

7.8 Contract Variations

Executive Summary

Purpose

The purpose of this report is to seek Council approval for six contract variations that exceed officer delegations and required due to expenditure above the originally forecast value.

Background

When Council endorses and awards services contracts an estimate of total expenditure for the maximum term of the contract is made. The contract specifies the works to be undertaken, an estimate of their value and the necessary budget allocations are subsequently made through the annual budget process.

A recent review of the cumulative spend against specific contracts has identified six contracts that require variations to the original endorsement of expenditure to enable them to continue to be utilised to deliver the required services.

Key Issues

Contracts 2018/174 General Drainage Repairs and Small Construction Works, 2018/195 - Revegetation Sites Maintenance Services, 2019/17 Boroondara Sports Ground Lighting - Supply Panel and 2020/44 - Amenity Tree Pruning and Electric Line Clearances, Contract 2018/177 Kew Recreation Centre Redevelopment - Architectural and Consultancy Services and Contract 2020/117 Kew Recreation Centre - Project Management Services each have or are anticipated to have cumulative expenditure greater than the amounts awarded by Council.

To continue to utilise these services to maintain and develop our drainage, open spaces and trees, contract variations are required to be approved by Council.

Next Steps

Should Council approve these variations, no changes to the arrangements with the contractors is required for contracts 2019/17 and 2020/44, however contractors working under contract 2018/174 will be notified of a six month extension and contractors working under contract 2018/195 will be notified of a two month extension to the contract.

The contractors working on Kew Recreation Centre under contracts 2018/177 and 2020/117 will be notified of a contract extension until end of 2026.

The contract management issues identified in this report are being addressed via a number of actions including a review of the Procurement Policy and applicable Procurement and Contract Management procedure and guidelines.

Confidentiality

Confidential information is contained in **Attachments 1, 2, 3 and 4**, as circulated in the confidential section of the agenda attachments. The information in this attachment is deemed to be confidential in accordance with Section 66(2)(a) and the definition of 'confidential information' in Section 3(1) of the Local Government Act 2020. The information relates to private commercial information provided by a business, commercial or financial undertaking that—(i) relates to trade secrets or (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. If discussion of the confidential information in the attachments to this report is required for Council to make a decision, Council may resolve to discuss the matter in a confidential session or to defer the matter to the confidential section of the agenda.

Officers Recommendation

That Council:

1. Approve a variation to Contract 2018/174 - General Drainage Repairs and Small Construction Works to:

- Plumtrax Pty Ltd (ABN 142 872 491); and
- M.Tucker & Sons Pty Ltd (ABN 007 193 811)

At their tendered schedule of rates for an extension period of six months bringing the end date of the contract to 6 May 2024.

The estimated value over the life of the contract term is \$4,718,264.98.

2. Approve a variation to 2018/195 - Revegetation Sites Maintenance Services to:

- Acacia Environmental Solutions Pty Ltd (ABN 15651256049);
- Indigenous Design Environmental Services Pty Ltd (ABN 18202803715); and
- Nature Links Landscape Management Pty Ltd (ABN 22097146426)

At their tendered schedule of rates for an extension period of two months bringing the end date of the contract to 31 March 2024.

The estimated value over the life of the contract term is \$3,966,596.57.

3. Approve a variation to 2019/17 Boroondara Sports Ground Lighting - Supply Panel to:

- Comlec Services Pty Ltd (ABN 11099484938);
- iPower (VIC) Pty Ltd (ABN 48859665056);
- Sonec Services Pty Ltd (ABN 3906924317); and
- Wallgates Pty Ltd (ABN 27096477842)

At their tendered schedule of rates to the end of the contract term, 10 December 2023.

The estimated value over the life of the contract term is \$1,923,775.93.

4. Approve a variation to 2020/44 - Amenity Tree Pruning and Electric Line Clearances to:

- Treeserve Pty Ltd (ABN 87169334712)

At their tendered schedule of rates to the end of the contract term, 30 June 2025.

The estimated value over the life of the contract term is \$18,473,581.94.

5. Approve a variation to 2018/117 Kew Recreation Centre Redevelopment - Architectural and Consultancy Services to:

- Williams Ross Architects Pty Ltd (ABN 96 005 624 868)

Estimated value of variation to the end of the contract term, 31 December 2026 is \$172,008

The estimated value over the life of the contract term is \$3,606,044.

6. Approve a variation to 2020/117 Kew Recreation Centre - Project Management Services to:

- Turner & Townsend Thinc Pty Ltd (ABN 88 123 154 585)

Estimated value of variation to the end of the contract term, 31 December 2026 is \$455,234

The estimated value over the life of the contract term is \$824,849.

