

## EVALUATION PANEL RECOMMENDATION REPORT

# EVALUATION PANEL RECOMMENDATION REPORT

<b>Title of Request for Tender:</b>	<i>Byron Bay Drainage Upgrade Design</i>
<b>RFT Number:</b>	<i>RFT2022-1366</i>



## 1. Introduction

### 1.1. Background

Byron Shire Council issued a Request for Tender for the RFT2022-1366 Byron Bay Drainage Upgrade Design on 24<sup>th</sup> June 2022.

The Belongil Creek Floodplain Risk Management Study and Plan (BMT WBM, 2015) was prepared to assess various measures aimed at reducing flood risk within the Belongil creek catchment. The “preferred Byron Drainage strategy” was developed as to reduce the risk of flooding in Byron Bay by incorporating detention/ flood storage, flood pumping systems and upgrades to existing gravity piped systems.

Council intends to upgrade the Byron Bay CBD Drainage broadly in line with the Preferred Byron Drainage Strategy in the Belongil Creek Floodplain Risk Management Study and Plan (BMT, 2015). The objectives of this project is to confirm the preferred solution by reviewing flood modelling and design development, understand and resolve any social or environmental conflicts, take account of key stakeholder inputs and enable Council to develop a concept design with the intention of proceeding to detailed design stage.

### 1.2. Scope

The scope of works is for the engineering design of drainage upgrades as shown in the Preferred Byron Bay Drainage Strategy (BMT, 2015). The scope includes the following components (all separable portions of contract):

1. Drainage Strategy Review and Data Collection
2. Detailed Site Survey
3. Concept Design and Modelling
4. Detailed Design and Construction Documentation
5. Meetings and Workshops

The successful respondent will be reporting to Scott Moffett – Flooding and Drainage Engineer to fulfil the requirements of the contract.

### 1.3. Contract Period

The RFT seeks the provision of the required services for a period of 2 years commencing November 2022, with an option to extend the contract at Council’s sole discretion.

### 1.4. Budget

The budget estimate for the contract is \$1,282,000.

The price is fixed for a period of 12 months. There is no provision for rate(s) or Price(s) variations during each 12 month period of the contract.

# EVALUATION PANEL RECOMMENDATION REPORT

## 1.5. Advertising Details

The Request for Tender was advertised through vendor panel

## 1.6. Briefing Session/Site Inspection

There was no briefing session or site inspection

## 1.7. Submissions Received

Submissions were received from the following organisations:

- Alluvium
- Arcadis Australia Pacific Pty Ltd
- Barker Ryan Stuart Pty Ltd
- Burchills Engineering Solutions Pty Ltd
- Engeny Water Management
- GHD Pty Ltd
- JJ Ryan Consulting Pty Ltd
- Knobel Engineers (part of OSKA Consulting Group)

## 2. Evaluation

### 2.1. Evaluation Panel

The Evaluation Panel consists of the following members:

Name	Position	Role of Panel
Scott Moffett	Flood and Drainage Engineer	Chair
James Flockton	Infrastructure Planning Coordinator	Member
Peter Brown	Contractor – Technical Project Coordinator	External Independent Member

## EVALUATION PANEL RECOMMENDATION REPORT

### 2.2. Initial Compliance Check

An initial compliance check was conducted by the Evaluation Panel to identify submissions that did not comply with the requirements of the RFT.

The Compliance Criteria are:

- Tender lodged on time, in accordance with the Conditions of Tender.
- Respondent has a valid Australian Business Number.
- Respondent substantially complies with the Statement of Requirements.
- Respondent substantially complies with the Conditions of Contract.
- Workers Compensation Insurance for all employees
- Holds, or is able to obtain, the insurances as specified in the Statement of Requirements
- Respondent has satisfactory work health and safety and environmental compliance.
- Financial capacity to undertake the contract
- Commitment to ethical business practices.
- Tenderer confirmed no ties to Adani.

During the initial compliance check, the evaluation panel identified that the following respondents did not comply with the compliance criteria:

- GHD – did not submit a fixed price for all mandatory fields in the fee schedule.

The evaluation panel determined that the following respondents would not progress to the next stage of the evaluation due to their non-conformance with the compliance criteria:

- GHD.

The remaining submissions progressed to the next stage of the evaluation.

