls within the optional thresholds.

The Minister said the Government was undertaking comprehensive reforms to ensure the State’s planning system was one of the most streamlined and efficient in the country.

These changes follow broad public and stakeholder consultation undertaken through the Planning Makes it Happen: Phase Two discussion paper and associated DAP review.”

15.1.9 Planning & Development Services Statistics

Planning Applications

Attachment B is a report detailing all Planning Applications received by the City between 1 and 15 April, 2015. Thirty nine formal applications were received during this period.

Attachment C is a report detailing all Planning Applications determined by the City between 1 and 15 April, 2015. A total of ten applications (including subdivision referrals) were determined by the City during this period with all approved / supported.

15.1.10 The Centenary of Anzac Initiative – VC & GC Booklet

Two copies of the Western Australia’s Victoria Cross and George Cross Recipients Booklet, produced as part of the Western Australian Government Centenary initiatives, has been received from The Hon Joe Francis MLA, Minister for Emergency Services; Corrective Services; Small Business; Veterans.

A copy of the booklet is available to be viewed in the Busselton and Dunsborough Libraries.

Council Decision and Officer Recommendation

C1505/115 Moved Councillor J McCallum, seconded Councillor R Bennett
That the items from the Councillors' Information Bulletin be noted:

- 15.1.1 Community Sporting and Recreation Facility Fund grant
- 15.1.2 Letter of Thanks - South West Dance Festival – Busselton Old Time Dance
- 15.1.3 Current Active Tenders (08/04/2015)
- 15.1.4 Letter of thanks - 2015 Club Marine Geographe Bay Raceweek Regatta
- 15.1.5 Department of Aged Housing Contract Review 2015 – City of Busselton
- 15.1.6 Western Australian Consumer Protection Awards 2015
- 15.1.7 Financial Assistance Grants to Local Government
- 15.1.8 Development Assessment Panel opt-in and mandatory thresholds changes
- 15.1.9 Planning & Development Services Statistics
- 15.1.10 The Centenary of Anzac Initiative – VC & GC Booklet

CARRIED 8/0

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ITEMS CONSIDERED BY SEPARATE RESOLUTION

At this juncture, in accordance with Clause 5.6 (3)(a) & (b) of the Standing Orders, those items requiring an Absolute Majority or in which Councillors had declared Financial, Proximity or Impartiality Interests were considered.

10.1 Policy and Legislation Committee - 23/04/2015 - DELEGATION TO CHIEF EXECUTIVE OFFICER – APPOINTMENT OF BUSH FIRE CONTROL OFFICER

SUBJECT INDEX:	Bushfire Control and Emergency Services
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger and Emergency Services Coordinator - Dean Freeman
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

This item was considered by the Policy and Legislation Committee at its meeting on 23 April 2015, the recommendations from which have been included in this report.

PRÉCIS

This report recommends Council delegate its authority to the Chief Executive Officer to appoint a person when recommended by Council's Bush Fire Advisory Committee and also to appoint a City Ranger to act as a Bush Fire Control Officer (BFCO) for the purpose of exercising the functions and to perform duties relating to bushfire as prescribed in the Bush Fires Act 1954.

BACKGROUND

Bush Fire Control Officers (BFCO) are appointed by Council to ensure that the duties as outlined in the Bush Fires Act 1954 (the Act), are carried out for the prevention and control of bushfire within the district of Busselton. Council periodically and as circumstances require appoints both volunteer Bush Fire Brigade members and also City Rangers as BFCO.

When there is a need to appoint a volunteer Bush Fire Brigade member as a BFCO for a particular brigade area, the relevant Bushfire Brigade for that area nominates an appropriate volunteer member for appointment as a BFCO. This nomination is submitted to Council's Bushfire Advisory Committee and the Committee's recommendation reported to Council. The Committee also makes recommendations to Council in respect to the appointment of a Chief and Deputy Chief BFCO.

When there is a need to appoint a City Ranger as a BFCO, to administer the Act for the prevention and control of bushfire including the enforcement of the City's Firebreak and Fuel Hazard Reduction notice, an Officer Recommendation for the appointment of the Ranger is submitted directly to Council.

It is proposed that the administration efficacy of the current process be improved by Council delegating to the Chief Executive Officer power to appoint a volunteer Bush Fire Brigade member when recommended by Council's Bushfire Advisory Committee and also for the Chief Executive Officer to appoint a City Ranger as a BFCO as and when required.

STATUTORY ENVIRONMENT

Section 38 of the Bush Fires Act 1954 empowers a Council to appoint persons as Bush Fire Control Officers as follows:

A local government may from time to time appoint such persons as it thinks necessary to act as bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers.

Section 48 of the Bush Fires Act 1954 empowers Council to delegate to the Chief Executive Officer the performance of any of its functions under the Act.

The City's Bush Fire Advisory Committee is appointed in accordance with Section 67(1) of the Bush Fires Act 1954, to provide advice to Council regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and various other matters relating to bush fire control.

RELEVANT PLANS AND POLICIES

The City's Bush Fire Strategic Plan was adopted in 2005 and is the overarching plan for the City's management of bush fire issues and includes provisions relating to the appointment, role and responsibility of a BFCO.

