

10.10.North Sydney Olympic Pool Redevelopment Project Update

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ATTACHMENTS	1. CONFIDENTIAL - NSOP Redevelopment Report 27 May 2024 [10.10.1 - 2 pages]
CSP LINK	2. Our Built Infrastructure 2.1 Infrastructure and assets meet diverse community needs

PURPOSE:

The purpose of this report is to provide Council with an update on the North Sydney Olympic Pool redevelopment.

EXECUTIVE SUMMARY:

- Construction activity across the site is continuing, however the program to completion has been delayed due to ongoing issues associated with the structural steel roof over the 25-metre indoor pool hall.
- Practical Completion is anticipated late 2024/early 2025 as previously reported to Council.
- Council has received four additional variations since the report to Council on 22 April 2024, which includes the variation for structural steel roof over the 25-metre pool. These variations are under assessment.
- No contract variations have been approved since the last report to Council on 22 April 2024.
- The current construction contract value is \$88.12M as of 23 April 2024, however Council continues to receive variations associated with latent conditions, along with design and construction-related issues.
- A review of the project program and related procurement requires Council to consider the exercise of authority under section 55(3)(i) of the Local Government Act for project management and legal services.

RECOMMENDATION:

- 1. THAT** the meeting be closed to the public 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 and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to obtain value for money services.*
 - (g) advice concerning litigation, or advice that would otherwise be privileged from*

production in legal proceedings on the grounds of legal professional privilege and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community.

2. THAT the confidential report and related attachments be treated as confidential and remain confidential unless the Council determines otherwise.

3. THAT Council authorise the Chief Executive Officer to extend the agreement with the APP Group for Project Management resources by an additional \$570K for the North Sydney Olympic Pool redevelopment using the extenuating circumstances provisions within s55(3)(i) of the Local Government Act 1993.

4. THAT Council authorise the Chief Executive Officer to extend the service of Sparke Helmore for the North Sydney Olympic Pool beyond the \$1,000,000 (incl GST) threshold prescribed within Council's Procurement Policy by an additional \$270K, using the extenuating circumstances provisions within s55(3)(i) of the Local Government Act 1993.

5. THAT the Council note the contents of this report, which provides an update in relation to the North Sydney Olympic Pool redevelopment project.

Background

Construction on the redevelopment of the North Sydney Olympic Pool commenced in March 2021.

The last update report regarding this project was provided to the Council meeting of 22 April 2024. Councillors were also provided with a formal briefing in relation to the project on the 15 April 2024.

Report

Progress to Date

The program to completion has been delayed due to ongoing issues associated with the structural steel roof over the 25-metre indoor pool hall. Council's contractor advises that the fabrication of the main members of the roof is progressing however, and these elements are anticipated to be onsite at the end of June 2024, with installation to commence shortly thereafter. This is the last major structural element of the redevelopment.

Construction activity across other areas of the site is continuing. Tiling of the 50-metre pool is scheduled to reach completion at the end of May 2024, large sections of heritage wall restoration have been completed, and the installation of services to levels 1 and 2 has commenced.

The current contractual date for Practical Completion (handover to Council) is 21 May 2024, however as anticipated Council has recently will receive a Variation which includes an Extension of Time (EoT) claim associated with the structural steel roof over the 25-metre pool hall. Council is currently in the process of assessing this claim which will result in an adjustment to the date of Practical Completion, anticipated to be late 2024/early 2025.

Council has received no further EoTs outside of those associated with the 25-metre pool hall's roof variation claim.

Council's project team continue to receive and respond to Requests for Information (RFIs) from the building contractor related to latent conditions, design, and contract issues. A total of 32 RFIs have been submitted since the last report to Council, taking the total of RFIs received to 1,347. Only 25 of these currently remain open and are in the process of being addressed, down from 49 reported in the previous month. A further breakdown of these is provided within the confidential attachment to this report.

Council has received four additional variations since the report to Council on 22 April 2024, which includes the variation for structural steel roof over the 25-metre pool. A detailed summary of these variations is provided within the confidential attachment to this report.

