



Ordinary Council Meeting

11 December 2019

LATE ITEM

REPORT

ITEM NO

SUBJECT

11.3.5

RFT 05-20 MARGARET RIVER MAIN STREET REDEVELOPMENT CONSTRUCTION

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LOCATION/ADDRESS	Bussell Highway and Fearn Avenue, Margaret River
APPLICANT/LANDOWNER	N/A
FILE REFERENCE	COR/397
REPORT AUTHOR	Peter Brown, Project Manager
AUTHORISING OFFICER	Stephanie Addison-Brown, Chief Executive Officer

IN BRIEF

- A Request for Tender (RFT) was advertised for the provision of construction services, for the Margaret River Main Street Redevelopment (Project).
- The Project is to be funded through a combination of Shire municipal funds, reserves and grants, with the majority of funding coming from the State's Royalties for Regions grant, through the South West Development Commission.
- Due to funding constraints, the tendered construction works were split into separable, geographical portions, with the Shire maintaining the option to contract the final phase of works (phase 3) subject to future funding being obtained.
- Two tenders were received by the tender deadline.
- Tenders were assessed by an evaluation panel (Panel) made up of Shire officers, and a recommendation prepared.

RECOMMENDATION

That Council:

1. Accepts the tender submitted by Busselton Civil Pty Ltd as the most advantageous tender to form a contract; and
2. Delegates power and authority to the Chief Executive Officer to:
 - a) Negotiate and agree with Busselton Civil Pty Ltd variations in accordance with Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996*, subject to such variations not causing the contract price to exceed the available project funding; and
 - b) Enter into a contract with Busselton Civil Pty Ltd.

LOCATION PLAN



The Project site runs along the Bussell Highway from approximately Higgins Street at the northern end, to south of the Forrest/Wallcliffe Road intersection, and incorporates part of Fearn Avenue.

TABLED ITEMS

Nil

BACKGROUND

The State Government – through the South West Development Commission – and the Shire of Augusta Margaret River are jointly funding the Margaret River Main Street Redevelopment. The redevelopment commenced in 2012 as part of a State Government SuperTowns Program. Stage One of works being completed in 2013.

The redevelopment includes road surface and pavement rehabilitation works and upgrades, new drainage infrastructure, new and improved lighting, the creation of new public spaces, intersection improvements, new and improved pathways, new and improved pedestrian crossings, cycling infrastructure, signs and line marking renewals, new street furniture and new hard and soft landscaping, as well as associated civil and electrical works.

In October 2018, the Shire undertook a public open tender process to appoint a suitable contractor for the provision of construction services for the remaining Project works. A number of quality tenders were received, however all tendered prices exceeded the available funding, and as such all tenders were rejected.

Significant work has been undertaken since rejection of the tenders in an effort to restructure the funding agreement with the State Government, as well as revise the scope of works through the introduction of works staging and value engineering.

In October 2019, following these amendments, the Shire again undertook a public open tender process for the Project.

The RFT document made clear that the Project was subject to funding constraints, and that the award of a contract would rely on tendered prices meeting the funding constraints. The RFT document also noted that the Project would be staged, to allow for partial construction and completion of the Project independent of funding for Phase 3 of the Project being secured.

CONSULTATION AND ADVICE

External Consultation

The Shire continues to liaise with the funding partner, the South West Development Commission, including discussion of the Project at a Project Control Group Meeting on 18 November 2019.

Officers have sought reference checks and have obtained external financial viability assessments for both tenderers.

Internal Consultation

- Chief Executive Officer
- Director Infrastructure Services
- Manager Asset Services/Acting Director Infrastructure Services
- Manager Corporate Services/Acting Director Corporate and Community Services
- Coordinator Technical Services
- Project & Procurement Officer

DISCUSSION / OFFICER COMMENTS

RFT 05-20 Margaret River Main Street Redevelopment Construction was issued as a public tender on Wednesday 23 October 2019, and closed Friday 22 November 2019. The invitation to tender was advertised in the West Australian and Augusta Margaret River Times newspapers, as well as on the Shire's website.

