



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

Councillors: P Allsop
R Byrnes
C Cherry (Deputy Mayor)
R Cooper
J Owen
W Polglase

Agenda

Ordinary Council Meeting Thursday 2 May 2019

held at

**Council Chambers, Murwillumbah Civic & Cultural Centre,
Tumbulgum Road, Murwillumbah**

commencing at the conclusion of the Planning Committee meeting
which commences at 5.30pm.

Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

- (a) Provide strong and effective representation, leadership, planning and decision-making.
- (b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Work with others to secure appropriate services for local community needs.
- (h) Act fairly, ethically and without bias in the interests of the local community.
- (i) Be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

- (a) Recognise diverse local community needs and interests.
- (b) Consider social justice principles.
- (c) Consider the long term and cumulative effects of actions on future generations.
- (d) Consider the principles of ecologically sustainable development.
- (e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.

Items for Consideration of Council:

ITEM	PRECIS	PAGE
	CONFIRMATION OF PLANNING COMMITTEE MINUTES	5
1	[CONMIN-CM] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 2 May 2019	5
	REPORTS THROUGH THE GENERAL MANAGER	7
	REPORTS FROM THE DIRECTOR ENGINEERING	7
2	[E-CM] Licence for Temporary Access on Council Land - Tweed Heads Wastewater Treatment Plant	7
3	[E-CM] Alteration of Locality Boundary between Chinderah and Kingscliff	12
4	[E-CM] RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers)	15
5	[E-CM] RFO2019033 2018-2019 Asphalt Resurfacing Program	20
	REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY	24
6	[FRIT-CM] Fossil Fuel Divestment	24
	CONFIDENTIAL ITEMS FOR CONSIDERATION	34
	REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE	34
	REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE	34
C1	[PR-CM] Unauthorised Forestry and Road Works at Lot 136 DP 755724 Boormans Road, Limpinwood	34
C2	[PR-CM] Alleged Unauthorised Works within Crown Road Reserve - Zara Road, Limpinwood	35
	REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE	36
C3	[CNR-CM] RFO2019027 Upgrade Works to the Tweed Heads Civic Centre - Cultural Plaza, Social Enterprise Cafe and Library Reading Room	36

THIS PAGE IS BLANK

CONFIRMATION OF PLANNING COMMITTEE MINUTES

1 [CONMIN-CM] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 2 May 2019

SUBMITTED BY: Corporate Governance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.4 Councillor and Civic Business - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The recommendations of the Ordinary Planning Committee Meeting held Thursday 2 May 2019 require their adoption by Council for the resolutions to be acted upon.

RECOMMENDATION:

That the recommendations of the Ordinary Planning Committee Meeting held Thursday 2 May 2019 be adopted.

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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).*

Nil.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR ENGINEERING

2 [E-CM] Licence for Temporary Access on Council Land - Tweed Heads Wastewater Treatment Plant

SUBMITTED BY: Water and Wastewater

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.3 Legal Services - To support and advise staff on organisational legal issues and property management of Council controlled assets

ROLE: **Provider**

SUMMARY OF REPORT:

Updated Summary

Council at its meeting of 17 April 2019 did not accept this as a late item on the agenda.

At its meeting held 21 March 2019 Council resolved as follows:

... that Council defers this item to the April Council Meeting.

The Motion was Carried

The report is reproduced as follows for the information of Council:

This item was considered at Council's meeting held on 21 February 2019. It was resolved to defer the item to the meeting being held on 21 March 2019.

Council issued a licence to use part of the Tweed Heads Wastewater Treatment Plant to Garbind Pty Ltd and Feitelson Holdings Pty Ltd in 2014, for a term of 2 years. The purpose of the licence was to allow the licensees to construct an access road to their land so that they could haul in fill for an approved industrial subdivision.

The applicant has an approved industrial subdivision which required them to purchase land from Council through the Waste Water Treatment Plant, the cost of the land was \$120,000

paid by the applicant in 2000. The parcel created in the subdivision of the land was dedicated as road, now known as Hakea Drive. This access has not been formed to date.

Council prefers the applicant to utilise the northern most access through the Waste Water Treatment Plant site to minimise traffic impact on Kennedy Drive for the haulage of fill.