## EVALUATION PANEL RECOMMENDATION REPORT

### 2.3. Qualitative Criteria Assessment

The qualitative criteria assessment was carried out by the evaluation panel. Each member of the evaluation panel independently reviewed each tender in its entirety and scored each submission on the basis of the following qualitative criteria:

- (a) Profile and relevant experience (20%)
- (b) Quality and availability of resources (20%)
- (c) Delivery plan (40%)
- (d) Sustainable Practices (5%)
- (e) Social Procurement (10%)
- (f) Local Industry (5%)

Each of the criteria was scored out of ten according to the following rating scale:

Score	Rating
0-1	No answer provided or does not meet Council's requirements in any way.
2-3	Poor offer, many deficiencies. High risk to Council.
4-5	Fair offer with some deficiencies. Offer presents moderate-high risk to Council.
6 – 7	Meets Council's basic requirements. Offer is adequate and low risk to Council.
8 – 9	Very good offer that meets Council's requirements. Low risk to Council
10	Excellent offer that is fully substantiated. Completely meets all of Council's requirements. Presents little or no risk to Council.

The results of the qualitative criteria assessment were:

Supplier	Qualitative Assessment Score (/100)
Alluvium	50
Arcadis	66
Barker Ryan Stuart	42
Burchills	40
Engeny	78
GHD	Non-conforming
JJ Ryan	28
OSKA/Knobel	18

## EVALUATION PANEL RECOMMENDATION REPORT

### 2.4. Price Assessment

The total price for each separable items of the contract was calculated for each respondent. The results of the price assessment were:

Supplier	Drainage Strategy Review	Detailed Survey (provisional)	Concept Design	Detailed Design (provisional)	Total Excluding provisional items <sup>1</sup>	Total
Alluvium	\$ 19,945	\$ 44,000	\$ 105,631	\$ 127,032	\$ 125,576	\$ 296,608
Arcadis	\$ 58,000	\$ 30,000	\$ 65,500	\$ 455,000	\$ 123,500	\$ 608,500
Barker Ryan Stuart	\$ 39,300	\$ 45,000	\$ 122,900	\$ 56,600	\$ 162,200	\$ 263,800
Burchills	\$ 12,250	\$ 4,000	\$ 100,100	\$ 95,800	\$ 112,350	\$ 212,150
Engeny	\$ 55,336	\$ 90,000	\$ 123,141	\$ 225,742	\$ 178,477	\$ 494,219
GHD	\$ 115,970	\$ 84,310	\$ 262,990	\$ 534,580	\$ 378,960	\$ 997,850
JJ Ryan	\$ 19,500	TBA	\$ 85,325	\$ 74,100	\$ 104,825	\$ 178,925
OSKA/Knobel	\$ 4,850	\$ 30,000	\$ 111,500	\$ 97,450	\$ 116,350	\$ 243,800

1. Sum is for Drainage Strategy Review and Concept Design – Excludes survey and detailed design

### 2.5. Value for Money Assessment

Overall value for money for each respondent was calculated using the quality: price ratio. The respondent with the highest quality: price ratio offers the best overall value for money. The results of the value for money assessment were:

Supplier	Value for Money Score	Ranking
Alluvium	0.398	3
Arcadis	0.534	1
Barker Ryan Stuart	0.259	6
Burchills	0.356	4
Engeny Water Management	0.437	2
GHD	Non-conforming	
JJ Ryan	0.267	5
OSKA/Knobel	0.155	7

## EVALUATION PANEL RECOMMENDATION REPORT

A summary of each tender received is provided below:

Supplier	Summary of tender submissions
Alluvium	<ul style="list-style-type: none"> <li>• Overall very good submission</li> <li>• Good understanding of the adopted preferred drainage strategy and the project constraints</li> <li>• Proposes the use of specialist sub-consultants (Aquatec Enviro) for flood pump design who are experienced and capable, however there is no experience working together on a project of this size</li> <li>• Past projects demonstrate a lot of flood modelling experience and community consultation for similar projects, however limited design experience</li> </ul>
Arcadis	<ul style="list-style-type: none"> <li>• Overall very good submission</li> <li>• Good understanding of the adopted preferred drainage strategy and the project constraints</li> <li>• A lot of experience with major infrastructure upgrades</li> <li>• Demonstrated a thorough understanding of the engineering design scope, particularly with regards to the pump design and implications for limited electrical supply.</li> <li>• Multi-disciplined in-house capability</li> </ul>
Barker Ryan Stuart	<ul style="list-style-type: none"> <li>• Overall good-fair submission</li> <li>• Minimal input for scope and methodology. Understanding of project objectives and constraints was not demonstrated well.</li> <li>• Experience is predominantly in land development and minimal experience presented with respect to local government infrastructure projects.</li> <li>• Has some experience with drainage pumps and levees on small scale projects</li> </ul>
Burchills	<ul style="list-style-type: none"> <li>• Overall good submission</li> <li>• Minimal input for scope and methodology. Understanding of project objectives and constraints was not demonstrated well</li> <li>• A lot of local government experience in SE Queensland drainage upgrades, however, did not demonstrate any experience with flood pumps</li> </ul>
Engeny Water Management	<ul style="list-style-type: none"> <li>• Overall excellent submission. Was the best submission in terms of methodology, capability and experience.</li> <li>• Very good understanding of the adopted preferred drainage strategy and the project constraints</li> <li>• A lot of experience with local government infrastructure upgrades</li> <li>• Past projects demonstrate a lot of flood modelling experience, engineering design and community consultation for similar projects</li> <li>• Demonstrated a thorough understanding of the engineering design scope, particularly with regards to the pump design and the site-specific requirements and performance criteria.</li> <li>• Multi-disciplined in-house capability</li> </ul>
GHD	<ul style="list-style-type: none"> <li>• Did not submit a lump sum price on mandatory items in the pricing schedule. As such, assessed as non-conforming.</li> </ul>
JJ Ryan	<ul style="list-style-type: none"> <li>• Overall poor submission</li> <li>• Scope and methodology very generic. Understanding of project objectives and constraints was not demonstrated well</li> <li>• No experience with similar projects demonstrated</li> </ul>
OSKA/Knobel	<ul style="list-style-type: none"> <li>• Overall poor submission</li> </ul>

## EVALUATION PANEL RECOMMENDATION REPORT

	<ul style="list-style-type: none"> <li>• Scope and methodology very generic. Understanding of project objectives and constraints was not demonstrated well. A lot of response fields left blank in submission</li> <li>• Minimal experience with similar projects demonstrated</li> </ul>
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Based on the results of the evaluation, the Evaluation Panel short-listed the following respondents to go through to the final stage of the evaluation:

1. Arcadis Australia Pacific Pty Ltd
2. Engeny Water Management
3. Alluvium

### 2.6. Interviews

The Evaluation Panel conducted interviews for the short-listed respondents. The following questions were asked of each tenderer interviewed:

1. *Leading Question – Please explain to us what you understand the key objectives of this project to be and how you propose to deliver a design that achieves these key objectives*
  - a. *Proceeding question – A number of the elements included in the current preferred strategy present considerable constraints and risks to Council. What do you consider these to be and how will they be managed at the various stages of design development*
  - b. *Proceeding question – Flood pumping is a significant component of delivering the strategy. How to do propose to deliver a pumping system design that will be reliable and efficient?*
2. *Leading question – Giving reference to the past projects included in your tender response, please explain in detail your experience in similar projects and how that experience applies to this project?*
  - a. *Proceeding question – Can you give us an example of a flood pump system that has been commissioned and achieves similar benefits to that required for Byron?*
  - b. *Proceeding question – Were the project team nominated in the tender response involved in the projects you just described?*
  - c. *Proceeding question (if applicable) – Were the sub-contractors nominated in the submission involved in the projects you just described?*
3. *Talk us through your proposed project team. How will it be structured and managed?*
  - a. *Proceeding question - Who is the project lead and what experience do they have with delivering engineering design packages?*
  - b. *Proceeding question - How will the multiple disciplines be managed (civil design, mechanical/electrical)*
  - c. *Proceeding question (if applicable) – what dispute resolution will be applied should they arise between you and your sub-contractors?*
  - d. *Proceeding question – What is your capacity to deliver the project within the nominated timeframe and program.*
4. *What approaches do you propose with respect to consultation with Council staff, Councillor briefings and community consultation?*
5. *Leading Question – What opportunities do you see for sustainable practises to be implemented in the drainage design?*
6. *Leading question – Is there anything else you believe relevant to the project you would like to present now?*



