

## 10.12.North Sydney Olympic Pool Redevelopment Project Update

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<b>ATTACHMENTS</b>	1. CONFIDENTIAL - NSOP Redevelopment Report 28 April 2025 Confidential Attachment [10.12.1 - 8 pages]
<b>CSP LINK</b>	2. Our Built Infrastructure 2.1 Infrastructure and assets meet diverse community needs

### PURPOSE:

This report provides Council with an update on the North Sydney Olympic Pool redevelopment project.

### EXECUTIVE SUMMARY:

- Council's contractor (Icon) is progressing works onsite, however, the date for the completion of the project is being impacted by continuing program slippages. The revised contractual date for Practical Completion remains 11 July 2024; Council's contractor Icon is now reporting a forecast target for Practical Completion of 30 August 2025.
- The revised construction contract sum is currently \$91.8m and total project costs remain within the forecast cost to completion of \$122m. Whilst Council's project team has continued to manage costs within this budget the significant number of variations to be lodged, and increased costs associated with the extension of consultants and insurances due to delays now put this budget at risk.
- Due to ongoing delays Council is required to extend the services of APP Project Management, BHA Pty for design services, CPM for programming services and Sparke Helmore Pty Ltd for 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.
- 2. THAT** Council authorise the Chief Executive Officer to extend the agreement with the APP Group Pty Ltd for Project Management resources to 30 August 2025 at a cost of \$249,000 for the North Sydney Olympic Pool redevelopment using the extenuating circumstances provisions within s55(3)(i) of the Local Government Act 1993, noting that the additional costs can currently be accommodated within the existing budget at this stage.
- 3. THAT** Council authorise the Chief Executive Officer to extend the agreement with the Brewster Hjorth Architects Pty Ltd to 30 August 2025 at a cost of \$660,000 for the North Sydney Olympic Pool redevelopment using the extenuating circumstances provisions within

s55{3}(i) of the Local Government Act 1993, noting that the additional costs can currently be accommodated within the existing budget at this stage.

**4. THAT** Council authorise the Chief Executive Officer to extend the agreement with the CPM Pty Ltd to 30 August 2025 at a cost of \$115,000 for the North Sydney Olympic Pool redevelopment using the extenuating circumstances provisions within s55{3}(i) of the Local Government Act 1993, noting that the additional costs can currently be accommodated within the existing budget at this stage.

**5. THAT** Council authorise Chief Executive Officer to extend the agreement with the Sparke Helmore to 30 August 2025 at a cost of \$90,000 for the North Sydney Olympic Pool redevelopment using the extenuating circumstances provisions within s55{3}(i) of the Local Government Act 1993, noting that the additional costs can currently be accommodated within the existing budget at this stage.

**6. THAT** Council notes that Works Insurance for the redevelopment of the North Sydney Olympic Pool will now need to be extended due to ongoing delays.

**7. THAT** Council notes the financial impacts and risks associated with the ongoing delays associated with the redevelopment of the North Sydney Olympic Pool.

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

**5. THAT** Council notes the contents of this report in relation to the redevelopment of the North Sydney Olympic Pool.

## **Background**

Construction on the redevelopment of North Sydney Olympic Pool commenced 9 March 2021. The project scope includes the construction of a grandstand seating 970 people, a 50m outdoor pool, a family leisure pool with splash play, change facilities, 1,100m<sup>2</sup> gym, 120m<sup>2</sup> creche with 95m<sup>2</sup> outdoor play area, a 25m indoor pool, a warm water pool, spa and sauna facilities, an internal café, a retail shop, and reconstruction of the former 'Ripples Cafe'.

The last formal report in relation to this project was provided to Council on 24 March 2025. Councillors were also provided with a briefing regarding the forecast program to completion on the 17 March 2025.

## **Report**

### On-site Progress

Council's contractor (Icon) is progressing works onsite, however the date for the completion of the project is being impacted by continuing program slippages.

The installation of the insulation on the roof over the 25m indoor pool is now complete and contractors are undertaking works to the underside of this structure in preparation for the installation of the ceiling linings for this section of the facility.

With the exception of the Ripples Cafe area, all structural steel components are now onsite and have been erected, which includes the lower roofs over the grandstand that connect with the main entry. The structural steel in Hopkins Park, a landscaped outdoor area situated behind the 25m indoor and program pools, is also now in place.

Substantial sections of floor and wall tiling within amenities located on Levels 1 and 3 are now complete and tiling of the area connecting the Gelato bar to the sundeck on level 2 is now tiled. Paving of the western stairs adjoining Luna Park and tiling of the Children's outdoor pool are now underway.

