

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 23 May 2023
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 18.2

Responsible Officer: Mike Carey
Manager Financial Services
Corporate Services

Subject: Electricity Contracts Post 30 June 2023

For: Decision

1. Electricity Contracts Post 30 June 2023– Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Acting Chief Executive Officer, David Waters
- Acting Director Community Capacity, Rebecca Shepherd
- Director Corporate Services, Terry Crackett
- Director Development & Regulatory Services, Natalie Armstrong
- Director Infrastructure & Operations, Peter Bice
- Executive Manager Governance & Performance, Lachlan Miller
- Governance & Risk Coordinator, Steven Watson
- Manager Financial Services, Mike Carey
- Procurement Coordinator, James Greenfield
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 18.2: (Confidential – Electricity Contracts Post 30 June 2023) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(k) tenders for the supply of goods, the provision of services or the carrying out of works;) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the LGAP or tenderers who supplied the information by disclosing specific quotes and modelling by the tenderer.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

2. Electricity Contracts Post 30 June 2023– Confidential Item

SUMMARY

Adelaide Hills Council currently has three electricity supply contracts for its facilities concluding on 30 June 2023. These contracts were negotiated on Council's behalf by Local Government Association Procurement (the "LGAP") using the combined purchasing power of the Local Government sector.

Given LGAP's previous experience, Council Administration made a decision to continue to participate in the LGAP tender process for the period post 30 June 2023 but also run a separate Request for Quotation (the "RFQ") process to obtain submissions from sustainable energy providers to consider against the LGAP Best and Final Offer (BAFO) offer.

LGAP's Tender proposed a two stage process in April 2023 covering a minimum period of 2 years and a maximum period of 3 years, and closed on 20 April 2023. 64 councils and related entities registered their interest in participating in this Request for Tender (RFT).

Council were advised that outcomes of the RFT were to be expected in the first week of June 2023 and as such timed its RFQ process to have offers come at a similar time to the LGAP Recommendation Report to enable consideration of the LGAP contract and Council's own-sourced rates at the same time.

LGAP subsequently contacted Council on 12 May 2023 seeking to condense the procurement process and asked that councils execute a commitment to proceed prior to receiving the BAFO with the aim of locking in rates in the quickest possible time.

Importantly LGAP have indicated that the current offers received are approximately 40% less than the rates under the current short term contract for periods of 2 to 3 years. The second stage BAFO process is to be undertaken with those retailers who made valid submissions in stage one with the anticipation of getting a further improvement in the rates offered.

The financial information provided from the LGAP Tender Phase 1 gave an indicative total amount of \$452k which would require an increase of the Draft 2023-24 budget in the order of \$29k to satisfy Council's commitment to 100% renewable energy in line with Council's climate change emergency declaration, Strategic Plan and adopted Corporate Carbon Management Plan.

It is also understood that in relation to the LGAP offer, pricing for GreenPower will reduce by 50% for Year 2 of the Contract period. However, given that this information was provided separately to Council and not formally provided to the sector in the LGAP Recommendation Report, we will confirm this at the Council Meeting on 23 May 2023.

As in previous tenders involving LGAP in the contestable electricity market, once BAFO tenders are received, there is only limited time (2 working days) for LGAP to accept or reject the tenderers' offers to optimise pricing arrangements and reduce risk. Given this limited period of time the LGAP is requesting that Council sign an Authorisation to Execute form on 23 May 2023 being Council's commitment to accept the offer and allow LGAP to prepare contracts for execution. It is expected that the results of the BAFO will be available at or prior to the Council Meeting on 23 May 2023, i.e. subsequent to the publication of the Council agenda but before the meeting.

For each of the three contracts, Council has a choice to consider accepting one of the proposed options, either Standard Electricity or Accredited Renewable Electricity notwithstanding that it is Council's previously determined position to obtain 100% Accredited Renewable Electricity in line with the climate change emergency declaration, Strategic Plan and the *Corporate Carbon Management Plan*.

