

10.14.North Sydney Olympic Pool Redevelopment Project Update

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| ENDORSED BY | Therese Cole, Chief Executive Officer |
| ATTACHMENTS | 1. CONFIDENTIAL - NSOP Redevelopment Report 24 June 2024 [10.14.1 - 4 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, however this will be heavily influenced by the structural steel erection which is now expected to commence in mid-July 2024.
- Council has received four additional variations since the report to Council on 27 May 2024, however no contract variations have been approved since then.
- The current construction contract value is \$87.52M as at 23 April 2024, however Council continues to receive variations associated with latent conditions, along with design and construction-related issues.
- The extension of BHA Architecture on the project requires Council to consider exercising its authority under section 55(3)(i) of the Local Government Act for ongoing design 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 note this report.

4. THAT Council authorise the Chief Executive Officer to extend the services of BHA Architects by an additional \$1.5m for the North Sydney Olympic Pool redevelopment using the extenuating circumstances provisions within s55(3)(i) of the Local Government Act 1993.

5. THAT Council notes that costs to extend BHA services have been anticipated in the forecast costs to completion that was reported to Council on 12 February 2024;

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 27 May 2024. Councillors were also provided with a formal briefing in relation to the project on 20 May 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, the delivery of these elements to site has been delayed until mid-July 2024 due to issues associated with design.

Construction activity across other areas of the site is continuing. Tiling of the walls and floor of the 50-metre pool is now complete. The concrete slab to the sundeck was recently poured and 'closing in' of areas on levels 1 and 2 is reaching completion.

The current contractual date for Practical Completion (handover to Council) is 21 May 2024, however as anticipated Council has recently received a Variation which includes an Extension of Time (EoT) claim associated with the structural steel roof over the 25-metre pool hall. The Project Superintendent has now made his assessment in relation to this claim, which has been referred to the Contractor for consideration. This claim which will result in an adjustment to the date of Practical Completion, which is currently anticipated to be 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 38 RFIs have been submitted since the last report to Council, taking the total of RFIs received to 1,380. Only 17 of these currently remain open and are in the process of being addressed, down from 25 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 27 May 2024. A detailed summary of these variations is provided within the confidential attachment to this report.

No contract variations have been agreed since the report to Council on 11 March 2024 and the adjusted construction contract value is \$87.52m, which 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.

Council's project team are continuing to resolve design related and construction issues. The project is also still encountering latent conditions that were identified prior to commencing construction.

Extension of BHA Design Services

Council called tenders for design services (34/2018) for the redevelopment of North Sydney Olympic Pool in May 2018. At its meeting of 25 June 2018, Council resolved to appoint Brewster Hjorth Architects (BHA) for the following stages of design, which include the engagement of required sub-consultants for the design:

- 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).

BHA also included in their submission a Stage 4 for design services during construction, post-construction, and occupancy. The Council resolved to authorise the General Manager to award (or not award) Stage 4 of design services based upon performance.

BHA were subsequently engaged to provide design services (Stages 1,2,3) for the redevelopment of North Sydney Olympic Pool for \$1,582,822 (excl GST). Council has subsequently spent in the order of \$2.6m on design services for Stages 1,2,3.

Council entered into a lump-sum agreement for Stage 4 (construction) design services for \$1,298,932 (excl GST) in August 2021. This reverted to a schedule of rates agreement in December 2022 and is now the basis for BHA's engagement on the project. To date Council has paid BHA \$3,618,661 (excl GST) for design services related to Stage 4 (construction).

A budget of \$1.5m is now required to extend the services of BHA until the anticipated completion of the project. It should be noted that costs for Design Services were included within the project forecast costs to completion which were reported to Council on 12 February 2024 and therefore no adjustment to the current budget is required.

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 BHA for design services in relation to the North Sydney Olympic Pool redevelopment is above 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”.

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.

Further information in relation to this engagement is provided within the confidential attachment of this report.

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 BHA services above the \$1,000,000 (incl GST) threshold.