FINANCIAL IMPLICATIONS

There is minor expenditure associated with the requirement of the Act for BFCO appointments to be advertised at least once in a local newspaper. This expenditure can be accommodated within Council's annual budget allocation for the management of its Bushfire Brigades.

STRATEGIC COMMUNITY OBJECTIVES

Consideration of this matter is consistent with Community Objective 6.3 - An organisation that is managed effectively and achieves positive outcomes for the community – of the City of Busselton Strategic Community Plan 2013.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls has been identified is medium, or greater. No such risks were identified.

CONSULTATION

The process of appointing a BFCO or to replace a retired BFCO for a particular brigade area, involves the relevant Bushfire Brigade nominating one of its members for appointment as a BFCO for their area. This nomination is then submitted to Council's Bushfire Advisory Committee and, currently, the Committee's recommendation reported to Council.

There is also a requirement under the Act for each BFCO appointment to be advertised to the community, in a local newspaper.

OFFICER COMMENT

To ensure the City is meeting its obligations under the Act, it is necessary for Council to appoint a sufficient number of persons to perform the functions and duties of a BFCO. Council has previously appointed both volunteer Bush Fire Brigade members and City Rangers as BFCO.

When a Bushfire Brigade member is nominated for appointment as a BFCO, the nomination is initially reviewed by Council's Bush Fire Advisory Committee and if supported, the Committee recommends the appointment to Council. The Committee also makes recommendations to Council in respect to the appointment of a Chief and Deputy Chief BFCO.

The current practise of Council's Bush Fire Advisory Committee reviewing and recommending Bush Fire Brigade members for BFCO appointments has ensured that persons with appropriate qualifications and experience are being appointed to this important role and this practise will continue without change.

The proposed delegation of Council's powers to the Chief Executive Officer involves a change to the final appointment process and implementation of a recommendation from Council's Bush Fire Advisory Committee, to appoint a Bush Fire Brigade member as a BFCO.

The proposed delegation of Council's powers to the Chief Executive Officer will be limited to the appointment of volunteer Bush Fire Brigade members as a BFCO, but not include the appointment of a Chief and Deputy Chief BFCO. Given the seniority and responsibility of the Chief and Deputy Chief BFCO, the responsibility for these appointments will remain with the Council.

In respect to City Rangers, the Chief Executive Officer is authorised to approve staff appointments however, for a Ranger to perform the duties as a BFCO, approval of the Council is currently required. It is proposed that Council delegate its powers to appoint a City Ranger as a BFCO to the Chief Executive Officer.

CONCLUSION

The requirement for Council to appoint a BFCO occurs periodically and to improve the efficiency of managing BFCO appointments, it is recommended that the Chief Executive Officer be delegated authority under the Act for the purpose of appointing a volunteer Bush Fire Brigade member and a City Ranger to perform the functions of a BFCO. In the case of Bush Fire Brigade members, however, the CEO could only exercise that delegation in accordance with a recommendation of the Bush Fire Advisory Committee.

OPTIONS

Council may determine not to delegate authority to the Chief Executive Officer under Section 48 of the Act in which case each BFCO appointment will continue to be presented to the Council for approval.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Subject to Council approval, the proposed delegation to the Chief Executive Officer will become effective immediately following the Ordinary Meeting of Council on the 25 March 2015.

Council Decision and Officer Recommendation**C1505/116** Moved Councillor T Best, seconded Councillor J McCallum**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council delegates its authority to the Chief Executive Officer to appoint a person to act as a Bush Fire Control Officer pursuant to Section 48 of the Bush Fires Act 1954, subject to the following conditions –

1. The delegation is limited to the appointment of members of volunteer bush fire brigades and City Ranger and Emergency Services staff;
2. In the case of appointment of members of volunteer bush fire brigades, the delegation shall only be exercised where there is a recommendation to appoint from the Bush Fire Advisory Committee; and
3. The delegation does not extend to the appointment of Chief or Deputy Chief Bush Fire Control Officers.

CARRIED 8/0**BY ABSOLUTE MAJORITY**

10.2 Policy and Legislation Committee - 23/04/2015 - PROPOSED DELEGATION TO MAYOR AND CHIEF BUSH FIRE CONTROL OFFICER JOINTLY TO VARY RESTRICTED BURNING TIMES

SUBJECT INDEX:	Delegations
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger and Emergency Services Coordinator - Dean Freeman Manager, Governance Services - Lynley Rich
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

This item was considered by the Policy and Legislation Committee at its meeting on 23 April 2015, the recommendations from which have been included in this report.

PRÉCIS

In accordance with the *Bush Fires Act 1954* a local government can vary Restricted Burning Times. The local government can also delegate the variation of Prohibited or Restricted Burning Times to the Mayor and Chief Bush Fire Control Officer jointly. The delegation to vary Prohibited Burning Times already exists, however, no delegation is currently in existence for Restricted Burning Times. It is recommended that this function is delegated to the Mayor and Chief Bush Fire Control Officer jointly in order for timely decisions to be made, particularly if there is a need to extend restricted burning periods.