7. To authorise the Director Places and Spaces to issue the requisite notices of variation with the above Contractors.
8. To note that expenditure under these contracts is in accordance with Council's 2023/24 adopted budget and expenditure in future years will be in accordance with the approved budget allocations.

Responsible director: Daniel Freer, Director Places and Spaces

1. Purpose

The purpose of this report is to seek Council approval for six contract variations that exceed officer delegations and required due to expenditure above the originally forecast value.

2. Policy implications and relevance to community plan and council plan

The recommendations made in this report are consistent with the policy direction and actions within the following Council strategies:

The Boroondara Community Plan (BCP) 2021-2031 sets the strategic direction for the City of Boroondara from 2021-2031. The delivery of these contracts relates to a number of the themes and strategies of the BCP.

These alignments include:

Theme 1: Your Community, Services and Facilities

Strategy 1.1: Plan, maintain and renew multipurpose facilities and sports precincts to meet broad, intergenerational needs of the community now and into the future.

Strategy 1.3: Deliver, facilitate and advocate for services and programs that promote health, wellbeing, safety and a sense of community.

Strategy 1.6: Create and maintain public areas, facilities, amenities, footpaths and spaces that are inviting, clean and appropriately lit to increase social connection and improve perceptions of safety.

Strategy 1.10: Develop a strategic response to improving the safety of public spaces, Council's facilities and events and take action as required to help protect community participation.

Theme 2: Parks and Green Spaces

Strategy 2.1 Parks and green spaces enable sport and recreation opportunities by maintaining and improving recreation spaces and equipment.

Strategy 2.2 Our sustainable urban forest is preserved and increased through managing and renewing our open space trees and understory growth.

Theme 3: The Environment

Strategy 3.5. Our leafy streetscapes are maintained and improved through advocating for careful project planning by government regulatory and project authorities, supported by the increased planting of resilient species.

Strategy 3.6. Our biodiversity is conserved and maintained through improving the way we manage our diverse plants, animals and natural spaces.

Theme 7: Leadership and Governance

Strategy 7.1. Decision-making is transparent and accountable through open governance processes with timely communication and reporting.

Additional Council Strategy and Plan alignments include:

- Urban Biodiversity Strategy (UBS) 2013-2023
- Boroondara Open Space Strategy 2013
- Sport and Recreation Strategy

3. Background

When Council endorses and awards services contracts, an estimate of total expenditure for the maximum term of the contract is made.

The contract specifies the works to be undertaken, an estimate of their value and the necessary budget allocations are subsequently made through the annual budget process.

A recent review of the cumulative spend against specific contracts has identified six contracts that require variations to the original endorsement of expenditure to enable them to continue to be utilised to deliver the required services.

This report deals with six of these contracts.

4. Outline of key issues/options

2018/174 - General Drainage Repairs and Small Construction Works

This contract is for general drainage works including maintenance, repair and small construction services on stormwater pits and pipes and was endorsed by Council on 8 October 2018. It commenced on 7 November 2018 and expired on 6 November 2023.

Whilst expenditure on this contract has been within the amounts budgeted, there has been a cumulative spend in excess of the awarded value amount. This has occurred due to the contract value being estimated on the regular maintenance requirements only, without the inclusion of an estimate for capital works required to improve and enhance the drainage network.

A new contract is currently being developed with the intention to award to a successful tenderer in mid 2024. The current contract therefore requires a six-month extension and a variation for increased total spend to also ensure coverage until the new contract is in place. This variation does not change the rates charged by the contractor for works.

Awarded value: \$2,693,730

Total spend (30 September 2023): \$4,118,264.98

Projected spend to end of contract: \$4,718,264.98

Variation required: \$2,024,534.98

2018/195 - Revegetation Sites Maintenance Services

This contract is for maintenance services on Council's biodiversity sites and was endorsed by Council on 10 December 2018. It commenced on 1 February 2019 and is due to expire on 31 January 2024.

Whilst expenditure on this contract has been within Council's annual budget allocations, the cumulative spend is in excess of the awarded value amount. This has occurred due to the contract value being estimated on the regular maintenance requirements only, without the inclusion of an estimate for works required to increase biodiversity areas over the contract term or any additional works allowed within the contract.

A new contract is currently being developed with the intention to award this to a successful tenderer in early 2024. The current contract therefore requires a two-month extension and a variation for increased total spend to also ensure coverage until the new contract is in place. This variation does not change the rates charged by the contractor for works.

Awarded value: \$2,099,273.58

Total spend (21 August 2023): \$3,662,755.74

Projected spend to end of contract: \$3,966,596.57

Variation required: \$1,867,322.99

2019/17 Boroondara Sports Ground Lighting - Supply Panel

This contract is utilised for the installation of new sports lighting and the maintenance of existing lights. It was endorsed by Council on 10 December 2018. The contract commenced on 17 December 2018 and expires on 16 December 2023.

Whilst expenditure on this contract has been within the budget allocations, there is a cumulative spend in excess of the value awarded by Council. This is due to a greater number of projects completed for new lights than projected at the commencement of the contract.

Awarded value: \$1,541,080.00

Total spend (21 August 2023): \$1,923,775.93

Projected spend to end of contract: \$1,923,775.93

Variation required: \$382,695.93

The current contract will expire on 16 December 2023 as per the contract term. In the period between contract expiration and the date when a new contract is awarded, any works required will be completed through a quotation process in accordance with Council's procurement policy.

A variation is required to cover the existing contract overspend.

2020/44 - Amenity Tree Pruning and Electric Line Clearances

This contract is for maintenance services on Council street trees and electrical line clearance work and was endorsed by Council on 25 November 2019. The contract commenced on 12 December 2019 and is due to expire on 30 June 2025.

Whilst there has been some expenditure on this contract over the amount budgeted, there has been a far greater cumulative spend in excess of the value awarded by Council. This has primarily occurred due to:

- the amount of work required to respond to Energy Safe Victoria audits and Yarra Tram audits;
- the increased cost of live line shutdowns; and
- reactive storm damage work to trees.

Further, at the time the contract was awarded, the total spend was estimated only on the amenity pruning cycle and did not account for the other works that this contract is utilised for. For example, work on significant tree limbs, for which there is a \$1.3M annual budget allocation, was not included in the total value estimate for the contract at the time it was awarded.

Awarded value: \$9,579,032.00 Previous Variations: \$471,392.22

Current contract value: \$10,050,424.22

Total spend (21 August 2023): \$11,868,960.94

Projected spend to end of contract: \$18,473,581.94

Variation required: \$8,423,157.72

This contract has recently entered its extension period and continues to be required to be utilised to successfully maintain our tree population in accordance with ESV requirements. A variation is therefore required to cover the projected increase in total spend through to the end of the contract period. This variation does not change the rates charged by the contractor for works.

2018/177 Kew Recreation Centre Redevelopment - Architectural and Consultancy Services - Williams Ross Architects Pty Ltd

This contract is for principal consultant services for the delivery of Kew Recreation Centre. The roof collapsed on 20 October 2022 resulted in a variation in principal consultant services. The consultant is required to undertake additional services associated with concrete and hydraulic reinstatement works associated with the roof demolition and completion of the original project scope including contract administration over an extended period. It is now forecast the project may not reach practical completion until the end of 2025.

Awarded value: \$2,671,750

Variations Approved: \$762,286

Current contract value: \$3,434,036

Total spend (18 October 2023): \$3,069,503

Projected spend to end of contract: \$3,606,044

Variation required: \$172,008

These additional costs are to be claimed by Council in the resolution of the Kew Recreation Centre project.

2020/117 Kew Recreation Centre - Project Management Services - Turner & Townsend Thinc Pty Ltd

This contract is for project management services for the delivery of Kew Recreation Centre. The roof collapsed on 20 October 2022 resulted in a variation in project management services. The consultant is required to undertake additional services associated with investigations into the cause of the roof collapse, support planning activities for the project returning to a new program and completion of the original project scope over a prolonged period.

It is now forecast the project may not reach practical completion until the end of 2025.

Awarded value: \$369,615
Current contract value: \$369,615
Total spend (8 November 2023): \$343,489
Projected spend to end of contract: \$824,849
Variation required: \$455,234

These additional costs are to be claimed by Council in the resolution of the Kew Recreation Centre project.

The contract management issues identified in this report are being addressed via a number of actions including a review of the Procurement Policy and applicable Procurement and Contract Management procedure and guidelines.

5. Consultation/communication

No external consultation has occurred on this matter. Internal consultation has been conducted with Environmental Sustainability and Open Spaces and the Chief Financial Office.

6. Financial and resource implications

The contracts specify the works required and budgets have been developed to accommodate this work. Expenditure on contracts 2018/174, 2018/195, 2019/17, 2020/44, 2018/177 and 2020/177 can be managed within existing budgets this financial year.

Additional costs incurred relating to the Kew Recreation Centre are to be claimed by Council in the resolution of the project.

7. Governance issues

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report has been assessed against the rights contained within the Charter of Human Rights and Responsibilities 2006 and is deemed to be compatible with the Charter.

8. Social and environmental issues

These contracts assist in the maintenance and development of Council's drainage, open spaces and trees and deliver significant community wellbeing and environmental benefits.

9. Conclusion

All of these contracts are required to continue to deliver important services for the community. Approval of these variations will enable relevant works to continue under contract.

**Manager and
report officer:**

**David Shepard, Manager Environmental Sustainability &
Open Spaces**