No contract variations have been approved since the report to Council on 11 March 2024 and the adjusted construction contract value is \$87.52m. This total includes 371 agreed Variations and 145 Extensions of Time. A further breakdown of the construction contract value is

provided within the confidential attachment to this report, including forecast costs to completion.

Whilst good progress has been made in resolving a substantial number of outstanding contractual issues, the project continues to encounter issues associated with latent conditions, design, and construction. Council's project management team and consultants are continuing to work through these issues with the contractor and lead designer.

Extension of APP Project Management Services

At its meeting on the 28 August 2023, Council authorised the General Manager to seek and enter into a contract with the APP Group for Project Management services in response to significant risks and areas identified for improvement in the management of the project. A budget of \$650k was advised and allocated for these services.

A budget of \$570k is now required to extend this engagement until late 2024. It should be noted that costs for Project Management were included within the project forecast costs to completion, reported to Council on 12 February 2024, and no adjustment to the present allocated budget would be required in the extension of this engagement.

Council's Procurement Policy enables the procurement of goods and services from an approved panel or prequalified scheme developed in accordance with the Local Act 1993, Division 1 Tendering, s55, up to the value of \$1,000,000(incl GST). APP Group is a preapproved supplier on the NSW Government scheme (SCN10611) for consultants in construction for projects above \$9M. This panel complies with the requirements of s55 of the Act for prequalification.

Where it is anticipated that the value of these services will exceed \$1,000,001(incl GST), Council's Procurement Policy requires an open tender. The extension of APPs engagement would exceed this threshold, however, Council's Policy also notes "amounts over \$1,000,000 (incl. GST) maybe exempt from open tender subject to the provisions of the Local Government Act 1993, Division 1 Tendering, Section 55".

Section 55(3)(i) of the Act enables Councils to forego the requirement to tender in the event of "extenuating circumstances".

The introduction of APP into the project has added significant industry expertise and bolstered Council's capacity. This has resulted in a reduction in the number of Extension of Time claims and improved timeframes associated with processing Variations and Requests for Information, which have been significant on this project.

In addition, a senior representative from APP is now a member of Council's Project Steering Committee, providing construction management and contract advice as per the recommendations of the Independent Project Review undertaken in December 2022.

Given the extenuating circumstances, with time being imperative, the significant history of the project to date and the existing knowledge of the project held by APP Group, it is

recommended that Council not invite quotes for the provision of external project management services and instead authorise the Chief Executive Officer to extend the services of the APP Group accordingly.

Extension of Sparke Helmore Lawyers Legal Services

Sparke Helmore Lawyers (Sparke Helmore) have been providing legal advice in relation to the North Sydney Olympic Pool redevelopment since 2018 and are a supplier on Council's adopted panel of legal service providers.

Council's Procurement Policy enables the procurement of goods and services from an approved panel or prequalified scheme developed in accordance with the Local Act 1993, Division 1 Tendering, s55, up to the value of \$1,000,000(incl GST). Council's expenditure with Sparke Helmore for legal services in relation to the North Sydney Olympic Pool redevelopment is now approaching this threshold.

Where it is anticipated that the value of these services will exceed \$1,000,001 (incl GST), Council's Procurement Policy requires an open tender. However, Council's Policy also notes "amounts over \$1,000,000 (incl. GST) maybe exempt from open tender subject to the provisions of the Local Government Act 1993, Division 1 Tendering, Section 55".

Section 55(3)(i) of the Act enables Councils to forego the requirement to tender in the event of "extenuating circumstances".

Sparke Helmore long engagement with the project, including the development of initial contract documentation, provides them with significant corporate, legal, and risk knowledge in relation to this project. An alternative provider would need to expend substantial time and resources to enable them to acquire the same level of understanding of the project.

Sparke Helmore are providing information in relation to contractual matters that are currently on-foot. Pausing of these matters to undertake a tender would have significant cost and legal implications for Council that are referred to within the confidential attachment of this report (10.11.1).

It is considered that these circumstances are extenuating, and therefore recommended that Council not seek tenders for legal services; and that the Council authorise the Chief Executive Officer to extend Sparke and Helmore services above the \$1,000,000 (incl GST) threshold, noting that forecast costs to completion reported to Council on the 12 February 2024 allocated a budget of \$270k for ongoing legal advice for the project.