A further 2 year term was requested in 2016 in response to the applicants being unable to source the required type and quantity of fill to complete the job at an economic rate, Council resolved on 18 February 2016 to provide a further 2 year licence from July 2016, this licence expired on 28 July 2018.

The applicants have now lodged a request for a new licence for a further 2 years as there have been issues outside of their control with commencing the formation of the haul road due to infrastructure impeding the construction of the haul road and ongoing negotiations for the sourcing of the fill.

Subsequent to the deferral of this item Council officers have contacted the Feitelson Holdings Pty Ltd and advised them of the condition in the Development Consent referring to the lapsing of the approval to access the development site through Council land. Further, officers advised that it is Council's view that a Section 4.55 will be required to amend this condition and Council is yet to receive advice back from Feitelson Holdings Pty Ltd regarding this matter. Council have the option of separate to the consent condition approving the granting of this temporary licence or alternatively awaiting the amendment of the consent condition which allows access via Council's property.

RECOMMENDATION:

That Council:

- 1. Approves granting of a temporary licence to Feitelson Holdings Pty Ltd and Garbind Pty Ltd over Lot 1 DP 1011625, for a term of 2 years, at a peppercorn rental.**
- 2. Executes all necessary documentation under the Common Seal of Council.**

REPORT:

This item was considered at Council’s meeting held on 21 February 2019. It was resolved to defer the item to the meeting being held on 21 March 2019.

Council issued a licence to use part of the Tweed Heads Wastewater Treatment Plant to Feitelson Holdings Pty Ltd and Garbind Pty Ltd (“the applicants”) in 2014, for a term of 2 years. The purpose of the licence was to allow the licensees to construct a temporary access road to their land so that they could haul in fill for an approved industrial subdivision.

The plan below shows the location of these 2 parcels, the Wastewater Treatment Plant is Lot 1 DP 1011625, showing the area to be licensed outlined in yellow, with the land being developed by the applicants to the west adjacent to the waterway:



A further 2 year term was requested in 2016 in response to the applicants being unable to source the required type and quantity and fill to complete the job at an economic rate, Council resolved on 18 February 2016 to provide a further 2 year licence from July 2016, this licence expired on 28 July 2018.

These reports are attachments to this report to provide a context and background information to this report.

The applicants have now lodged a request for a new licence for a further 2 years. During the term of the second licence period, the applicants have been in discussions with various parties to remove an Essential Energy Switching Station in the road reserve in Sussyer Avenue, previously Parkes Drive, which is the street access point for the northern part of Council's Lot 1.

Discussions to resolve this issue have been held with Council officers, Essential Energy, Queensland Airport Corporation and Queensland Department of Main Roads. These discussions are ongoing and the sourcing of the fill for the applicants' site is nearly complete.

OPTIONS:

1. To approve the granting of a temporary licence to the applicants for a further 2 year term.
2. To defer granting of a temporary licence to Feitelson Holdings Pty Ltd and Garbind Pty Ltd over Lot 1 DP 1011625 until such time as the consent condition for allowing access through Council's property is amended.
3. To not approve the granting of a temporary licence.

CONCLUSION:

As the Applicants have not been able to commence the physical works to utilise the area licensed to them in the previous licences due to circumstances beyond their control, it is recommended that a further 2 year licence is granted to allow them to commence the works under their approved consent.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

A peppercorn rental is proposed for this temporary access on the basis that the Applicant has previously purchased from Council a permanent access to their site through the Wastewater Treatment land for the amount of \$120,000.

c. Legal:

A licence agreement will provide a temporary right to use the licensed area for the purpose of temporary road and haulage of fill purposes only. The agreement provides that there will be no permanent access over the Council land.

d. Communication/Engagement:

Inform - We will keep you informed.

No public engagement required.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Council report and resolution dated 21 August 2012 (ECM5736556).

Attachment 2. Council report and resolution dated 18 February 2016 (ECM5736557).

3 [E-CM] Alteration of Locality Boundary between Chinderah and Kingscliff

SUBMITTED BY: Design

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.3 Legal Services - To support and advise staff on organisational legal issues and property management of Council controlled assets

ROLE: **Provider**

SUMMARY OF REPORT:

Council received an application from a private property owner to alter the locality boundary between Kingscliff and Chinderah.

At its meeting on 25 October 2018, Council resolved that further public consultation should occur in relation to the boundary adjustment.

Council has consulted with the public by writing to affected and neighbouring landowners and placing a notice in the Tweed Link on 12 February 2019.

In response, Council received over 90 submissions in relation to the locality boundary alteration (attached).

All submissions object to the proposal to change the locality boundary between Kingscliff and Chinderah.

RECOMMENDATION:

That:

1. **The request to alter the locality boundary between Kingscliff and Chinderah be declined.**
2. **ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (a) **personnel matters concerning particular individuals (other than councillors).**

REPORT:

Council received an application from a private property owner to alter the locality boundary between Kingscliff and Chinderah.

At its meeting on 25 October 2018, Council resolved that further public consultation should occur in relation to the boundary adjustment.

Council has consulted with the public by writing to affected and neighbouring landowners and placing a notice in the Tweed Link on 12 February 2019.

In response, Council received over 90 submissions in relation to the locality boundary alteration (attached).

Submissions were received from:

- individuals;
- the Chinderah Districts Residents Association Inc.; and
- the Tweed Byron Local Aboriginal Land Council.

All submissions object to the proposal to change the locality boundary between Kingscliff and Chinderah.

OPTIONS:

1. Decline the application from a private property owner to alter the locality boundary between Kingscliff and Chinderah.
2. Approve the application from a private property owner to alter the locality boundary between Kingscliff and Chinderah.

CONCLUSION:

Council received over 90 submissions all of which opposed the application to alter the locality boundary between Kingscliff and Chinderah so it is therefore considered appropriate to decline the application.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Involve/Collaborate - We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

Council has consulted with the public by writing to affected and neighbouring landowners and placing a notice in the Tweed Link on 12 February 2019.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Submissions received in response to public notice (ECM 5845184).

4 [E-CM] RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers)

SUBMITTED BY: Infrastructure Delivery

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: Provider

SUMMARY OF REPORT:

Council is seeking submissions from quarry product producers to establish a Panel of Providers under contract RFO2019019 for the supply of a range of quarry materials used on an ad-hoc basis in Council's ordinary day-to-day road construction and maintenance operations.

At the time of closing seven (7) Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENT 1**. The recommendations are based on the evaluation.

RECOMMENDATION:

That in respect to Contract RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers):

- 1. Council awards the following organisations a place on the Panel of Providers for the contract RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers) for the period 19 May 2019 to 18 May 2020, with provision for 2 x 6 month contract extension options available to be exercised at Director – Engineering's sole discretion for their submitted rates included in the Confidential Attachment 1 RFO2019019 Offer Evaluation Report:**

Bidder	ABN
Graham's Quarry	32302591771
Hanson Australia Pty Ltd	86000186845
Uki Quarry Pty Ltd	17097349794
Hy-Tec Industries (QLD) Pty Ltd	54102801061
NUCRUSH Pty Ltd	23010119981
O'Keefe Quarries Pty Ltd	59134174020
Boral Resources (QLD) Pty Ltd	46009671809

2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.

3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (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:

Offer Background

Council is seeking submissions from quarry product producers to establish a Panel of Providers under contract RFO2019019 for the supply of a range of quarry materials used on an ad-hoc basis in Council's ordinary day-to-day road construction and maintenance operations.

Request for Offer Advertising

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised in The Sydney Morning Herald on Tuesday 12 March 2019, The Gold Coast Bulletin on 9 March 2019 and Tweed Link on 12 March 2019.

Offer submissions closed at 4.00pm (local time) on 3 April 2019 in the Tender Box located in the foyer at the tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and seven (7) Offers were recorded as below:

Bidder	ABN
Graham's Quarry	32302591771
Hanson Australia Pty Ltd	86000186845
Uki Quarry Pty Ltd	17097349794
Hy-Tec Industries (QLD) Pty Ltd	54102801061
NUCRUSH Pty Ltd	23010119981
O'Keefe Quarries Pty Ltd	59134174020
Boral Resources (QLD) Pty Ltd	46009671809

Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Council's Offer Evaluation Panel was made up as follows:

Position
Project Manager- Contracts
Technical Offer- Quarry Operations & Quality Control
Engineering Assistant

Offers were evaluated as per the Offer Evaluation Plan dated 21 March 2019.