BACKGROUND

A delegation to enable Prohibited Burning Times to be varied currently exists, however, there is no delegation to enable Restricted Burning Times to be varied. It is noted that the Act requires any decision in relation to variations of burning times to be undertaken in consultation with an authorised CALM Act officer.

STATUTORY ENVIRONMENT

Section 18 of the *Bush Fires Act 1954* relates to Restricted Burning Times. Clause 5 of that section provides that in any year in which a local government considers that seasonal conditions so warrant, the local government may, after consultation with an authorised CALM Act officer if forest land is situated in its district —

- (a) vary the restricted burning times in respect of that year in the district or a part of the district by —
 - (i) shortening, extending, suspending or reimposing a period of restricted burning times; or
 - (ii) imposing a further period of restricted burning times;

or

- (b) vary the prescribed conditions by modifying or suspending all or any of those conditions.

Additionally, Clause 5(c) of Section 18 provides the power for these decisions to be made to the Mayor and Chief Bush Fire Control Officer jointly.

RELEVANT PLANS AND POLICIES

Bush Fire Strategic Plan.

FINANCIAL IMPLICATIONS

Nil.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

Utilising delegations contributes to the achievement of the Strategic Community Objective of Governance systems that deliver responsible, ethical and accountable decision-making.

RISK ASSESSMENT

Not required, however, having this delegation in place reduces the risk of a timely decision to vary a restricted burning time not being made.

CONSULTATION

NA.

OFFICER COMMENT

The delegation to the Mayor and Chief Bush Fire Control Officer to vary Prohibited Burning Times has long been in existence. The Ranger and Emergency Services team recently sought to be able to vary Restricted Burning Times at which time it was identified that no delegation exists for this function. It is recommended that this function is also delegated.

CONCLUSION

Delegation of this function will ensure timely decisions can be made, which is particularly important in the circumstances where it is proposed to extend the restricted period.

OPTIONS

The Council may determine that it wishes to consider decisions relating to the restricted burning period itself.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Effective immediately upon the Council's decision.

Council Decision and Officer Recommendation

C1505/117

Moved Councillor T Best, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council delegates to the Mayor and Chief Bush Fire Control Officer jointly the power to perform the local government's functions contained in Section 18(5) of the *Bush Fires Act 1954*, to vary restricted burning times or varying conditions during restricted burning times.

CARRIED 8/0

BY ABSOLUTE MAJORITY

14.1 NEW ADMINISTRATION AND CIVIC CENTRE BUILDING PROJECT - EXPRESSIONS OF INTEREST EOI 01/15

SUBJECT INDEX:	New City of Busselton Administration and Civic Centre
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

Council resolved on 24 July 2013 to proceed to the next stage of the new City of Busselton Administration and Civic Centre building project (**Admin Building Project**) by identifying MCG Architects Pty Ltd from Bunbury (**MCG Architects**) as its preferred architect for the project and by authorizing the Chief Executive Officer to negotiate and enter into a contract with MCG Architects to provide full architectural and design services for the project. In terms of their brief MCG Architects provided the City with design documentation which is required to proceed to the next stage of the Admin Building project, that is inviting tenders for the construction of the new administration building.

It is considered that, prior to inviting tenders, there is good reason for Council to make a preliminary selection from amongst prospective tenderers. This report recommends that Council decide to follow a preliminary selection process prior to inviting tenders.

BACKGROUND

The City of Busselton has for some years had a strategic objective to review and optimise use of its administration building due to present capacity no longer being able to meet current and future needs. At its meeting of 26 September 2012, Council formally considered a report by the Administration Building Working Group (appointed by Council in November 2011) to further investigate this issue and, among other things, resolved to endorse the principal that the administration in its existing format no longer meets current or future requirements and that a staged redevelopment of the current site is favoured.

The next stage of the Admin Building Project required appointment of architects to provide full architectural and design services in relation to the project, which resulted in Council resolving on 24 July 2013 as follows:

That the Council:

- 1. Identifies MCG Architects working in association with JCY Architects and Urban Designers as its preferred architect for the redevelopment of the City's Civic and Administration Facilities;*
- 2. Delegates authority to the Chief Executive Officer to negotiate with the preferred architect and, subject to successful negotiations, to enter into a contract in accordance with Tender RFT19/12.*

On 4 October 2013 MCG Architects were officially appointed to undertake the architectural services for the Admin Building Project. In terms of their contract, MCG Architects expanded and further developed the initial schematic design of the new building. Council has since endorsed the schematic

design of the new administration building and on 8 October 2014 resolved to approve the issuing of instructions to MCG Architects to proceed to detailed design and specifications. The design documentation is now nearing completion which provides the City with sufficient information to progress to the next stage of the Admin Building Project, which is inviting tenders for construction of the proposed new building.

Under the *Local Government (Functions and General) Regulations 1996 (LG Regulations)* a local government has the ability to follow, prior to inviting tenders, a preliminary selection process if it thinks there is good reason to do so. The purpose of this preliminary selection process is to make a preliminary selection from amongst prospective tenderers if it is considered to be advantageous to the local government to limit the number of prospective tenders.