## EVALUATION PANEL RECOMMENDATION REPORT

Minutes of the Interviews were recorded (refer to CM reference below). A summary of the short list Interview responses is provided below:

Supplier	Summary of interviews
<p>Alluvium (CM E2022/87155)</p>	<ul style="list-style-type: none"> <li>• Demonstrated a thorough understanding of each element of the drainage strategy and good understanding of the project objectives</li> <li>• The project is proposed to be managed by modelling specialists and the responses were very thorough with regards to hydraulic modelling, however the responses were poor for the engineering design aspects required for the project delivery</li> <li>• Demonstrated extensive experience with community consultation</li> <li>• Identified numerous opportunities for sustainable practises to be applied</li> <li>• The design of pumps is dependent on a subcontracting consultant who were not present at the interview and as such Alluvium could not respond to technical questions relating to pumps. Alluvium does not have any experience working with the nominated subconsultant regarding pump design of the size required for the Byron drainage strategy. This presents a significant project risk and as such. Alluvium were excluded from further consideration.</li> <li>• Overall – fair responses</li> </ul>
<p>Arcadis (CM E2022/87156)</p>	<ul style="list-style-type: none"> <li>• Demonstrated a thorough understanding of each element of the drainage strategy and good understanding of the project objectives</li> <li>• Demonstrated a thorough understanding of the project constraints</li> <li>• Identified numerous opportunities to improve the drainage strategy and presented examples (from past projects) on how design could be developed and managed technically in parallel with community consultation</li> <li>• Identified numerous opportunities for sustainable practises to be applied</li> <li>• Demonstrated a thorough understanding of the engineering design scope, particularly with regards to the pump design and implications for limited electrical supply. Provided a methodology to manage this risk/constraint</li> <li>• Overall – very good responses</li> </ul>
<p>Engeny Water Management (CM E2022/87153)</p>	<ul style="list-style-type: none"> <li>• Demonstrated a thorough understanding of each element of the drainage strategy and good understanding of the project objectives</li> <li>• Engeny have undertaken 30+ expert assessments for insurance claims in the Byron Bay town area following the recent March 2022 floods. This experience demonstrated Engeny understand the history of flooding and the community concerns regarding protection against flooding.</li> <li>• Demonstrated a thorough understanding of the project constraints</li> <li>• Demonstrated a lot of local government experience.</li> <li>• Identified numerous opportunities to improve the drainage strategy and presented examples (from past projects) on how design could be developed and managed technically in parallel with community consultation</li> <li>• Identified numerous opportunities for sustainable practises to be applied</li> <li>• Demonstrated a thorough understanding of the engineering design scope, particularly with regards to the pump design and implications for limited electrical supply. Provided a methodology to manage this risk/constraint</li> <li>• Overall – excellent responses</li> </ul>

## EVALUATION PANEL RECOMMENDATION REPORT

### 2.7. Referee Checks

The Evaluation Panel conducted referee checks for the short-listed respondents. The results of the referee checks are summarised:

- Good experience with local government client service, community consultation and specific stakeholder groups on similar projects (i.e. Toowoomba City Council and Ballina Shire Council).
- Excellent technical skills and understanding of modelling and multi-discipline engineering design.
- Excellent project deliverables, products and reports with regular and clear communication.
- Very approachable project management and able to talk through any issues and build a good Client/Consultant relationship. You are generally speaking with the same individuals that are undertaking the work.
- Good management of project delivery
- Good value for money and ability to adapt to extra tasks with realistic variation costs. Transparent about project costs and variations
- Ability to manage long-term projects and flexible in the delivery.

### 2.8. Clarifications

The Evaluation Panel requested the following clarification via email to Arcadis and Engeny:

*A matter we discussed in the interview was the merits of undertake an electrical load capacity assessment (for pump demands) at concept design stage. We note that electrical design is excluded from the scope/fees in your proposal. Can you please provide fee schedule with the applicable scope/inclusions you require to undertake this at the 'Concept Design Stage'. This would be an additional, separable item in the contract, should it be awarded.*

The Evaluation Panel requested the following clarification to Arcadis regarding amendments to the conditions of contract:

*I am requesting clarification to Arcadis response to the request for tender RFT2022-1366 Byron Bay Drainage Upgrade Design. In section B2.3 STATEMENT OF CONFORMANCE item b) it is requested for amendments to AS4122 conditions of contract (extract of response document below) but you have not stated what amendments are proposed.*

(b) List in the table below all areas of non-conformance with the Conditions of Contract as set out in Part A5.