### Contract

The revised contractual date for the Practical Completion remains 11 July 2024. Icon continues to extend their target date for Practical Completion (now 30 August 2025), due to program slippages. This represents a delay of approximately six weeks compared to the date that was reported to Council on the 24 March 2024.

Under the contract Council's ability to influence or direct Icon's program to completion is limited. However, to ensure effective management of extension of time claims, Councils project management team have instructed a specialist Programmer to analyse Icon's program to Practical Completion, and to monitor progress.

Councillors were provided a briefing on the Programmers analysis on Monday 17 March 2025.

The analysis suggests that based on current rates of progress, task slippage and current levels of onsite attendance, Icon may not achieve Practical Completion until late November 2025.

In addition to the need to manage claims, the analysis assists in providing the community and Council with an independent view of the potential date for Practical Completion.

Any additional delays reported by Icon would likely see this date extended further. More information in relation to this matter has been included within the confidential attachment to this report.

To date, Icon have submitted a total of 159 claims for Extension of Time for the project. The Superintendent is currently assessing three submitted EoT claims for inclement weather totalling eight days. As previously reported, the Project Superintendent has certified Liquidated Damages, in favour of Council, backdated to the contractual date of Practical Completion 11 July 2024.

A further 72 Requests for Information (RFIs) have been submitted since the report to Council on 24 March 2025, bringing the total number of RFIs on the project to 1,855. Council's project team has closed out 1,796 of these RFIs and continue to work on another 59, which are in the process of being addressed. The project continues to be subject to large numbers of RFIs due to the 'construct-only' nature of the contract, latent conditions, design, and contractual issues.

Council's project team continues to be focused on ensuring quality issues are addressed in a timely manner through regular inspections and documentation, which are raised on a recurrent basis with Icon. There were 73 quality issues still open at the end of March 2025.

A further 20 variation claims have been received since the last report to Council, taking the total number of variation claims lodged by Icon to 435. There are currently 72 variations under assessment and the details of these are included within the confidential attachment to this report.

Council is also aware of a further 111 possible variation claims worth approximately \$4.4m that Icon has not yet submitted. It is anticipated that variation claims will continue until the end of the project due to design and contractual issues.

The revised construction contract sum is currently \$91.8m, which includes \$18.2k of variations that have been agreed and closed since the last report. The details of these variations are listed below.

Variation Number	Description	Assessed Amount
318	Timber Seating - included in design excluded from Icons contract. (client requested)	Not proceeding
495	Aqua Dining Pipework Fireproofing. Required due to relocation of pipework into tenancy (Design Coordination issue)	\$18,293.29

## **Extension of Consultancies Legal Services and Insurances**

Ongoing delays result in increased costs to Council due to the extension of consultancies and insurances.

### APP PTY Ltd –Project Management

At its meeting of 28 October 2024 Council resolved to extend the services of the APP Group (APP) until May 2025, using s55(3)(i) of the Local Government Act (1993), which enables Councils to forego the requirement to tender in the event of extenuating circumstances.

The circumstances were deemed to be extenuating, given that the introduction of APP into the project has added significant industry expertise and bolstered Council's project management capacity on a project that is continuing to experience unusually high Request for Information (RFIs) Extension of Time Claims (EOTs) and Variation claims. The total value of variation claims received to date exceeds \$140m. A significant proportion of these claims have been addressed through the work of APP.

APP has also been instrumental in assisting Council in responding to an Adjudication Claim lodged by Icon under the NSW Building and Construction Industry Security of Payment Act 1999 in late 2024. The services of APP will also be essential to Council in relation to other legal action that is currently on-foot in the Supreme Court of NSW.

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

It is proposed to extend these services until the 31 August 2025, which will require further expenditure of \$249k. The additional costs can currently be accommodated within the existing budget, however, a further extension of this service to November 2025 may require additional funding.

### BHA Pty Ltd - Design Services

Brewster Hjorth Architects Pty Ltd (BHA) were initially engaged for design services for the NSOP redevelopment project through tender (34/2018) for which include the engagement of required sub-consultants for:

- Stage 1 - Detailed Design Development
- Stage 2 - Documentation for Development Application and Statutory Approvals
- Stage 3 - Documentation for Tender and Construction Purposes  
(Issued for Construction IFC).

Council subsequently engaged BHA for Stage 4 (construction) design services due to the 'construct only' nature of the NSOP redevelopment contract.