This report proposes that it will be advantageous to Council to implement such a preliminary selection process in relation to the construction phase of the Admin Building Project and consequently seeks Council approval for adoption thereof. The statutory framework in relation to this preliminary selection process is discussed in more detail under the STATUTORY ENVIRONMENT section of this report.

STATUTORY ENVIRONMENT

Subject to certain exceptions (which in this instance do not apply) Regulation 11(1) of the LG Regulations requires for tenders to be publicly invited before a local government enters into a contract for the supply of goods or services of which the consideration is expected to be more than \$100,000. The construction costs of the proposed new administration building will be significantly in excess of this threshold. However in terms of Regulation 21 of the LG Regulations a local government may, prior to inviting tenders, follow a formal expression of interest process for the purpose of making a preliminary selection from amongst prospective tenderers in order to limit who can tender. Regulation 21 specifies as follows:

21. Limiting who can tender, procedure for

1. *If a local government thinks that there is good reason 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.*
2. *There is good reason to make a preliminary selection if, because of —*
 - (a) *the nature of the goods or services required; or*
 - (b) *the cost of preparing plans, specifications or other information for the purpose of adequately describing the goods or services required,**it would be advantageous to the local government if tenders were invited only from persons it considers to be capable of satisfactorily supplying the goods or services.*
3. *If a local government decides to seek expressions of interest before inviting tenders, Statewide public notice that expressions of interest are sought is to be given.*
4. *The notice is required to include —*
 - (a) *a brief description of the goods or services required; and*
 - (b) *particulars identifying a person from whom more detailed information may be obtained;**and*
 - (c) *information as to where and how expressions of interest may be submitted; and*
 - (d) *the date and time after which expressions of interest cannot be submitted.*

It is considered that there are good reasons to make a preliminary selection amongst prospective tenderers before tenders are invited for construction of the new administration building. These reasons are discussed in more detail under the OFFICER COMMENT section of this report.

In terms of the Regulations the preliminary selection process comprises of:

- The City giving Statewide public notice that expressions of interest are sought, allowing a minimum time of 14 days for submitting expressions of interest;
- Rejection of expressions of interest submitted outside the published deadline and submissions which fail to comply with any other requirement specified in the public notice;
- The City, having considered conforming expressions of interest, to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods and services (in this instance capable of satisfactorily undertaking and completing construction of the new administration building);
- The Chief Executive Officer to list each of those persons as an acceptable tenderer; and
- Should the City decide to progress with inviting tenders for the construction phase of the Admin Building Project, the Chief Executive Officer, instead of publicly inviting tenders, to give notice of the invitation only to those listed as acceptable tenderers.

Prior to any contract being awarded for construction of the new administration building, tenders submitted following abovementioned preliminary selection process will be assessed and determined by Council.

RELEVANT PLANS AND POLICIES

The Civic and Administration facility project is identified in the City's Corporate Business Plan: "City Administration Centre Redevelopment - Design and construct a redeveloped Administration Centre and Council Chamber that meets the needs of a growing community".

FINANCIAL IMPLICATIONS

The purpose of the proposed preliminary selection process is to establish a list of preferred tenderers for the construction of the new administration building and not to award at this stage a contract. Therefore, except for the advertisement costs associated with publication of the required public notice, a decision to formally seek expressions of interest will not have any financial implications. The costs associated with publication of the public notice required for the proposed preliminary selection process is estimated to be less than \$500.00 for which adequate provision has been made in the Major Projects budget for the 2014/15 financial year.

Long-term Financial Plan Implications

The financial model for funding and delivering the Admin Building Project has been provided for under Council's Draft Long Term Financial Plan (2015/16 – 2024/25) the latest version of which was most recently endorsed by Council at its meeting on 25 March 2015 (C1503/069). This process does not impact on the approved funding model.

STRATEGIC COMMUNITY OBJECTIVES

The Admin Building Project recognises that in order for the organisation to be managed effectively, deliver the large range of local government services to and achieve positive outcomes for a growing community, expanded and redeveloped civic and administration facilities is required.

The project also aligns with the following community objectives of the *City of Busselton Strategic Community Plan 2013*:

Key Goal Area 2 - Infrastructure assets that are well maintained and responsibly managed to provide for future generations; and

Key Goal Area 6 - An organisation that is managed effectively and achieves positive outcomes for the community.

RISK ASSESSMENT

An assessment of the potential risks associated with the proposed preliminary selection process has been undertaken using the City's risk assessment framework. The risks listed in the table below have been identified and, as is indicated below, are respectively considered to be moderate and low, with sufficient controls and therefore deemed acceptable.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Potential claim for damages by prospective tenderers excluded from a tender process as a consequence of the proposed preliminary selection process	<ul style="list-style-type: none"> • Strict compliance with statutory requirements applicable to the preliminary selection process. • Effective documentation 	Potential financial loss	Unlikely	Moderate
Reputational risk to Council if some prospective tenderers are excluded from a tender process as a consequence of the proposed preliminary selection process	<ul style="list-style-type: none"> • Strict compliance with statutory requirements applicable to the preliminary selection process. • Ensure open and transparent implementation of preliminary selection process 	Reputational	Unlikely	Moderate

CONSULTATION

City officers engaged external lawyers, who are considered to be experts in the field of contract and tendering, to advise the City on compliance with relevant statutory requirements applicable to the proposed preliminary selection process and to assist with preparation of expression of interest documentation.