Twenty-six organisations requested – and were provided with – a copy of the RFT documents.

A non-mandatory RFT briefing formed part of this tender process and was held at 10:30am on Friday 1 November 2019 at the Margaret River Shire Civic Administration Centre. Representatives from six organisations attended this briefing.

Two addenda were issued during the RFT Open Period and a number of clarifications were provided.

Details of organisations provided with RFT documents, as well as details of clarifications sought and given plus addenda issued were all recorded in an RFT Open Period Log.

The Shire received two tender responses from the following organisations:

- Busselton Civil Pty Ltd (BCP)
- Georgiou Group Pty Ltd (Georgiou).

Both tender submissions were received before the deadline stated in the RFT document.

Each tender response was evaluated by a Panel consisting of:

Name	Title
Chris Yates	Coordinator Technical Services, Shire of Augusta Margaret River
Dr. Markus Botte	Director Infrastructure Services, Shire of Augusta Margaret River
Peter Brown	Project Manager, Shire of Augusta Margaret River

The evaluation process was facilitated by Mel Aylett, Project and Procurement Officer.

In accordance with the evaluation process outlined in the RFT document, the assessment included, amongst other things:

- Assessing tenders received against relevant compliance criteria. The compliance criteria were not point scored. Each submission was assessed on a Yes/No basis as to whether each criterion was satisfactorily met.
- Assessing tenders against the following qualitative criteria:

Criteria	Weighting
Relevant Experience	25%
Tenderer's Resources	25%
Demonstrated Understanding	30%
Occupational Safety, Health and Environmental Management	10%
Sustainability Considerations	10%
Total	100%

A scoring and weighting system was used to assess the tenders against these qualitative criteria, with the extent to which a tender demonstrated greater satisfaction of each of the qualitative criteria resulting in a greater score.

- The Panel then assessed tendered prices together with the weighted qualitative criteria, and the tenders were ranked to determine the most advantageous outcome for the Shire, based on the principle of achieving best value for money. That is, although price was a consideration, the tender containing the lowest price will not necessarily be accepted, nor will the tender ranked the highest on qualitative criteria.
- The Panel also undertook due diligence checks to inform an assessment of risks involved in implementing the Officer's recommendation.

Outcomes of the tender evaluation are outlined in Confidential Attachment 1 – Tender Evaluation Report and can be summarised as follows:

- Both tenders were deemed compliant
- Georgiou scored marginally higher than BCP on qualitative criteria
- BCP were the only tenderer to submit a tender price for Phases 1 and 2 of the Project which fell within the funding constraints
- Some potential risk was highlighted in relation to BCP's capacity to deliver the Project based on their organisational size. Clarification was sought on a number of items from BCP. Responses provided gave the evaluation panel some confidence that, with implementation of security arrangements as outlined in the RFT document and adequate contract management, BCP would have the capacity to undertake the Project. These concerns and clarifications are detailed in Confidential Attachment 3 – Shire financial viability assessment.

STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

The contract value is greater than \$250,000 and therefore, in accordance with section 5.43(b) of the *Local Government Act 1995* (the Act), read with Delegation 9, the award decision in relation to this contract must be made by Council.

Section 3.57 of the Act requires local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

Part 4 of the *Local Government (Functions and General) Regulations 1996* (Regulations) requires that tenders be publicly invited for such contracts where the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000. The Regulations also stipulate the statutory framework for inviting and assessing tenders and awarding contracts, pursuant to this process.

In regards to RFT 05-20, Shire officers have complied with the abovementioned legislative requirements.

The Regulations also contain provisions relating to the variation of requirements before entry into contract, and variations after entering into a contract as follows:

Regulation 20 allows local government to make variations to the goods or services required after inviting tenders and choosing a successful tenderer, but before entering into contract, on the condition that such variations is considered minor by the local government, having regards to the total goods or services that tenderers were invited to supply.

Regulation 21A allows for the variation of a contract after it has been entered into, only on certain conditions such as:

- The variation being necessary in order for the goods or services to be supplied, and does not change the scope of the contract; or
- The variation being a renewal or extension of the term of the contract, where the original tender and contract allowed for such renewal or extension.

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2036 (CSP)

Corporate Business Plan 2019-2023

Key result area 3: Ensuring sustainable development

Community Outcome 6: Connected and safe transport network

Strategic Response: Manage traffic flows, parking and pedestrian safety in town and village centres

Service level strategy/plan: Secure funding to deliver the Margaret River Town Centre Revitalisation Project (Main Street and Fearn Avenue)

PLANNING FRAMEWORK

Nil

FINANCIAL IMPLICATIONS

The Project is being funded as follows:

Project Funding Available	
State Royalties for Regions (less \$200,000 drawdown)	\$5,290,000

Interest on Royalties for Regions funding (estimate)	\$257,846
Shire of Augusta Margaret River – reserves	\$2,732,536
Shire of Augusta Margaret River – municipal funds	\$400,000
Total Project Funding	\$8,680,382
Spent to date – 2019/20	(\$127,606)
Remaining Project Funding¹	\$8,552,776

¹ Figures are current as at 30 November 2019. As well as the construction contract, further costs can be expected for internal project resourcing, insurances, contingency, and consultants.

As expected by the Shire, no tenderer submitted an offer with a total tendered price within the above funding parameters.

BCP, who are recommended for award of the contract, were the only tenderer to have submitted a tender price within the Shire's above funding constraints for works in Phases 1 and 2.

Long Term Financial Plan

The Margaret River Main Street Redevelopment is a key project, included in the Long Term Financial Plan.

Whole of Lifecycle considerations

A lifecycle cost analysis has not been conducted. However, all components of the Project will require renewal at some stage during their expected useful lives. The Shire will be required to financially depreciate new assets created or transferred as part of the delivery of this Project, including the road and drainage assets associated with Bussell Hwy and currently under the care, control and management of Main Roads Western Australia. The Shire will need to plan for the management and renewal of these assets into the future.

SUSTAINABILITY IMPLICATIONS

Environmental

The Project will deliver a number of key environmental improvements, including:

- A rain garden included in Fearn Avenue Square;
- Improved verge landscaping included in the Main Street;
- A cycle lane, which will help create a culture of using alternative transport modes;
- Increased tree planting, which will reduce the urban heat island effect and provide habitat for fauna; and
- New energy efficient LED street lighting.

Social

Social benefits expected to be derived from delivery of the Project include:

- The curated streetscape will provide extensive opportunities for community engagement;
- A safe pedestrian environment will contribute to increased amenity;
- Improvements to the streetscape will provide a safer and more equitable pedestrian and cyclist environment; and
- Improved quality of life for local residents.

Economic

The Project is expected to benefit the long term economic sustainability of the Margaret River town centre through provision of:

- A safe pedestrian environment will contribute to increased retail opportunities;
- Streetscape curation which will provide opportunities for pop up shops and increased retail activity;
- Increases in tourism visitation to Margaret River and the region;
- Increases in economic activity (from tourism expenditure and enhanced commercial opportunities in the main street);
- Improvement in brand value of Margaret River;
- Increases in the ability of Margaret River to attract future residents and employees;
- Reductions in street lighting costs and maintenance costs; and
- Increased development opportunities in the Main Street.

ADVOCACY

Nil

ALTERNATE OPTIONS

Council may consider the following alternative options:

1. Awards the tender to the alternative tenderer. This would be unlawful however, as the Shire does not have sufficient funding to enter into a contract with the other tenderer for their tendered price.
2. Rejects all tenders. This would mean either not going ahead with the Project, or else needing to go back out to tender, resulting in significant delays to the Project and/or possible loss of State funding.

For the reasons provided in this report, the abovementioned options are not recommended.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council:

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2. Delegates power and authority to the Chief Executive Officer to:
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 - b) Enter into a contract with Busselton Civil Pty Ltd.

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

1. CONFIDENTIAL Tender Evaluation Report
2. CONFIDENTIAL Illion Financial Risk Report – Busselton Civil Pty Ltd
3. CONFIDENTIAL Shire Financial Viability Assessment – Busselton Civil Pty Ltd