At its meeting on 24 June 2024 Council resolved to extend these services of BHA Pty Ltd until early 2025 using s55(3)(i) of the Local Government Act (1993), which enables

Councils to forego the requirement to tender in the event of extenuating circumstances. which was in line with the anticipated time for Practical Completion.

The circumstances were deemed to be extenuating, given BHA have a long engagement with the project, including the development of initial concept design to their current engagement in construction design services. Retendering these services has been considered; however this would inevitably result in considerable delay and associated costs as an alternative provider would need to expend substantial time and resources to enable them to acquire the same level of understanding of the project. There is also a question in relation to the ability for an alternative consultant to engage subconsultants that have been engaged by BHA for this project, which may impact warranties and certification of design elements for occupancy.

It is proposed to extend these services until the 31 August 2025, which will cost a further \$660k. The additional costs can currently be accommodated within the existing budget, however, a further extension of this service to November 2025 may require additional funding.

#### CPM Pty Ltd – Programming Services

CPM were initially engaged for programming services for the NSOP redevelopment project through a quotation process in late 2023. Council's current total expenditure with CPM for the project is \$155k, which sits below the public tender threshold of \$250k. However, Council is now required to extend the services of CPM to August 2025, which it is anticipated will cost in the order of \$115k, placing the total spend at \$296k, which will place this engagement above the public tender threshold.

Council's Procurement Policy requires an open tender for purchases of above \$250k, however Section 55(3)(i) of the Local Government Act enables Councils to forego the requirement to tender in the event of "extenuating circumstances".

CPM have now had extensive involvement in the project and have been critical in the assessments of the 159 Extension of Time claims that Icon have submitted to date. CPM were instrumental in assisting Council in responding to an Adjudication Claim lodged by Icon under the NSW Building and Construction Industry Security of Payment Act 1999 in late 2024. The services of APP will also be essential to Council in relation to other legal action that is currently on-foot in the Supreme Court of NSW.

Council's Procurement Policy and the Local Government Act (1993) (the Act) requires Council to seek tenders for services above \$250k if a supplier is not listed on an approved panel or prequalified scheme developed in accordance with the Act.

However, s55(3)(i) of the Act enables Councils to forego the requirement to tender in the event of "extenuating circumstances".

The circumstances are considered extenuating given CPMs extensive knowledge and involvement in the project. The additional costs can currently be accommodated within the

existing budget, however, a further extension of this service to November 2025 may require additional funding.

#### Sparke Helmore Legal Services

At its meeting of 27 May 2024 Council resolved to extend the services of the Sparke Helmore using s55(3)(i) of the Local Government Act (1993), which enables Councils to forego the requirement to tender in the event of extenuating circumstances.

The circumstances were deemed to be extenuating, given Council has legal action on-foot in relation to the project and Sparke Helmore's involvement and extensive project specific knowledge will be critical in the event of further legal action.

It is proposed to extend these services until the 31 August 2025, which will require further expenditure of \$90k. The additional costs can currently be accommodated within the existing budget, however, a further extension of this service to November 2025 may require additional funding.

#### Extension of Works Insurance

Council undertook to provide Works Insurance for the project; however these costs weren't included within the original project budget. Council has subsequently made budget adjustments to include this item, which is currently budgeted to 30 June 2025.

Project delays require Council to renew this insurance until the completion of the project and Council staff are currently in discussion with Council's insurers in relation to seeking a quotation for this extension. It is anticipated that the additional costs will be funded through an adjustment to the project contingency approved by Council in November 2024 and therefore no increase to the overall project budget is required.

#### Grant Funding

The North Sydney Olympic Pool redevelopment project has been the beneficiary of NSW Office of Sport Funding. Continuing program slippages are now placing the remaining \$100k at risk due to NSW Government Office of Sport grant requiring acquittal of these funds prior to the end of the financial year. Council staff are involved in ongoing discussions with the NSW Office of Sport in relation to this remaining funding.

#### Total Costs to Completion

The total project costs remain within the forecast costs to completion of \$122m, which includes consultancy and design costs, client fitout, and development costs. It should be noted that this forecast was provided to Council in February 2024 with an anticipated date for project completion of December 2024.

Whilst Council's project team has continued to manage the project within this budget allocation to date, the increased costs noted above, due to delay and the significant variations to be lodged, now put this budget at risk.

Legal proceedings are continuing in relation to this project. Further detail in relation to these matters are included within the confidential attachment of this report.