OFFICER COMMENT

In terms of the LG Regulations Council may decide to seek expressions of interest before inviting tenders if there is good reason to follow such a preliminary selection process. Under the regulations there is considered to be good reason to make a preliminary selection if, because of either the nature of the goods or services required or the cost of preparing plans, specifications or other information for the purpose of adequately describing the goods or services required, it would be advantageous to a local government if tenders were invited only from persons it considers to be capable of satisfactorily supplying the goods or services.

The nature of the goods and services required in relation to the Admin Building Project is undertaking and completing construction of the new administration building. The scope of this project is considered to be both significant and challenging as it is a large multi-faceted construction project with the value of the construction component in excess of \$18 million and which includes:

- Demolition of the existing administration office buildings, except for the existing 2 story elected member section which has to be renovated and integrated within the new buildings;
- Construction of a new 3 story “east wing” section along Causeway Road; and
- Construction of a new 2 story “west wing” section which will replace the existing single story structure along Southern Drive.

The construction phase of the project has to be staged to allow for certain staff to be accommodated on site during construction of the new building. It is considered that only contractors with a certain level of expertise, experience, capacity and resources would be capable of satisfactorily delivering the project.

Unless Council implements a preliminary selection process it is anticipated that, due to the nature of this project, tens of prospective tenderers are likely to request tender documents. Not all of these prospective tenderers will have the capability of satisfactorily delivering the whole project and some may even be interested in submitting tenders for only certain parts of the project. This could result in the City incurring significant costs and resources in relation to preparing and providing plans, specifications and other information to and/or assessing tender submissions from a large number of prospective tenderers who may not have the capacity to satisfactorily deliver the whole project. By following a preliminary selection process the extent to which such unnecessary costs are incurred will be reduced.

For the abovementioned reasons [which are considered to be ‘good reason’ as contemplated under LG Regulation 21(2)] it is considered to be advantageous to the City if tenders for construction of the new administration building are invited only from persons considered to be capable of satisfactorily delivering the whole project.

In addition to the relevant statutory requirements the proposed preliminary selection process should result in a limited number of respondents being shortlisted as acceptable tenderers, which will allow the City to direct its resources and all full attention towards tenderers considered to be capable of successfully delivering the Admin Building Project, ensuring a more focused and robust tender process. It is therefore recommended that Council resolve to seek in accordance with the relevant LG Regulations expressions of interest before inviting tenders for construction of the new administration building.

It is also recommended that Council determine, for purposes of the preliminary selection process, the criteria for deciding which, if any, of the respondents are to be considered acceptable tenderers. Given the nature and extent of the Admin Building Project, considerations like prospective tenderers’ relevant experience, key personnel, resources and demonstrated understanding of projects where renovations of existing buildings are combined with construction and integration of new buildings, should be the determining factors in this preliminary selection process. In determining the acceptable tenderers each compliant submission will be scored against these criteria, which are weighted to indicate the relative importance that the City places on each criterion.

Respondents should be required to demonstrate their experience with successfully undertaking and completing projects which comprised of construction of public/administration/office facilities with a project value similar to the Admin Building Project, with at least one such project successfully undertaken in regional Western Australia. Respondents should also be required to demonstrate relevant experience in undertaking projects which involved staged construction and accommodation of staff/occupants onsite during the construction. Due to the importance of this criterion it is proposed that it carry a weighting of 40%.

Respondents should be required to provide information regarding their employment/engagement of personnel with relevant experience and skills to undertake and successfully complete the Admin Building Project. Specific information in relation to the role of key personnel in the performance of

the project should be required, including their qualifications and experience with projects similar to the Admin Building Project. It is proposed that this criterion carry a weighting of 20%.

Respondents should demonstrate their ability to supply, manage and sustain plant and equipment required for undertaking and completing the Admin Building Project within the proposed timeframe, financial resources to successfully manage the cashflow requirements of the project and their ability to implement contingency measures which may be required in event of an emergency/special circumstances. Prospective tenderers' financial ability to undertake and manage a contract of this magnitude should be a significant consideration. Respondents should be required to demonstrate that, if awarded the contract, they will be able to fulfil the requirements of the Admin Building Project from their own resources (or from resources readily available to them) and remain able to pay all of their debts in full as and when they fall due. It is proposed that this criterion carry a weighting of 30%.

Respondents should be required to provide detail of their experience/involvement in undertaking projects similar to the Admin Building Project where renovations of existing buildings were combined with construction and integration of new buildings. It is proposed that this criterion carry a weighting of 10%.

It is recommended that Council endorse these selection criteria which are set out in full in the OFFICER RECOMMENDATION section of this report.

The proposed preliminary selection process involves to a large extent a relatively straight forward administrative process of assessing submissions in accordance with clear selection criteria that provide limited scope for the exercise of discretion. Therefore it is also recommended that Council delegate to the CEO the power to decide, in accordance with abovementioned selection criteria, which, if any, of those expressions of interest that are received, are from person considered to be capable of satisfactorily delivering the Admin Building Project. The CEO has indicated that he will, before exercising his delegation, consult with the City's Administration Building Working Group and in particular with the Councilors who are members of that group. The Council will make the ultimate decision in relation to the award of a tender for the Admin Building Project and this is just a preliminary step in that process.

