

## 9.4 LAND TRANSPORT CONTRACT EXTENSIONS C1057, C1058, 1059 AND C1060

**File Number:** 22

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**Attachments:** Nil

The Council is satisfied that, pursuant to s48(1)(a)(i) of the *Local Government Official Information and Meetings Act 2002*, the information to be received, discussed or considered in relation to this agenda item is:

- s7(2)(h) the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities
- s7(2)(i) the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

### PURPOSE

The matter for consideration by the Council is to formally approve the extension of the following Contracts:

- C-1057 Road Maintenance (1 year).
- C-1058 Road Reseals (2 years).
- C-1059 Area Wide Pavement Treatments (2 years).
- C-1060 Minor Structural Renewals (2 years).

### RECOMMENDATION

1. **That Contract C-1057 – Road Maintenance be extended for one year from 1 July 2024 to 30 June 2025.**
2. **That Contract C-1058 – Road Reseals be extended for 2 years from 1 July 2024 to 30 June 2026.**
3. **The Contract C-1059 – Area Wide Pavement Treatments and C-1060 Minor Structural Renewals be extended for 2 years from 1 July 2024 to 30 June 2026.**
4. **That the resolutions of this report be released as publicly available information on official notification to the relevant contractor of each of the contracts and the approval of Waka Kotahi.**
5. **That the minutes relating to this item be released as publicly available information on official notification to the relevant contractors of each of the contracts and the approval of Waka Kotahi**

### EXECUTIVE SUMMARY

### BACKGROUND

At Councils 17 August 2023 meeting, extensions were approved for the district's five land Transport Contracts. In this report we noted the process Council adopted in 2020, procuring four land transport contracts that mobilised simultaneously in June and July 2020.

At this time of reporting, we noted a report would be brought back for Council to consider the final extension awards of these Contracts. Having now completed further diligence work, undertaken further work on the Land Transport Improvement Plan and assessed how best to procure these contracts into the future, Officers are recommending the proposed contract extensions are awarded, that will ultimately support and set up a process to continue to build confidence and improvement in the Land Transport activity.

The detail of the four land transport contracts being considered in this report are:

Contract	Supplier	Commencement	Initial Term	Term Extension/Expiry	Recommendation.
C1057 Roothing Maintenance	Downer	1 July 2020	3 years	+1+1 30 June 2025.	Recommending final one year extension to 30 June 2025, to procure in 2024.
C1058 -Road Reseals	Downer	1 July 2020	3 years	+1+1 30 June 2025.	Recommending the final one-year extension is extended to a final two-year extension to 30 June 2026, to procure in 2025.
C1059 Area Wide Pavement Treatments	Higgins	1 July 2020	2 years	+1+1+1 30 June 2025.	Recommending the final one-year extension is extended to a final two-year extension to 30 June 2026, to procure in 2025.
C1060 Minor Structural Improvements	Higgins	1 July 2020	2 years	+1+1+1 30 June 2025.	Recommending the final one-year extension is extended to a final two-year extension to 30 June 2026, to procure in 2025.

## DISCUSSION

This section of the report covers off initial context relating to the proposed timeline of contract extensions and the resulting procurement timeline. It also specifically covers off each contract award.

### ***Lessons learnt from 2020 Land Transport Procurement***

In early 2020, following a Section 17a Review in 2019, the district procured four of its major Land Transport Contracts in a combined fashion allowing tenderers to bid on any number of the contracts with the intent of getting value for money by combining these works. There was high interest from the sector with 5 companies tendering for various parts of the work. Although they remain separate contracts the council did obtain some value in the sector tendering for multiple contracts.

While this approach created a successful procurement outcome, the organisation was not prepared for the scale and impact of mobilising four new contracts at once. Overall, mobilisation of the four contracts could have been better, with the impacts of a challenging mobilisation most visible in the first year of the reseals contract. Many of the issues relating to the performance of Councils roading maintenance contract, identified through the Land Transport Improvement Plan, and specifically with the Road Maintenance Contract Improvement Plan, also relate back to the mobilisation of the maintenance contract at this time also.