Area of non-conformance	Reason(s) for non-conformance
Arcadis Notes that the proposed contract for this project is given as AS4122. Arcadis has previously worked under this contract, with some minor adjustments. Therefore if Arcadis is successful in this tender, we reserve the right to provide recommended adjustments to AS4122 during final contract negotiations and prior to signing/award.	

*We require all the amendments you propose for Council's legal team to review in order for Arcadis submission to be assessed by Council's tender panel. A response to this request for clarification is required by close of business Friday 2<sup>nd</sup> September.*

# EVALUATION PANEL RECOMMENDATION REPORT

The following response was received by email from Arcadis:

Our proposed amendments for use of AS 4122 – 2010 are shown in the table below for review by Council’s legal team.

Part A5 Form of Contract – Arcadis’ response		
Clause	Explanation of Issue	Proposed Amendment
<b>AS 4122- 2010 General Conditions of Contract</b>		
4	We will perform the services using the reasonable care and skill that would be expected of a professional engineering consultancy and as required by the first part of this clause.	Delete “or such higher standard as the Consultant has represented in writing to the Client in relation to this Contract”.
New sub-clause 29.3	We request a mutual exclusion of consequential loss.	Insert new clause “29.3 The Consultant shall not be liable to any party for any indirect, special or consequential loss or damage whatsoever (including but not limited to lost profits or interruption of business) arising out of or in connection with this Contract, whether or not the possibility of such loss or damage was known or foreseeable.”
Clause 30.4	Given that we are being asked to provide \$10M for PI insurance which we consider to be quite high, we do not agree that this amount should be automatically reinstated.	Delete “The policy must include provision for one automatic reinstatement of the sum insured.”
<b>AS 4122 – 2010 Annexure Part A</b>		
	Item 24: Limitation of Liability	We require that this item be “100% of the Fee”
	Item 26: Amount of Professional Indemnity Insurance	We note that \$10M for PI is a requirement under the RFT. We seek to clarify that this requirement is stated as “\$10 million per claim and in aggregate”.
	Item 31 and Annexure Part B (Deletions, Amendments and Additions)	We assume this will be ticked “no”.

Review of Arcadis’ response by Council’s legal team identified that limitation of liability be ‘100% of the fee’ (highlighted above) would not be acceptable to Council and as a minimum it should be equal to the insurance limitations required in the Request for Tender. The evaluation panel replied to Arcadis according to the legal team’s recommendation. Subsequently, Arcadis responded by email, confirming acceptance to the limitation of liability being equal to the insurance limitations.

## 2.9. Key Issues

The scope of the design is based on the currently adopted preferred Byron drainage strategy, however this will subject to review in the first stage of the project and will likely be reworked for the concept design. There is a high degree of uncertainty regarding the environmental/cultural heritage constraints, capacity of existing electrical infrastructure to supply pumps and the lifecycle costs of the proposed drainage infrastructure upgrades. As such, the scope of the detailed design won’t be known until the completion of the concept design stage and environmental assessments. *As such, the detailed design component is a provisional sum and will be adjusted after the concept design is completed (hold point) and signed off by Council.* Therefore, the recommendation is to include the following stages/milestones in the contract:

1. Drainage Strategy Review and Data Collection Stage
2. Detailed Site Survey Stage
3. Concept Design Stage
4. Detailed Design Stage

## 3. Decision

The Evaluation Panel recommends that Engeny Water Management be selected as the preferred respondent at a total price of \$494,219.40.

## EVALUATION PANEL RECOMMENDATION REPORT

### 4. Endorsement by Evaluation Panel

*Scott Moffett*  
(Chair)



(Signature)

5/10/2022

(Date)

*James Flockton*  
(Member)



(Signature)

5/10/2022

(Date)

*Peter Brown*  
(External Independent Member)



(Signature)

5/10/2022

(Date)