CONCLUSION

Under the LG Regulations Council has the ability to seek expressions of interest prior to inviting tenders for construction of the new Administration Building if there is good reason to make a preliminary selection from amongst prospective tenderers. It is considered that, due to the nature and extent of the construction services required for this project and the opportunity to avoid incurring unnecessary costs, it would be advantageous to the City if tenders were invited only from persons who Council considered to be acceptable tenderers.

In order to ensure a fair, transparent and effective evaluation process it is proposed that Council adopt the proposed selection criteria and delegate to the CEO the power to decide, in accordance with abovementioned selection criteria, which, if any, of those expressions of interest that are received, are from persons considered to be capable of satisfactorily delivering the Admin Building Project.

OPTIONS

Council may wish to proceed to publicly invite tenders for construction of the new Administration Building without first following the proposed preliminary selection process. However for the reasons discussed under OFFICER COMMENT section of this report a preliminary selection process in accordance with the LG Regulations is recommended prior to tenders being invited.

Council could also choose at their discretion to alter the requirements or weighting of any of the proposed selection criteria. Finally, Council may elect to not delegate authority to the CEO to determine the list of acceptable tenderers, however, given this is a relatively straight forward step in the tender process which Council will ultimately determine, officers believe it would cause an unnecessary delay to require another Council decision at this stage of the process.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If Council resolve to adopt the officer recommendation, Statewide public notice that expressions of interest are sought will be given, with the closing date during the first week of June 2015 (allowing for a minimum of 14 days submission period). Assessment of submissions received and shortlisting of acceptable tenderers will occur as soon as is practicable after the closing date.

Council Decision and Officer Recommendation

C1505/118

Moved Councillor T Best, seconded Councillor J McCallum

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Resolves to seek in accordance with Regulations 21(3) and (4) of the *Local Government (Functions and General) Regulations 1996*, expressions of interest with respect to the supply of goods and services required for construction of the new City of Busselton Administration and Civic Centre;
2. Resolves to endorse the following selection criteria for purposes of deciding which, if any, of those expressions of interest that are received, are from persons considered to be capable of satisfactorily supplying the goods and services required for construction of the new City of Busselton Administration and Civic Centre:
 - (a) Relevant Experience (weighting 40%)

Respondents should describe its experience, competency and proven track record in undertaking and successfully completed at least 3 projects similar to the Project (**Relevant Projects**) where:

 - (i) At least one(1) Relevant Project comprised of construction of public/administration/office facilities;
 - (ii) The construction of at least two(2) Relevant Projects where the construction costs of each exceeded \$15 million;
 - (iii) The Respondent acted as main contractor in relation to each Relevant Project (i.e. not as subcontractor or joint venture partner);
 - (iv) At least one (1) of these Relevant Projects have been successfully undertaken and completed in regional Western Australia;
 - (v) Sound judgment and discretion in identifying and resolving issues that arose during Relevant Projects and how these were managed; and
 - (vi) A staged construction was undertaken or occupants were required to be accommodated onsite during the construction.
 - (b) Key Personnel Skills and Experience (weighting 20%)

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

- (i) their role in the performance of the Project;
- (ii) curriculum vitae;
- (iii) membership to any professional or business associations;
- (iv) qualifications, with particular emphasis on experience of personnel in projects similar to the Project; and
- (v) any additional information which may be relevant to the Project.

(c) Respondents' Capacity and Resources (weighting 30%)

Respondents should demonstrate their ability to supply, manage and sustain:

- (i) plant and equipment required for undertaking and completing the Project within the proposed timeframe;
- (ii) contingency measures or back up of resources (including personnel) which may be required in event of an emergency/special circumstances; and
- (iii) financial resources to successfully manage the cashflow requirements of a construction contract with a value in excess of \$15 million.

As a minimum, Respondents should provide a current commitment schedule and plant/equipment schedule in an attachment and label it "**Respondents' Resources**"

(d) Demonstrated Understanding (weighting 10%)

- (i) Respondents should detail their experience/involvement in undertaking projects similar to the Project where renovations of existing buildings were combined with construction and integration of new buildings.
- (ii) Respondents should demonstrate their understanding of what is required to complete the Project.

3. Delegates to the Chief Executive Officer the power to decide which, if any, of those expressions of interest that are received, are from person who he thinks to be capable of satisfactorily supplying the goods and services required for construction of the new City of Busselton Administration and Civic Centre.