There is also a distinct difference in the nature, focus and level of engagement required with the procurement of a road maintenance contract, rather than the three other contracts that are sporadic or seasonal in nature, and more project focussed bodies of work.

Therefore, the key lesson from the 2020 procurement process is that considerable time, effort and focus must be given to the procurement of the roading maintenance contract and then sufficient time, and focus given to ensure its successful mobilisation. To this end, the recommendation from Officers is to separate out the timing of the procurement and mobilisation of the Maintenance Contract from the remaining three contracts to ensure the successful focus and mobilisation of a new maintenance contract can be provided, and the outcomes sought realised.

### ***Land Transport Priorities***

A significant focus for the organisation, reflected through Elected Members priorities is addressing the districts roading network and overall performance of its land transport activity. The proposed procurement approach set out in this paper seeks to prioritise and address the key areas of focus identified by Elected Members in their priorities.

### ***Internal Capacity and Capability to respond***

The Land Transport Improvement Plan has begun its implementation with its major focus being on ensuring internal capability and capacity exists to sufficiently deliver the current and future land transport needs of the district.

On the current timeframes it is not expected that a full team will be operating until mid-June 2024 with there still needing to be time to allow this new team to establish and settle in. Having a full team in place is going to be critical for the successful procurement of these contracts. The recommended option splitting the procurement of maintenance contract from the three remaining contracts, also supports a timeline for the recruitment of new capability and capacity into this team.

### ***Procurement impacted by Cyclone Gabrielle***

With the market changes due to cyclone Gabrielle and the formation of TREC the demand on resources is very high in the work being done under area wide pavement treatments, re-seals and minor structural renewals C-1058, C-1059, and C-1060. Due to the amount of work available, higher than normal cost fluctuations and contractors reduced appetite for risk will impact the procurement of all of these contracts and tender pricing. To this end, the ability to extend the contracts on the current rates, is beneficial to Council and supports Councils focus and effort remaining on the Land Transport operations and recovery activities.

### ***Overall Procurement Plan and Approach***

It is proposed that a detailed procurement plan will be presented to Council with a timeline of activities to procure initially the main roading maintenance contract in early 2024. Early procurement of this contract will be critical to achieve a well planned, considered and executed mobilisation of a new contract.

While there are risks to any procurement including the depth of the market, pressure relating to resourcing availability associated with Recovery activities, Maintenance Service contracts remain attractive contracts for long term service provision. We can expect that this contract, and the way in which Officers early work on how best to present this contract to the market, will likely receive a strong response from the market. The incumbent have already signalled their attention to bid for the contract in the future.

### ***Contract Award***

This next section of the report outlines the four contracts recommended to be extended:

#### ***Contract C-1057 – Road Maintenance***

The initial three-year fixed term for Contract C-1057 Road Maintenance expired on 30 June 2023 and a 1-year extension was approved in August 2023. As the contract was written with a possible

two 1-year extensions Council is required to make a determination on extending this contract for a further 1 year to June 2025.

Officers are recommending that this contract is extended for the 1-year period only. The Supplier has continued to respond well to the Buyers enhanced leadership in this activity and they have responded positively also to the specific contract improvement plan that has been developed in partnership.

The latest PACE score for the contract reported in August 2023 was 76%. In the newly established Key Performance Indicators for the contract, the Supplier scored in the October period a score of 63%. This score, while a different methodology from the PACE scores, provides a more reflective score of actual performance. While a drop in performance, Officers are comfortable to recommend this contract for its extension. Even if Council chose to not extend the contract, Council would not be ready or prepared to appropriately procure a new Contractor and could end up in a worse position.

Again, this one-year extension will allow for the contract to be procured in 2024 as the only priority contract to then be mobilised in 2025, with the remaining contracts being retendered in 2026. It will also provide Officers the ability to focus on re-setting Councils Maintenance Intervention Strategy (MIS) to include agreed community input and for the preparation and tendering of the next maintenance contract.

The procurement of this contract will require the full focus of the Land Transport team in a very constrained and busy environment while continuing to monitor and improve the existing services. The maintenance contract differs from the others in that the skills required are not necessarily those required for the cyclone re-build or directly align with the work being procured through the remaining three contracts.

This contract is also the single largest expenditure in Land Transport and is critically important to the connectiveness of our communities and the safety of our users. This concentrated focus will assist in decreasing the gap between customer expectations, contractor delivery and affordability. The new contract will allow opportunity to have more local involvement and provide growth of the tier 2 and tier 3 contractors.

A separate detailed procurement plan along with a timeline of activities and milestones will be presented to Council early in 2024 for consideration and input.

#### Contract C-1058 – Road Reseals

Contract C-1058 Road Reseals initial three-year term expired on 30 June 2023 and a 1-year extension was approved in August 2023, with the contract still also having a 1 year extension available. However, officers are requesting a two year extension to allow staff to focus on getting the Road Maintenance contract (our largest single expenditure) re-sized and fit for purpose.

Good progress had been made with the contractor in the first 3 years of the contract and performance was meeting specifications and expectations. The overall average score for this contract term was 65%, achieving a score of acceptable or business as usual when this was presented to Council in August 2023.

Recognising the current time, no work has been procured or exercised under this contract since August 2023, therefore there is no updated score to be presented to Council of this contract extension.

Overall, Officers are comfortable recommending this extension for a two-year period.

#### Contract C-1059 – Area Wide Pavement Treatments and Contract C-1060 Minor Structural Treatments

C-1059 and C-1060 both had an initial two-year term which ended in June 2022 and two 1-year extensions have been granted. The performance on these contracts has been good with the contractor meeting all of the delivery timeframes and specifications. The contract has only one 1-year extension remaining, but Officers are again requesting a 2 year extension, rather than a one-year extension to allow staff to focus on getting the Road Maintenance contract re-sized and fit for purpose.

Higgins have continued to work consistently well with Council and its professional services provider, providing additional support operationally and working alongside other services, particularly through the challenging weather conditions the district has faced.

## **RISK ASSESSMENT AND MITIGATION**

There are three key risks that have been identified by Officers:

- That the contractor(s) do not want the extensions and want to go to market. To mitigate these early discussions with contractors have commenced, with them all comfortable with this approach in principle. In a worst-case scenario, Council will have to re-tender all four contracts during the 2024 – 2025 fiscal year.
- There is a risk that Waka Kotahi will not formally approve the extra year of extension for C-1058, C-1059, and C-1060. Approval in principle has been given, however this still has to be formally approved by Waka Kotahi. Again, in a worst-case scenario, Council will have to re-tender all 4 contracts during the 2024 – 2025 fiscal year.
- Performance on the contracts deteriorates and council have no choice but to default the contractor(s). Mitigations include continuing to work with the contractors in a partnering manner to ensure performance stays acceptable and where possible improves. The likelihood of this occurring is considered low at this point.

## **FOUR WELLBEINGS**

As all the contracts when originally tendered included the broader outcomes and the four well-beings these will continue to be part of any extension granted and can be enhanced through performance monitoring

Extending the contracts will benefit the wellbeing's as the incumbents are well embedded within our communities, buying and employing local, contributing to our communities, and understanding our cultural uniqueness.

The incumbents all understand the values and behaviours of Project Thrive that are expected of them and have delivered on all of the four wellbeing's across the contracts in varying ways from economic employment outcomes to supporting the mana of local marae through projects.

## **DELEGATIONS OR AUTHORITY**

These contracts exceed the authority of the Chief Executive and as per the resolutions of Council executing these contracts, require the approval of the Elected Council.

Waka Kotahi have given approval in principle for the extension of all of the contracts, but formal approval must still be granted, in accordance with their contractual terms and the roll over periods. This includes the two-year extensions of Contracts C1058, 1059 and 1060.

## **SIGNIFICANCE AND ENGAGEMENT**

In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as of some significance.

The funding associated with these contracts is significant and forms a major part of the total expenditure of Council. The areas are also significant areas of focus for Councillors in this Triennium. Ensuring Council has Contracts in place that can give certainty to cost is also important to manage any future significant risks that could occur.,

## OPTIONS ANALYSIS

Three possible options for Council to consider include:

### **Option 1 – Extend Contract 1057 for 1 year and 1058,1059 and 1060 for two years.**

Extend contracts C-1057 by 1 year, and C-1058, C-1059, and C-1060 for two years.

This approach allows for Council to fully plan for, consider and focus on the implementation of a new Land Transport Maintenance Contract, and for Council to then focus on its three remaining contracts.

This option also provides for the 2024-34 Long Term Plan (LTP), together with Waka Kotahi's 2024-27 National Land Transport Plan (NLTP) to inform funding, service delivery requirements and broader outcomes priorities for the new contracts.

### **Option 2 – Extend to the existing Contract Terms Only**

This option would see all of the Contracts extended for a single year only. This option does not address the key issues identified by Officers in this report, where focus should be given to prioritizing the procurement and mobilization of the maintenance contract.

This option does provide for the 2024-34 Long Term Plan (LTP), together with Waka Kotahi's 2024-27 National Land Transport Plan (NLTP) to inform funding, service delivery requirements and broader outcomes priorities for the new contracts.

### **Option 3: Do not extend the contracts, return to the market**

This option would see the Contracts 1057, 1058, 1059 and 1060 not extended from June 2024 and all of the contracts are returned to the market.

This approach would place considerable pressure on the organisation and is unlikely to be achieved. This is a higher-risk approach, with no certainty in relation to contract rates and the ability for Contractors to struggle to meet the timeframes for mobilisation.

This approach is not recommended and does not set Council or community up for the long-term transformational outcomes that are sought for the Land Transport Activity. Council would be unlikely to be able to appropriately resource and deliver such a procurement of this size, under the current circumstances and would also be unlikely to successfully mobilise the contract for success either.

<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>
Extend Contract 1057 for 1 year and 1058,1059 and 1060 for two years.	Extend to the existing contract terms only	Do not extend the contracts, return to the market

<b>Financial and Operational Implications</b>	No financial implications as all contracts contain language to ensure all work is done within available budgets.	No financial implications as all contracts contain language to ensure all work is done within available budgets.  Operationally this will stretch the capacity of the Land Transport team to complete, and we will be going into new contracts without known budgets. Council would unlikely be able to appropriately resource or effectively deliver this procurement.	Unknown costs which could negatively impact service levels.  Additional cost of running procurement processes would also need to be considered. Council would unlikely be able to appropriately resource or effectively deliver this procurement.
<b>Long Term Plan and Annual Plan Implications</b>	There are no obvious implications.	There are no obvious implications.	This option could pose significant issues for both the Long Term Plan and this year's Annual Plan. Significant shifts in pricing could result.
<b>Promotion or Achievement of Community Outcomes</b>	Allows community expectations and agreed interventions to be developed to include in the next maintenance contract	Does not allow community expectations and agreed interventions to be developed to include in the next maintenance contract	Relative to the procurement, this option could support community outcomes. It does not, however, provide confidence or certainty to those locally employed in the short term.
<b>Statutory Requirements</b>	Meets all statutory requirements	Meets all statutory requirements	Meets all statutory requirements
<b>Consistency with Policies and Plans</b>	Consistent with policies and plans	Consistent with policies but will have a negative impact on our ability to recognise the community input	This approach does not align with the good buyer principles outlined in Councils procurement strategy.

### Recommended Option

This report recommends option **Option 1 – Extend Contract 1057 for 1 year and 1058,1059 and 1060 for two years.** for addressing the matter.

### NEXT STEPS

On the basis that Council approve the recommended options, the next steps will be formalising approval from Waka Kotahi for the extra year extension for Contracts C-1058, C-1059, C1060. Officers will then work with Suppliers to finalise the extensions.

If for any reason there are variations or issues with this approach, Officers will update Councillors as a priority.

### RECOMMENDATION

1. That Contract C-1057 – Road Maintenance be extended for one year from 1 July 2024 to 30 June 2025.
2. That Contract C-1058 – Road Reseals be extended for 2 years from 1 July 2024 to

**30 June 2026.**

- 3. The Contract C-1059 – Area Wide Pavement Treatments and C-1060 Minor Structural Renewals be extended for 2 years from 1 July 2024 to 30 June 2026.**
- 4. That the resolutions of this report be released as publicly available information on official notification to the relevant contractor of each of the contracts and the approval of Waka Kotahi.**