Council is separately undertaking a RFQ for sustainable energy providers with submissions to be received by Monday 22 May 2023 to consider against the LGAP BAFO offer.

Based on the RFQ Submissions and financial implications, Council also has a choice to consider the option of accepting for each of the individual three electricity contracts, a sustainable renewable energy provider separate from the LGAP offering.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted.**
- 2. To delegate to the Chief Executive Officer the authority to execute documents to commit Council to enter into contracts with the successful tenderers for the supply of electricity for:**
 - I. sites above 160 MWh per annum with an agreed GreenPower load of 100%;**
 - II. 12 hour and 24 hour unmetered lighting with an agreed GreenPower load of 100%; and**
 - III. sites below 160 MWh per annum with an agreed GreenPower load of 100%;**
 - a. To make, vary and discharge contracts; and**
 - b. To sign all relevant documentation in this matter to give effect to this resolution.**

1. BACKGROUND

Council currently has three six month electricity supply contracts for its facilities, all concluding on 30 June 2023 covering the following categories:

- Large sites (over 160 MWh annual consumption) currently with Iberdrola
- 12, 24 hour and unmetered sites including street lighting currently with Iberdrola
- Small sites (under 160MWh annual consumption) currently with Origin Energy

Historically LGAP has undertaken competitive tendering for electricity supply on behalf of the majority of councils across South Australia. This has provided Council with the benefit of going to market with the highest possible volume and certainty with a partner with strategic procurement expertise and experience in negotiating in this complex market environment.

Council has highlighted in recent tenders undertaken by LGAP its strong preference for Accredited Renewable Electricity (100% renewable energy) in line with Council's climate change emergency declaration, Strategic Plan and adopted Corporate Carbon Management Plan.

In terms of volume LGAP goes to market with a combined Local Government sector usage of just over 107,000 MWh per year across over 60 participating councils. With Council's contribution in the order of 1,519 MWh equating to 1.4% of the total sector usage, Council has benefited significantly from this combined purchasing power in the past.

However, due to the volatility of the electricity supply market impacting on electricity supply prices the outcome of the most recent LGAP tender was not ideal, and therefore only a six months contract period from 1 January 2023 to 30 June 2023 was recommended by LGAP and subsequently entered into by Council. This is a much shorter period of time than normal and reflected the expectation that energy prices would stabilise over the coming months and more retailers will be competitive in the market. In terms of the accepted negotiated LGAP offer, Council's individually could determine whether they wished to include accredited renewable electricity products as an additional cost to the standard electricity product rate.

Based on Council's direction and the overall electricity supply pricing received Council agreed to:

- accredited '100% greenpower' for all < 160 MWh (small) sites for an additional \$5,000 for the six month period to June 2023.
- not accept the accredited '100% greenpower' offer for > 160 MWh sites (Stirling and Lobethal that was costed in the order of \$25k for the six month period to June 2023.

There was no accredited renewable energy offering available for the unmetered (street lights) supply.

With reference to not accepting accredited '100% greenpower' offer for > 160 MWh sites Elected Members were advised in December 2022 that this was due to the significant impact on Udder Delights, being a Council tenant at Lobethal with a high proportion of the electricity consumption for the > 160 MWh contract. It was considered that it would be unreasonable to impose an additional cost on Udder Delights for greenpower on top of the 250% increase in standard electricity without an opportunity for Udder Delights to provide appropriate input to the decision.

Further discussions have been held with Udder Delights in recent months to determine how best to manage their energy requirements given that Udder Delights' energy consumption costs are passed on to them under the terms of the lease. Currently Udder Delights are responsible for approximately 90% of the consumption at the Lobethal site and therefore it makes sense from both a Council and tenant perspective for Udder Delights to take control of their energy purchasing. As such Council via the Property team is currently working on adding an extra meter to the site with the expectation that with approvals and installation time this can be completed by the end of the calendar year. Negotiations are also under way to hand the current meter over to Udder Delights as soon as possible and recharge Council for our consumption. A fall-back position is to remain with the current arrangement.

Negotiation of New Electricity Contracts

Anecdotally, Council is aware that in terms of the recent electricity supply tenders involving the sector, some councils went to the market separately to the LGAP and despite smaller volumes, achieved better supply pricing than what was achieved by LGAP. However, we note that a direct comparison of electricity pricing outcomes is difficult to assess particularly given the differing renewable energy requirements of individual councils.

As a result of this and given some concerns with the previously run LGAP tender process, the Administration determined that as well as participating in the current LGAP Tender, Council would undertake its own electricity supply tender separate to the LGA sector wide contract and provide the results of both back to Council.

LGAP Tender

LGAP's Tender proposed a two stage process in April 2023 covering a period of a minimum of 2 years and a maximum of 3 years and closed on 20 April 2023. A total of 64 councils and related entities registered their interest in participating in this RFT.

Their tender highlighted that the National Electricity Market (the "NEM") continues to be a complicated landscape with many factors influencing price and contractual conditions. It also noted that 2022 was a year unparalleled in modern times for the sheer scale of the energy crisis resulting from multiple considerations including Russia's invasion of Ukraine, northern hemisphere influences, and Australian inclement weather conditions. At the time of Council agreeing to participate in the current LGAP Tender, LGAP advised that a Recommendation Report is scheduled to be distributed to all participating councils/entities by 30 May 2023.

Council therefore designed the timing of its own tender process to have offers come at a similar time to the LGAP Recommendation Report to enable Council to consider the LGAP contract and Council's own-sourced rates at the same time. This was to occur in the first week of June 2023.

However, LGAP contacted Council on 12 May 2023 seeking to condense the tail end of the procurement process and ask councils to execute a commitment to proceed prior to receiving the Best And Final Offer (BAFO) stating the following reason: *"Given the market dynamics and outlook we recommend locking in rates in the quickest possible time."* LGAP indicated that the current offers received are approximately 40% less than the rates under the current short term contract, for periods of 2 – 3 years. LGAP also highlight that the decision in late 2022 to enter short terms contracts of only 6 months has proven to be the right one, with the provided offers less than the rates councils are currently contracted for.

This second stage BAFO process is being undertaken with those retailers who made valid submissions in stage one with the anticipation of getting a further improvement in the rates offered.

The LGAP advised that the BAFO request was sent to retailers to be returned to LGAP by 10:00am Monday 22 May 2023 for the Evaluation Team to evaluate and make the recommendation.

The recommendation report is planned to be ready for Council review by the morning of Tuesday 23 May 2023. The report will be accompanied by modelling of the BAFO specific to our Council, and an 'Authorisation to Execute' form. The Authorisation to Execute form is Council's commitment to accept the offer and will allow LGAP to prepare contracts for execution. It is expected that the results of the BAFO will be available at or prior to the Council Meeting on 23 May 2023.

Due to the retailers only being able to hold the price for 48 hours, LGAP require the Authorisation to Execute form to be returned to LGA Procurement by no later than 12:00 midday Wednesday 24 May 2023.

AHC Supply of Electricity - Sustainable Renewable Options RFQ

Council when considering participating in the LGAP tender noted that:

- The LGAP had advised that they were not providing a 100% sustainable energy solution
- Smaller providers may not have the capacity to provide 100% sustainable energy to consolidated LGAP tender
- There were potentially more options available to council (Power Purchasing Agreements and other potential innovative solutions)
- Some concerns with the previous LGAP tender process.

As a result research was undertaken to identify potential suppliers that may be able to provide council with a 100% sustainable energy solution as a result of being directly involved in the generating of electricity solely from renewable sources. From that research Council selected and approached 5 suppliers via a select tender process with a RFQ closing date of 29 May 2023.

Given that the LGAP process has been brought forward to seeking a response from Council by 24 May 2023, Council has subsequently reviewed the closing date of the RFQ and now requires tenderers to provide submissions by Monday 22 May 2023.

The results of the separate RFQ will be provided to Council prior to the 23 May 2023 to allow Council the opportunity to assess sustainable providers against the LGAP BAFO offer.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal A Progressive Organisation

Objective 06 Technology and innovation is utilised to better meet our community's expectations and deliver value for money

Working together as a local government sector through the LGAP will provide Council with the best opportunity to benefit from negotiation with energy suppliers on larger electricity volumes.

Under Council's *Procurement Policy*, Council is able to utilise Strategic Alliances as an acceptable procurement method whereby the Council undertakes procurement through contract arrangements already established and administered by other organisations.

Strategic Plan 2020-24 – A brighter future

Goal A functional Built Environment

Objective B3.2 Aim to achieve 100% renewable energy use for our corporate operations and strive towards carbon neutrality

The objective to achieve 100% renewable energy use aligns with Council’s climate emergency declaration and endorsement of the *Corporate Carbon Management Plan*.

The RFQ with Sustainable energy providers is aligned with Council’s strategy on Carbon Management and Climate Emergency

➤ **Legal Implications**

As advised by the LGAP the ability for the LGAP to act on behalf of all councils does not breach legislation or anti- competitive requirements of the ACCC obligations.

The sustainable RFQ is aligned with the Procurement Policy, noting that the LGAP have been advised of the existence of the RFQ.

➤ **Risk Management Implications**

The use of Local Government Procurement to act on Council’s behalf will assist in mitigating the risk of:

Council entering an electricity supply contract or contracts that does not lead to the greatest community benefit

Inherent Risk	Residual Risk	Target Risk
High (2B)	Low (2D)	Low

This process is current practice and hence no new mitigation action is required.

➤ **Financial and Resource Implications**

Council’s proposed 2023-24 budget covering the electricity supply contracts is \$422,850 as per the table below:

Electricity Supply Category	2023-24 Budget
>160 MWh - (Old Woollen Mill / FABRIK)	130,800
Reimbursement by Udder Delights	(117,700)
> 160 MWh – Stirling Offices and Coventry Library	89,900
12, 24 hour and Unmetered including street lighting	206,040
< 160 MWh	113,810
Total	422,850

The Pre BAFO offer from LGAP is currently estimated to cost \$409k with indicative price for 100% GreenPower options as follows:

Pre BAFO Offer from LGAP	
Standard Electricity for all 3 contracts	409,000
100% GreenPower Renewable Electricity for < 160 MWh	16,700
Subtotal In line with current renewable arrangements	425,700
100% GreenPower Renewable Electricity for > 160 MWh (Net)	12,500
100% GreenPower Renewable Electricity for Unmetered	13,500
Total	451,700

As such, the preliminary numbers provided from the LGAP Tender would require an increase of budget in the order of \$29k to satisfy Council’s commitment to 100% renewable energy in line with Council’s climate change emergency declaration, Strategic Plan and adopted Corporate Carbon Management Plan.

We also understand that in relation to the LGAP offer, the additional cost for GreenPower will reduce by 50% for Year 2 of the Contract period. However, this will be subject to confirmation from the BAFO recommendation report from LGAP.

Council will also have the opportunity to assess the results of the RFQ for sustainable renewable energy providers against the LGAP BAFO offer.

➤ **Customer Service and Community/Cultural Implications**

Not Applicable

➤ **Sustainability Implications**

The following context is provided to assist Council in their consideration of the environmental impacts.

To drive the transition to low-carbon practices the Australian Government has introduced a range of environmental certificate schemes to reduce emissions in the electricity sector while promoting energy generation.

The design of the NEM means that all electricity, regardless of source, is pooled into the grid and then transported to residential and commercial electricity consumers. This means that unless you generate renewable energy on site (e.g. rooftop solar), you can’t guarantee that Council is using renewable energy from a particular source as in reality the grid supply is a mix of generation from many different sources including coal, gas, wind and solar.

In Australia, large business energy customers can access retail supply arrangements where the volume of grid supplied electricity is matched with up to 100 per cent renewable electricity through the purchase and surrender of large-scale generation certificates (LGCs).

LGCs are the most transparent way to certifiably demonstrate a commitment to renewable generation and in some cases, can be sourced from a specific renewable generator (or generators).

As such, it is likely that Council will have preference to an identified supplier of energy which only own renewable power generation assets and does not have any power generated from fossil fuels (as per Council's own RFQ). In these cases Council can see a more direct link to a generator that meets Councils policy for 100% renewable energy, notwithstanding that it can be argued that 100% GreenPower still achieves the same outcome but in a more indirect way via a third party.

GreenPower

GreenPower is accredited Australian renewable electricity sourced from the sun, wind, water and bioenergy. The GreenPower program is a government accreditation that ensures the electricity use of customers that buy GreenPower is matched with renewable electricity added to the grid.

In summary, buying GreenPower means more renewable electricity on the grid and less emissions from electricity use for Council (Scope 2 emissions).

Current LGAP Tender Process

LGAP Request for Tender (RFT) requested a price for 100% of Councils and Entities taking 100% renewable electricity, as it was considered that there is an appetite in the market to provide this offering at a competitive price. However, without a 100% commitment to this offer (77% of Councils indicated a commitment), LGAP were unable to obtain a fully renewable aggregated price for the current tender approach.

However, the option remains for Council under this LGAP tender to have renewable electricity in whole or in part via certificates through the (GreenPower) program at an increased cost.

Current AHC Renewable Energy Tender

This tender focussing on using identified suppliers of renewable energy will provide a more direct approach to the achievement of 100% renewable energy in accordance with Council's endorsed Corporate Carbon Management Plan which was endorsed in 2019 with a key target of Council using 100% renewable energy by 2023.

AHC's current position

For the most recent contract covering a six month period from 1 January 2023 to 30 June 2023, Adelaide Hills Council, based on Council's direction and the overall electricity supply pricing received Council agreed to:

- accredited '100% greenpower' for all < 160 MWh (small) sites for an additional \$5,000 for the six month period to June 2023.
- not accept the accredited '100% greenpower' offer for > 160 MWh sites (Stirling and Lobethal that was costed in the order of \$25k for the six month period to June 2023.

There was no accredited renewable energy offering available for the unmetered (street lights) supply.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Local Government Association Procurement

Community: Not Applicable

➤ **Additional Analysis**

LGA Procurement Pre BAFO Offer

The LGAP provided the aggregated and detailed load profiles of all participating councils and requested an electricity price based on:

- “black” electricity plus the mandatory 20% green certificates in the form of large-scale generation certificates (LGCs) or;
- “black” electricity with 100% LGCs (noting this is an additional 80% LGC procurement above the mandatory option). This provides an option that satisfies a mandatory green procurement option under the Renewable Energy Target (RET) legislation and also provides an option for councils wanting to have a 100% green electricity procurement option;
- an opportunity from some retailers to provide a reduced electricity usage price if all councils opt for 100% Green Power.

The responses were assessed predominantly on the electricity usage price, the LGC price and additional fees that are specific to the respondents. Some charges such as network charges cannot be negotiated and as a result tend to represent common costs amongst respondents.

Given that not all councils/entities committed to 100% renewable electricity, the response offered by LGAP will be price plus a fee for Green Power.

Above 160MWh Supply

Following the Phase 1 evaluation by LGAP, the LGAP Panel recommended that South Australian councils and local government entities accept the Best and Final offer from either Origin Energy or Iberdrola commencing 1 July 2023 for a period of a minimum of 2 years or a maximum of 3 years, as determined to be the better offer by the Evaluation Team.

Both offers from Iberdrola and Origin cover all the Large and Unmetered sites for Standard Electricity and Accredited Renewable Electricity. The overall offer from both Iberdrola and Origin are similar in totality and the BAFO will determine the final recommendation of supplier.

Total costs for both offers will be affected by the elected LGC proportion.

This contract is based purely on the energy component of Council's electricity charge which equates to approximately 65% of the total electricity amount invoiced. The remaining 35% is regulated by the Federal Government through the Australian Energy Regulator and is non-negotiable.

12 & 24 Hour Unmetered Supply

Following the Phase 1 evaluation by LGAP, the LGAP Panel recommended that South Australian councils and local government entities accept the BAFO from either Origin Energy or Iberdrola commencing 1 July 2023 for a period of a minimum of 2 years or a maximum of 3 years, as determined to be the better offer by the Evaluation Team.

The Unmetered sites under the Origin offer is at a higher rate than Iberdrola.

The benefit of selecting Origin is the ability for councils to benefit from Green Power certification with the selection of the Standard Electricity offer.

The BAFO process will encourage Origin to revise down their 12/24 Unmetered Street Lighting supply price on the basis that a more competitive offer may allow them to obtain all available contracts for electricity supply for participating councils.

The contract is based purely on the energy component of Council's electricity charge which equates to approximately 60% of the total electricity amount invoiced. The remaining 40% is regulated by the Federal Government through the Australian Energy Regulator and is non-negotiable.

Below 160MWh Supply

It is recommended that South Australian councils and local government entities accept the BAFO from Origin commencing 1 July 2023 for a period of a minimum of 2 years or a maximum of 3 years as determined to be the better offer by the Evaluation Team.

Origin remains the only tenderer that provided an offer for the Small Sites, providing offers for Standard Electricity and Accredited Renewable Electricity. The bundled rate offer that the councils are currently on was not provided as an option from Origin for this tender process. Therefore, it is important to note that when comparing the current rates to those offered, the new electricity rates do not bundle in the additional fixed and variable charges that can equate to an additional 60% worth of costs to the total.

The benefit of staying with Origin for the small sites will be the continuity of service with no need for churn of meters with a new retailer. The BAFO process will encourage Origin to revise down their offer for Below 160MWh supply on the basis that a more competitive offer may allow them to obtain all available contracts for electricity supply for participating councils.

Across all Three Contracts

For each of the three contracts, Council has a choice to consider accepting one of the proposed options, either Standard Electricity or Accredited Renewable Electricity. It is Council policy position to obtain 100% Accredited Renewable Electricity in line with the climate change emergency declaration, Strategic Plan and the *Corporate Carbon Management Plan*.

AHC Supply of Electricity - Sustainable Renewable Options RFQ

As noted above, submissions will be received by Monday 22 May 2023 in terms of the Council run RFQ for sustainable energy providers to consider against the LGAP BAFO offer.

Based on the RFQ Submissions and financial implications, Council has a choice to consider the option of accepting for each of the individual three electricity contracts, a sustainable renewable energy provider separate from the LGAP offering.

3. OPTIONS

Council has the following options:

- I. To delegate to the Chief Executive Officer to enter into contracts with the successful LGAP tenderers for the supply of electricity for sites above 160 MWh per annum, 12 hour and 24 hour unmetered lighting with an agreed GreenPower load of 100% for all contracts (Recommended).
- II. Determine a different percentage of load to apply to GreenPower. This option is not recommended at this time given Council's policy position in relation to 100% renewable energy.
- III. To consider accepting for each of the three electricity contracts, a sustainable energy renewable provider separate from the LGAP offering. This option is dependent on the results of the Council run RFQ for sustainable renewable energy providers and the ability to obtain a better outcome than the LGAP.

4. APPENDICES

Nil

3. Electricity Contracts Post 30 June 2023 – Duration of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council’s decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.2 in confidence under sections 90(2) and 90(3)(k) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	Until the contracts are signed, but not longer than 30 June 2023
Related Attachments	NIL
Minutes	Until the contracts are signed, but not longer than 30 June 2023
Other (presentation, documents, or similar)	Until the contracts are signed, but not longer than 30 June 2023

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.