CARRIED 8/0
BY ABSOLUTE MAJORITY

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16.1 PROCESS OF DETERMINATION OF SUCCESSFUL APPLICANTS FOR LOCKE ESTATE SITES

Councillor Tom Tuffin gave notice that he will move the following motion:

Moved Councillor T Tuffin, seconded Councillor R Bennett

That the Council:

1. In making further determinations of successful applicants (including, if necessary, the imminent Lot 16 determination) the following procedure be included;
 - a) A Panel which, includes members from the general public, is formed to provide recommendations to Council
 - b) That in selecting the preferred applicant the Panel will use criteria that are commensurate with, and relevant to, the primary purpose of the lease and those criteria will be weighted according to how well they contribute to the primary purpose. The primary purpose of the lease is,

“for the Lessee to use the Premises for temporary accommodation associated with the [Name of Lessee] for:

- I. Groups participating in organised educational, cultural, religious or recreational activities;*
- II. Financially disadvantaged persons who are otherwise not able to afford a holiday; and*
- III. Individuals or families requiring respite.”*

(A second Purpose, is to provide for Caretaker accommodation, but is not relevant to this motion)

- c) If more than one applicant, the Panel, develops a “short list” of applicants and then, with all available Panel members present, formally interviews all short listed applicants.
- d) Applicants be requested to provide contact details for at least three referees. These referees are to be contacted at the Panel’s discretion.
- e) Based on the results of the written applications, the interviews and comments from any referee contacted, the Panel provides the Council with a prioritised list of all applicants.
- f) The Council, considering the recommendations from the Panel, and, all other information that it deems to be relevant to the purpose of the Lease, decides which applicant will be offered the lease.

MOTION LOST 6/2

MOTION Voting:

For the motion: Councillor R Bennett and Councillor T Tuffin.

Against the motion: Councillor T Best, Councillor J Green, Councillor G Henley, Councillor J McCallum, Councillor I Stubbs and Councillor C Tarbotton.

REASON

We need a process for allocating the campsites that is entirely based on the purpose for which the Camps exist and which is transparent and can withstand public scrutiny.

OFFICER COMMENT

In 2007 the City commenced an extensive consultation process with community members and stakeholders to determine the future use of the Locke Estate, with the intention of examining various land use concepts for the site. The process was partially funded by the state and involved state agency and Locke Estate representatives and community members. Those considerations led to a decision to maintain the existing use of the land as community run campsites, but to incorporate several recommendations regarding enhanced environmental management of the area and an increased level of compliance with regards to usage of the campsites.

The decision of Council on the 23 September 2009 (C0909/332) provided clear criteria in relation to the type of organisations, whether current or future, that could be offered a lease in Locke Estate and criteria for assessment of prospective lessees. The Council in part resolved;

4. *That all future lessees will be required to meet the following criteria;*
 - (i) *be a 'Not for Profit' Incorporated body with charitable, educational, and / or benevolent objectives;*
 - (ii) *have a Business Plan clearly setting out the services the organisation intends to provide and to whom those services will and will not be provided;*
 - (iii) *be able to demonstrate that the organisation has the financial and business acumen to operate a campsite for the purposes stated in its Business Plan;*
and
 - (iv) *in the case of an existing lessee, demonstrate compliance with their obligations under the current lease."*

These criteria were reflective of the desire of Council and other stakeholders involved in the process to ensure that the Locke Estate sites were leased not only for the right purpose but also that the lessees have the ability to deliver what they promised. As it was proposed to offer very long term leases, in most cases 21 years, in relation to the much sought after Locke Estate sites, it was seen as important that any lessee of a site had the financial resources and capability to deliver good quality services to the persons whom the Locke Estate was intended to benefit. Thus all existing lessees who renewed their leases have been required to in some cases spend considerable sums of money on coming into compliance with various obligations under various legislation including the Health Act and Caravan and Camping Grounds Act and to carry out extensive works on buildings and other facilities that were not in an adequate state of repair.

The selection criteria that have been put in place for prospective lessees of the Locke Estate have similar aims. While some tweaking of the criteria is proposed as part of an item to the

Policy and Legislation Committee in April 2015, which has been deferred pending consideration of this motion, the intent of the criteria has remained the same since Council's resolution of 2009. The criteria have a strong emphasis on the purpose and role of the organisation which is proposing to use the site and an assessment of the extent to which this meets the objectives of the lease purpose described in the Notice of Motion. However, if the proponent is proposing to carry out development and/or particular activities on the site, then it is important that the relevant professional officers assess whether that development and/or those activities is capable of being carried out on the site and whether it will ultimately be suitable and will add to the value to the site before making a decision that a particular proponent is a preferred proponent for a site. Similarly, if an organisation wishes to lease the site and is putting forward a particular proposal for the use of the site, it is important to assess whether it has the financial resources to both implement that proposal and also to continue to manage the site in accordance with the significant number of statutory requirements that may relate to the proposal. In assessing this financial capacity regard of course is had not only to existing financial resources but also any proposal or plan to gain funding such as grant funding and/or contained in a business plan which is submitted with the proposal and the likelihood of success in respect of that grant funding or those business plan proposals. Similarly it is important to consider the applicant's proposals for how they are going to manage the site and whether or not they have previous experience which and/or organisation capacity which demonstrates their ability to manage these very sensitive and difficult sites appropriately.