The details of the evaluation are shown on the Offer Evaluation Report. A copy of the Offer Evaluation Report is included as ATTACHMENT 1 which is CONFIDENTIAL in accordance with Section 10A(2):

- (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

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

OPTIONS:

That Council:

1. Council awards the following organisations a place on the Panel of Providers for the contract RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers) for the period 19 May 2019 to 18 May 2020, with provision for 2 x 6 month contract extension options available to be exercised at Director – Engineering’s sole discretion for their submitted rates included in the Confidential Attachment 1 RFO2019019 Offer Evaluation Report:

Bidder	ABN
Graham’s Quarry	32302591771
Hanson Australia Pty Ltd	86000186845
Uki Quarry Pty Ltd	17097349794
Hy-Tec Industries (QLD) Pty Ltd	54102801061
NUCRUSH Pty Ltd	23010119981
O’Keefe Quarries Pty Ltd	59134174020
Boral Resources (QLD) Pty Ltd	46009671809

2. Declines to accept any of the Offers, including reasons for this course of action in accordance with Regulation 178 of the Local government (General) Regulation 2005.

CONCLUSION:

All seven (7) organisations that submitted were conforming and acceptable and should be offered a position on the panel for RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers):

Bidder	ABN
Graham’s Quarry	32302591771
Hanson Australia Pty Ltd	86000186845
Uki Quarry Pty Ltd	17097349794
Hy-Tec Industries (QLD) Pty Ltd	54102801061
NUCRUSH Pty Ltd	23010119981
O’Keefe Quarries Pty Ltd	59134174020
Boral Resources (QLD) Pty Ltd	46009671809

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for the contract RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers) is included in the 2019/2020 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Confidential Attachment RFO2019019 - Offer Evaluation Report (ECM5852201)

5 [E-CM] RFO2019033 2018-2019 Asphalt Resurfacing Program

SUBMITTED BY: Roads and Stormwater

Valid



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: **Provider**

SUMMARY OF REPORT:

Request for Offer RFO2019033 2018-2019 Asphalt Resurfacing Program was called to engage a suitably qualified and experienced contractor to carry out profiling of existing bitumen pavements, application of 10mm primer seal and asphalt wearing surface in accordance with the 2018-2019 Asphalt Resurfacing Program.

At the time of closing five (5) Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

RECOMMENDATION:

That in respect to Contract RFO2019033 2018-2019 Asphalt Resurfacing Program:

1. Council awards the offer to East Coast Asphalt and Concrete Edging ABN 51 755 877 285 for the amount of \$1,603,060.70 (exclusive of GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.
3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

REPORT:

Offer Background

Offer RFO2019033 2018-2019 Asphalt Resurfacing Program was called to engage a suitably qualified and experienced contractor to carry out profiling of existing bitumen pavements, application of 10mm primer seal and asphalt wearing surface in accordance with the 2018-2019 Asphalt Resurfacing Program.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offer was advertised from 5 March 2019 in the Sydney Morning Herald. The Request was also advertised in the TweedLink from 5 March 2019 and on Council's website.

Offer submissions closed at 4.00pm (local time) on 27 March 2019 in the Tender Box located in the foyer at the tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

There was an Offer Addendum (Notice to Bidders) issued before close of Offer.

Notice to Bidders No. 1 was issued to advise bidders that detours are allowed on one way traffic flow lanes for Item 1.1 Wharf Street On Ramp & Item 4.4 Sexton Hill Drive.

Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and five offers were received. Offers were recorded as below:

Bidder	ABN	Offered Amount (incl GST)
Creggs Asphalt Pty Ltd	53 163 653 656	Confidential Information
East Coast Asphalt and Concrete Edging	51 755 877 285	
Fulton Hogan	54 000 538 689	
RPQ Asphalt Pty Ltd	70 088 212 757	
Zafa Contracting	58 625 827 545	

Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Council's Offer Evaluation Panel was made up as follows:

Position
Engineer - Assets and Maintenance
Project Manager - Contracts
Engineering Assistant

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

Criterion	Document Reference	Weighting (%)
Value for Money (Normalised Offer Price) (Mandatory but Chairperson sets weighting)	Schedule 2 & 3	45
Price Compared with TSC Estimate	Schedule 2 & 3	Yes/No Item
Financial Details and Capacity	Schedule 4	Yes/No Item
Previous and Current Works (Experience)	Schedule 4	5
Project Management (Key Personnel)	Schedule 5	5
Methodology and Work Program (Time)	Schedule 6	10
WHS and Risk Management	Schedule 7	10
Environmental Management	Schedule 7	5
Quality Management	Schedule 7	10
Company Insurances	Schedule 9	Yes/No Item
Sustainable Procurement	Schedule 10	Yes/No Item
Local Content (Development of Local Business/Industry) (Mandatory 10% assessment as per Policy)	Schedule 11	10
Innovation	All Schedules	
Life of Proposed materials and equipment	All Schedules	Yes/No Item
Warranty Periods Offered	All Schedules	Yes/No Item
Council's Contract Administration Costs	Schedule 6	Yes/No Item
	Total	100

East Coast Asphalt and Concrete Edging achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A(2):

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

OPTIONS:

That Council:

1. Awards a contract to East Coast Asphalt and Concrete Edging ABN 51 755 877 285 for the amount of \$1,603,060.70 (exclusive of GST).

2. Declines to accept any of the Offers, including reasons for this course of action in accordance with Regulation 178 of the Local government (General) Regulation 2005).

CONCLUSION:

East Coast Asphalt and Concrete Edging achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

It is recommended that the Offer from East Coast Asphalt and Concrete Edging ABN 51 755 877 285 be accepted to the value of \$1,603,060.70 excluding GST.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7.

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for RFO2019033 is included in the 2018/2019 Roads Maintenance Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2019033 - Offer Evaluation Report (ECM 5845414).

(Confidential) Attachment 2. RFO2019033 - Offer Evaluation Scoring Sheet (ECM 5844973).

REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY

6 [FRIT-CM] Fossil Fuel Divestment

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.5 Financial Services - To collect and manage Council funds and provide information and advice to support sound financial decision-making.

ROLE: **Leader**

SUMMARY OF REPORT:

Updated Summary

Council at its meeting of 17 April 2019 did not accept this late item onto the agenda.

Council at its meeting held 21 February 2019 considered a report on Fossil Fuel Divestment and resolved as follows:

... that this item be deferred to the April Council meeting.

The report is reproduced as follows for Council's consideration.

On 20 September 2018 Council resolved:

"That Council brings forward a report on options to improve our rate of Fossil Fuel divestment considering our Ethical Investments have been stuck at around only 50% of our total funds invested since reporting on this first started."

The legislative and fiduciary responsibilities of Council and the constraints and difficulties in providing for targeted social/environmental investing are included within the body of this report.

Options that Council may wish to consider that:

- are practical and protect Council's underlying capital, as outlined in Councils adopted investment policy;
- use a source that is accredited and recognised within the industry; and
- provide an open, transparent and positive strategy for ethical investments

are outlined within this report.

RECOMMENDATION:

That Council officers continue to:

- 1. Adopt a positive screening approach for indirect divestments, utilising Australian Ethical as the source of advice, and prioritise investments in non-fossil fuel aligned Authorised Deposit-taking Institutions if the investment transaction is compliant with Council's investment policy and the rate of investment is no worse than other investments available to Council at the time.**
- 2. Highlight within the monthly investment report those investments that are acknowledged by Australian Ethical as worthy ethical investments and monitor progress in increasing levels of ethical investments.**

REPORT:

On 20 September 2018 Council resolved:

"That Council brings forward a report on options to improve our rate of Fossil Fuel divestment considering our Ethical Investments have been stuck at around only 50% of our total funds invested since reporting on this first started."

This report provides an analysis of options which Council may consider that are practical, protect Council's underlying capital, as outlined in Council's adopted investment policy, and that use a source that is accredited and recognised within the industry whilst providing an open, transparent and positive strategy for ethical investments.

Fossil fuel divestment is one of a number of criteria that fit within the Ethical investments charter, which includes:

seek out investments which provide for and support:

- a. the development of workers' participation in the ownership and control of their work organisations and places*
- b. the production of high quality and properly presented products and services*
- c. the development of locally based ventures*
- d. the development of appropriate technological systems*
- e. the amelioration of wasteful or polluting practices*
- f. the development of sustainable land use and food production*
- g. the preservation of endangered eco-systems*
- h. activities which contribute to human happiness, dignity and education*
- i. the dignity and well being of non-human animals*
- j. the efficient use of human waste*
- k. the alleviation of poverty in all its forms*
- l. the development and preservation of appropriate human buildings and landscape*

avoid any investment which is considered to unnecessarily:

- i. pollute land, air or water*
- ii. destroy or waste non-recurring resources*
- iii. extract, create, produce, manufacture, or market materials, products, goods or services which have a harmful effect on humans, non-human animals or the environment*
- iv. market, promote or advertise, products or services in a misleading or deceitful manner*
- v. create markets by the promotion or advertising of unwanted products or services*
- vi. acquire land or commodities primarily for the purpose of speculative gain*
- vii. create, encourage or perpetuate militarism or engage in the manufacture of armaments*
- viii. entice people into financial over-commitment*
- ix. exploit people through the payment of low wages or the provision of poor working conditions*
- x. discriminate by way of race, religion or sex in employment, marketing, or advertising practices*
- xi. contribute to the inhibition of human rights generally"*

Parts of this report are based on the Council report of 21 May 2015 on ethical investments as a majority of the issues are related.

1. Divestment, screening strategies and constraints

What is divestment?

a) Divestment

There are two types of fossil fuel divestment:

- 1 **Direct divestment**: no direct investment in any company that involves fossil fuel in their core business strategy or principle business activity.

This usually refers to stocks held for resources companies and alike, and has been the main focus of many organisations that have declared their commitment to fossil fuel divestment (e.g. Dunedin City Council in New Zealand, City of San Francisco (USA), City of Seattle (USA), Australian National University, Local Government Super, The University of Sydney, Stanford University, Uniting Church of Australia, etc.). These organisations had a direct exposure via shares or bonds of companies or indirect exposure through holdings with managed funds.

Constrained by the *Local Government Act 1993*, the Ministers Investment order and the Tweed Shire Council Investment Policy, Council does not invest in direct shares of companies or invest in managed funds and therefore complies with direct divestment.

- 2 **Indirect divestment**: divest from financial institutions or companies that invest in fossil fuel companies. Diversification of portfolios amongst companies makes it difficult to readily identify all indirect investments; therefore companies usually limit their divestment policies to direct investments only.

Council currently holds investments in Authorised Deposit-taking Institutions (ADIs), including large banks, in accordance with the Tweed Shire Council Investment Policy.

b) Screening

An increasingly popular investment analysis tool is 'Screening'.

Screening is the process of selecting companies to invest in based on their social and/or environmental performance.

Negative screening excludes certain securities from investment consideration based on social and/or environmental criteria. Negative impacts on society or the environment may exclude investments in tobacco, carbon intensive industries, old growth and native forest logging, land degradation caused by mining, uranium, animal cruelty, human rights abuses, weapons and armaments, gambling, genetic modification, excessive consumerism.

As acknowledged by '350.org Melbourne' *finance is heavily interlinked and it would be impossible to find a completely 'kosher' investment product that didn't perhaps inadvertently deal with the fossil fuel industry.*

Positive screening involves making investments in activities and companies believed to have a positive social impact. This investment approach allows investors to positively express their values on corporate behaviour issues such as social justice and the environment through stock selection --- without sacrificing portfolio diversification or long-term performance.

c) Resources and impartial advice

Council does not have the resources to undertake any form of screening and therefore must seek impartial advice from external parties, as is part of Council's fiduciary duty:-

"(2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:

- (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice,
- (b) pay out of trust funds the reasonable costs of obtaining the advice."

There are many and often contradictory websites offering advice on ethical investments and fossil-fuel friendly financial institutions. Whose definition of ethical do you use? Where do you draw the line? These questions provide practical and fiduciary difficulties for Council Officers undertaking investment decisions.

1. Legislative and fiduciary responsibility

Council and Council Officers must have regard to several legislative and policy requirements in regard to investments. These include

Legislative responsibility

Section 625 How May Councils Invest?

- (1) A council may invest money that is not, for the time being, required by the council for any other purpose.
- (2) Money may be invested only in a form of investment notified by order of the Minister published in the Gazette. *
- (3) An order of the Minister notifying a form of investment for the purposes of this section must not be made without the approval of the Treasurer.
- (4) The acquisition, in accordance with section 358, of a controlling interest in a corporation is not an investment for the purposes of this section.

*Ministerial Order is below as attachment 1

Fiduciary Duty

The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A (2), 14C (1) and (2)

14A (2) Duties of trustee in respect of power of investment

A trustee must, in exercising a power of investment:

- (a) if the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons, or
- (b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

14C Matters to which trustee is to have regard when exercising power of investment

- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, if any, have regard to the following matters:
 - (a) the purposes of the trust and the needs and circumstances of the beneficiaries,
 - (b) the desirability of diversifying trust investments,
 - (c) the nature of, and the risk associated with, existing trust investments and other trust property,
 - (d) the need to maintain the real value of the capital or income of the trust,
 - (e) the risk of capital or income loss or depreciation,
 - (f) the potential for capital appreciation,
 - (g) the likely income return and the timing of income return,
 - (h) the length of the term of the proposed investment,
 - (i) the probable duration of the trust,
 - (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment,
 - (k) the aggregate value of the trust estate,
 - (l) the effect of the proposed investment in relation to the tax liability of the trust,

- (m) the likelihood of inflation affecting the value of the proposed investment or other trust property,
 - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment,
 - (o) the results of a review of existing trust investments in accordance with section 14A (4).
- (2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:
- (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice,
 - (b) pay out of trust funds the reasonable costs of obtaining the advice.

Investment Policy

All Council investments must comply with Council's Investment Policy, available at <http://knowledge:1036/Policies/Investment%20Policy%20V1.8.pdf>

Major points within this policy include:-

Risk Management Guidelines

Investments obtained are to comply with seven key criteria relating to:

- i) **Preservation of Capital:** the requirement for preventing losses in an investment portfolio's total value, inclusive of both principal and income.
- ii) **Diversification/Credit Risk** limits overall credit exposure of the portfolio by diversification of credit ratings.

Overall Portfolio Credit Limits		
Long-Term Credit Ratings	Short-Term Credit Ratings	Investments Maximum
AAA	A1+	100%
AA	A1+	100%
A+	A1	60%
A	A1	60%
A-	A1	60%
BBB+	A2	20%
BBB	A2	20%
BBB-	A3	20%
Unrated	Unrated	10%

- iii) **Market Risk:** limiting the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices by restricting the amount invested in non-rated or lower rated institutions.

- iv) **Counterparty Credit Framework:** exposure to individual counterparties/institutions to remain within policy guidelines.

Long-Term Credit Ratings	Individual Counterparty Limits	
	Short-Term Credit Ratings	Investments Maximum
AAA	A1+	25%
AA	A1+	20%
A+	A1	15%
A	A1	15%
A-	A1	15%
BBB+	A2	10%
BBB	A2	10%
BBB-	A3	10%
Unrated	Unrated	5%

- v) **Maturity Framework:** limits the duration of any investment term.

Overall Portfolio Term to Maturity Limits

Portfolio % <=1 year	100% max; 40% min
Portfolio % >1 <=3 years	60%
Portfolio % >3 <=5 years	40%

- (vi) **Leveraging Risk:** the magnification of an investor's risk and return that occurs when the investor takes on financial leverage through an investment product. Leveraged investment products are prohibited by the Investment Policy.
- vii) Council will seek independent investment advice where necessary when preparing an investment policy. Advisors must have no actual or potential conflict of interest in relation to investment products being recommended. Advisors are required to provide written confirmation that they do not have any actual or potential conflicts of interest in relation to investment they recommending or reviewing. Manufacturers and distributors of investment products are excluded from acting as investment advisors to Council.

2. Current Investment Portfolio/Reporting

On 21 May 2015, Council resolved:

That Council initially adopts, for the purposes of reporting and due to the lack of other impartial/accredited advice, the charter and credentials of the Australian Ethical and highlights within the monthly investment report those investments that are acknowledged by Australian Ethical as worthy ethical investments.

The January 2019 Investment Report showed Ethical Investments comprising 58.01% of the total portfolio. This portfolio contained working funds invested in the Overnight Money Market. If we exclude these funds from the calculation, the ethical investment proportion increases to 59.43%.

Further to this, there was an additional \$15 million invested in the Defence Bank and Credit Unions which, whilst not identified as ethical investments, the institutions exist to serve the financial needs of their members. They do not exist to make profits for shareholders and invest any profits back into providing products and services for the benefit of their members. If we include these funds in the ethical investments total, then the percentage increases to 64.15%

Following is an analysis of the total investment portfolio excluding Overnight Money Market deposits as at 31 January 2019.

Description	Ethical	Other	Total
Value deposited	\$189million	\$129million	\$318million
Percentage of total value	59%	41%	100%
No. of separate deposits	87	62	149
Percentage of total deposits	58%	42%	100%
No. of institutions	19	12	26*
Average deposit/institution	4.58	5.16	5.73
Average rate of return	3.00%	3.05%	3.02%

* some institutions provide both ethical and other investments

Whilst the average rate of return between ethical and other investments seems minor (0.05%), if applied to the total investment portfolio, it would represent a difference in interest income per annum of \$159,000.

Whilst it seems that the proportion of funds invested in ethical investments has been able to be increased slowly over time, it is apparent that further fossil fuel divestment needs to be managed carefully and prudently in order to continue to meet the sometimes conflicting investment objectives of maximising rates of return, diversifying investment (spreading risk), ensuring funds are available as and when required, and compliance with ministerial guidelines.

OPTIONS:

Option 1

Council Officers continue to adopt a positive screening approach for indirect divestments, utilising Australian Ethical as the source of advice, and prioritise investments in non-fossil fuel aligned Authorised Deposit-taking Institutions if the investment transaction is compliant with Council's investment policy and the rate of investment is no worse than other investments available to Council at the time.

Council Officers continue to highlight within the monthly investment report those investments that are acknowledged by Australian Ethical as worthy ethical investments and monitor progress in increasing levels of ethical investments.

Option 2

Council reviews its Investment Policy so as to only allow for investments in non-fossil fuel aligned Authorised Deposit-taking Institutions and all existing other investments be phased out as they mature.

Note: This would result in lower investment earnings, less diversification of Authorised Deposit-taking Institutions and will restrict available investment terms.

CONCLUSION:

The legislative and fiduciary responsibilities of Council and the constraints and difficulties in providing for targeted social/environmental investing are outlined above. Given the lack of a broadly accepted 'ethical' definition and maturity for ethical investing in local government, it may be more appropriate to maintain a watching brief and continue record Councils ethical investments, on the monthly investment register, with an aim to increase those investments categorised as ethical in accordance with Australian Ethical guidelines.

COUNCIL IMPLICATIONS:

a. Policy:

The Investment Policy may need amendment dependant on the option resolved by Council.

b. Budget/Long Term Financial Plan:

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

**C1 [PR-CM] Unauthorised Forestry and Road Works at Lot 136 DP 755724
Boormans Road, Limpinwood**

REASON FOR CONFIDENTIALITY:

This report is the subject of current legal action.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.1 Biodiversity Management - To protect and manage the environment and natural beauty of the Tweed for current and future generations.

ROLE: **Provider**

C2 [PR-CM] Alleged Unauthorised Works within Crown Road Reserve - Zara Road, Limpinwood

REASON FOR CONFIDENTIALITY:

This matter is subject to current legal proceedings.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

C3 [CNR-CM] RFO2019027 Upgrade Works to the Tweed Heads Civic Centre - Cultural Plaza, Social Enterprise Cafe and Library Reading Room

REASON FOR CONFIDENTIALITY:

Contains information that may provide a commercial advantage to competitors.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (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.

Valid



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.2 Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

ROLE: **Provider**
