



TWEED SHIRE COUNCIL

AGENDA

OPERATIONS COMMITTEE MEETING

Tuesday 17 February 2009

Mayor: Cr J van Lieshout

**Councillors: Cr B Longland, Deputy Mayor
Cr D Holdom
Cr K Milne
Cr W Polglase
Cr K Skinner
Cr P Youngblutt**

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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM THE DIRECTOR ENGINEERING & OPERATIONS

a011 [EO-OC] Supply of Retail Electricity to Contestable Sites

ORIGIN:

Contracts

FILE NO: EC2009-010

SUMMARY OF REPORT:

This report explains Council's situation in regards to Supply of Retail Electricity to Contestable Sites (large sites consuming more than 160,000kWh per year).

The current contract with Country Energy is due to expire on 30 June 2009. Council has two options available to ensure continuation of electricity supply at competitive rates. Both options are further explained in the body of this report.

Option 1

Engage Energy Australia to supply electricity under State Contract No.777

State Contract No.777 (Supply of Retail Electricity for Large Sites, Street lighting & Traffic Signals) is managed by the NSW Department of Commerce and has been awarded to Energy Australia. Tweed Shire Council has previously resolved to utilise the NSW Department of Commerce contract to alleviate the need to call tenders on a regular basis and to achieve significant cost savings through the combined purchasing power of State Government. Consumers were required to contact the supplier direct to obtain a Retail Electricity Supply Agreement (RESA). Energy Australia has provided a RESA 'offer' to Council to enter State Contract No.777 for the period 1 July 2009 until 30 June 2010. However, this offer is only valid until 18 February 2009. The offer will be withdrawn if the RESA is not authorised and returned by the due date.

Option 2

Prepare an Open Market Tender for the Supply of Retail Electricity

The current contract (EC2008-087 Supply of Retail Electricity) is with Country Energy and will remain in place until 30 June 2009. Previously, all of Councils electricity supply contracts have been created through open market tenders. Council will have sufficient time to prepare an open market Tender Request within the period leading up to the expiry of the current contract. The closing date of tenders would need to be considered carefully as open market electricity supply offers are usually only valid for a short period of time due to the volatile nature of the industry.

It is recommended that Council approves entering into State Contract No.777 with Energy Australia (the supplier awarded the contract by the NSW Department of Commerce) for the Supply of Retail Electricity to Contestable Sites for a period from 1 July 2009 to 30 June 2010. The recommendation to engage State Contract No.777 is in alignment with resolutions of previous Council Meetings.

RECOMMENDATION:

That:-

- 1. Council accepts the Retail Electricity Supply Agreement from Energy Australia for the Supply of Retail Electricity for Large Sites, Street lighting & Traffic Signals (Contestable sites) under State Contract No.777 for the contract period from 1 July 2009 to 30 June 2010.**
- 2. The General Manager be given delegated authority to complete two (2) copies of the Retail Electricity Supply Agreement for submission to Energy Australia by 18 February 2009.**
- 3. A GreenPower Options report be prepared for recommendation by Council before 1 July 2009. The report will focus on the additional costs and benefits achieved by nominating a percentage of GreenPower energy under State Contract No.777**
- 4. ATTACHMENTS A & B are CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret**

REPORT:

Background

On 15 July 2008, Council resolved to accept the Retail Electricity Supply Agreement from AGL for the Supply of Electricity to Small Sites (Non Contestable sites) under State Contract No.776 (1/07/2008 to 30/06/2011).

The resolution ensured that Councils 400+ small sites were under a competitive contract from 1 July 2008 to 30 June 2011. State Contract No.776 provides Council with significant cost savings through the combined purchasing power of State Government. It has also removed the need for a lengthy tender process for supply of electricity to small sites each year and reduces the number of electricity accounts and bills in Councils finance system.

Council also resolved to endorse a 3 month extension on Contract EC2005-058 (Supply of Retail Electricity) with Origin Energy (1/07/2008 to 30/09/2008) and resolved to tender on the open market for the Supply of Electricity to Contestable Sites & Street lighting and to be in effect by 1 October 2008 (1/10/2008 to 30/06/2009).

The resolutions had to be made as the State Contract No.776 had been oversubscribed and the option to include large sites (contestable sites) was withdrawn by the supplier. The resolutions were made to ensure that Council is in a position to enter State Contract No.777 which is available from 1 July 2009.

On 8 August 2008, the NSW Department of Commerce issued a public notification stating that the current State Contract No.777 (held by Energy Australia for the contract period 1 July 2006 to 30 June 2009) was no longer open to new clients as it had exceeded the nominated energy load under the agreement. The notification also indicated that all eligible users' sites that are not under the current State Contract No.777 should be able to join the contract once NSW Procurement has a new contract in place, commencing 1 July 2009. Clients were advised to enter into a short term arrangement with a market retailer to cover their sites until 30 June 2009.

On 12 August 2008, Council resolved to enter into a nine (9) month electricity supply contract (EC2008-087 Supply of Retail Electricity to Contestable Sites) with Country Energy. This Contract is due to expire on 30 June 2009. The expiry date of the Contract was set to coincide with the start date (1 July 2009) for the new State Contract No.777 (Supply of Retail Electricity for Large Sites, Street lighting & Traffic Signals) managed by the Department of Commerce.

Option 1 Summary

Engage Energy Australia to supply electricity under State Contract No.777

State Contract No.777 (Supply of Retail Electricity for Large Sites, Street lighting & Traffic Signals) is managed by the NSW Department of Commerce and has been awarded to Energy Australia. Consumers are required to contact the supplier direct to obtain a Retail Electricity Supply Agreement (RESA). Energy Australia has provided a RESA 'offer' to Council to enter State Contract No.777 for the period 1 July 2009 until 30 June 2010. However, this offer is only valid until 18 February 2009. The offer will be withdrawn if the RESA is not authorised and returned by the due date.

On 29 January 2009, Council contacted Energy Australia (the supplier awarded the contract by the Department of Commerce) to register interest in entering the State Contract No.777 arrangement from 1 July 2009.

On 4 February 2009, Council received a Retail Electricity Supply Agreement 'offer' for State Contract No.777 from Energy Australia.

The Tender Evaluation was conducted by an expert panel from the NSW Department of Commerce and the assessment details were not disclosed to consumers of State Contract No.777.

Independent energy experts have advised the NSW Department of Commerce that they endorse State Contract No.777 for the period 1 July 2009 to 30 June 2010 as strategically prudent and representing good value in line with the volatility of the current market and also taking into account future risk.

Tweed Shire Council officers have consulted with the Account Managers from Energy Australia and were able to obtain an extension of their RESA offer deadline from 13 February 2009 to 18 February 2009 to coincide with the next Council meeting to be held on 17 February 2009.

The benefits of the contract with Energy Australia include:

- Quick, easy access for electricity needs, all at government best price
- Hassle free and common terms and conditions
- Significant savings through the combined purchasing power of State Government
- Flexible options to purchase and modify accredited GreenPower
- Remove the need to request open market tenders each time a contract expires

The full Retail Electricity Supply Agreement and the Unauthorised Agreement documentation are shown in **CONFIDENTIAL ATTACHMENT A.** A cost comparison between previous contracts (EC2008-087 & EC2005-058) and the proposed State Contract No.777 is also included in **CONFIDENTIAL ATTACHMENT B.**

It is recommended that Council approves entering into State Contract No.777 with Energy Australia (the supplier awarded the contract by the NSW Department of Commerce) for the Supply of Retail Electricity to Contestable Sites for a period from 1 July 2009 to 30 June 2010. The recommendation to engage State Contract No.777 is in alignment with resolutions of previous Council Meetings.

Option 2 Summary

Prepare an Open Market Tender for the Supply of Retail Electricity

The current contract (EC2008-087 Supply of Retail Electricity) is with Country Energy and will remain in place until 30 June 2009. Council would have sufficient time to prepare an open market Tender Request within the period leading up to the expiry of the current contract.

Any open market tendering would need to be carefully planned so that Council has sufficient time to make a resolution after receipt of tenders. This is critical because retail electricity suppliers cannot offer electricity prices for more than a few days due to the volatility of the electricity purchasing market.

There is no solid evidence to indicate that Tweed Shire Council can obtain a more competitive schedule of rates than that offered under the State Contract No.777 arrangement. Also, the June / July period is the worst time of year to accept electricity supply prices as the supply demand is generally higher at this time of year.

GreenPower Availability

GreenPower is available under all components of State Contract No.776 & 777 managed by the NSW Department of Commerce. A commitment to the purchasing of GreenPower energy has not been included in the recommendations of this report as the recommendation to enter the State Contract No.777 by the due date is the critical action.

If the recommendations of this report are resolved, GreenPower Options will be considered further in a separate report prepared for recommendation by Council before 1 July 2009. The report will focus on the additional costs and benefits achieved by nominating a percentage of GreenPower energy under State Contract No.777.

The RESA terms offered by Energy Australia include flexible GreenPower purchasing arrangements which enable clients to alter their GreenPower commitment without any added administration fees through the life of the contract.

GreenPower offers NSW Government agencies a simple way to reduce greenhouse gas emissions and demonstrate commitment to the environment. All Schedule 1 NSW Government agencies are required to buy a minimum of 6% of annual electricity from GreenPower accredited by the NSW Department of Energy, Utilities & Sustainability (DEUS).

Other agencies and State owned corporations are voluntarily making the commitment to purchase a portion of their electricity needs as accredited GreenPower, such as Sydney Water and the Zoological Parks Board. Tweed Shire Council is not classed as a Schedule 1 Government Agency and by law it is not required to purchase portions of accredited GreenPower energy.

However, at the Council meeting on Wednesday 19 February 2003, Council adopted a goal to reduce its greenhouse gas emissions to 20% below 1996 levels by 2010. Choosing at least a 6% portion of GreenPower would be a significant contribution towards the achievement of this goal and demonstrate Council's ongoing commitment to climate change mitigation.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

This tender process is in accordance with Section 55 of the Local Government Act 1993 and Part 7 (Tendering) of the Local Government (General) Regulation 2005.

Funding is provided from the 2009/2010 Budget for each Council Divisions Operating Expenses.

POLICY IMPLICATIONS:

The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contracts Management Process document and Tenders Procedure.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. **CONFIDENTIAL ATTACHMENT A** - Retail Electricity Supply Agreement (ECM 1985968)
 2. **CONFIDENTIAL ATTACHMENT B** - Cost Comparison (ECM 1986784).
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OPERATIONS COMMITTEE MEETING DATE: TUESDAY 17 FEBRUARY 2009
ADDENDUM