All of these issues and assessments are aimed at ensuring that a proposal which is put forward by an applicant can actually be carried out and will ultimately deliver upon the benefits to the community which are consistent with the lease purpose which is quoted in the Notice of Motion. However, officers consider it is important to spell out exactly how these issues will be taken into account in assessing a proposal and to give them an actual percentage measure of weighting in the assessment of the proposal to ensure that the process is open and fair to all and to give clear guidance to prospective proponents about the information that would be required and the work that would need to be done if they are interested in leasing the Locke Estate. It is acknowledged that the work in putting together this documentation requires some effort and staff assist with this where ever possible, however, ultimately the management of these sites also requires considerable resources and effort and officers believe that the approach which is being taken is most consistent with the outcomes of the Locke Estate review and the aims to ensure that the sites are best used and managed for the benefit of the community in accordance with the lease purpose.

For these reasons officer's believe that clear selection criteria need to be specified, more than just a reference to the lease purpose and that the criteria must include reference to financial resources and management capability. These criteria already exist, albeit that there is some tweaking proposed in a current item before the Policy and Legislation Committee, and thus officers are not supportive of the proposal to develop new criteria and weight that criteria solely in terms of how the proposal contributes to the primary lease purpose as per Item (b) of the Notice of Motion.

The process which is outline above involves the submission of financial information and other documentation outlining the resources and personnel of the proponent organisation

and it includes mechanisms for that information to be verified. Given the importance of selecting a good applicant who is able to carry out what it proposes for the Locke Estate, it is considered that this type of documentation is more appropriate to ensure the accuracy of the information submitted by the applicant, rather than asking for three referees whom may be contacted at the panel members discretion in accordance with Item (d) of the Notice of Motion. It is unclear whether the referees would actually have the ability to certify as to the accuracy of the information which the officers believe should be sought as part of this process and indeed whether they would even be able to comment on things like the financial viability of the organisation which is applying for a lease site. Further it is noted that Item (d) refers to referees being conducted at the panel members discretion, which leaves proponents unclear as to whether or not they will be contacted and could ultimately result in a process being followed that is not equal to all.

Officers are not supportive of including a formal interview as part of the process as proposed in Item (c) of the Notice of Motion. The aim is of the process which has been developed for the selection process which has been developed for the Locke Estate is to ensure that the process is completely transparent and could be reviewed by any person concerned with the outcome of the process. Thus it ultimately relies on documentation submitted as part of the process. Furthermore, it is unclear how the interview will be scored as part of the process and how information provided at the interview, should it be in addition or different to information provided earlier in the process, would be dealt with. Ultimately, in choosing a prospective proponent for a Locke Estate site, the City is engaging with an organisation not a person. It is quite possible that a person who presents on behalf of an organisation at an interview may ultimately no longer remain with the organisation, and/or may have no role in the management of the Locke Estate itself; indeed it is possible that organisations could engage someone to speak on their behalf to present their best possible case. Officers believe the most important factor for determining a lessee of the Locke Estate is the nature of what they are intending to do as described in their proposal and their ability to carry it out. A person presenting on behalf of the organisation at an interview is not seen as likely to add any significant value in assessing the organisation's capability to meet its requirements as a Locke Estate lessee.

Finally, officers are not supportive of including members of the general public as part of the panel which assesses Locke Estate lease applications as proposed in Item (a) of the Notice of Motion. Comment has previously been made about governance concerns of this, noting that members of the public would not be subject to the City's Code of Conduct and in particular the provisions of this Code relating to potential conflicts of interest. Members of the public would also not be subject to direction in the same way that a staff member could be in terms of how they are to carry out the process, thus making it more difficult to ensure that information which could be of quite a confidential and sensitive nature is treated and assessed appropriately.

More importantly, this is considered unnecessary when further consideration is given to the officers' role in the process and who the actual decision maker is in the process. The decision is ultimately made by the Council, noting that Councillors are the ultimate representatives of community views as they are elected to represent the community. The role of the assessment panel is to assess proposals which are put in in accordance with very clear and designated criteria and make a recommendation. In carrying out that role there is

considerable reliance on the professional skill that exists within the organisation. While the panel might consist of three members, they collect information from relevant departments as is relevant to the proposals. For example, if the proposal involves development, then an assessment will be undertaken by one of the planning and development staff to ensure the proposal can be compliantly carried out at the Locke Estate. While the panel ultimately makes recommendations on the proposal in accordance with the clear weighted criteria, all of the information considered by the panel can if needed be made available to the Council so that they can ultimately choose the proponent they think is most appropriate for the site. Thus the key role of the panel is to professionally assess the information that is submitted and the key skills that are utilised during this are knowledge of things like property management, planning and development process, the City's community development objectives and related plans, the appropriateness and veracity of financial and other management information which is submitted and the like. For this reason the assessment of submissions is best undertaken by qualified officers employed by the City noting that the decision as to the ultimate proponent for the site is one that should only be made by the Council.

For all of these reasons officers are not supportive of the process that is outlined in the Notice of Motion. Officers believe that the process for the assessment of Locke Estate lease applications should continue as per the existing process, with the tweaking to selection criteria which is proposed in an Item currently before the Policy and Legislation Committee.

17. CONFIDENTIAL REPORTS

Nil

18. PUBLIC QUESTION TIME

Nil

19. NEXT MEETING DATE

Wednesday, 27 May 2015

20. CLOSURE

The meeting closed at 6.05pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 51 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 27 MAY 2015.

DATE: _____

PRESIDING MEMBER:
