



Parliamentary Response

**Minister for Housing and Local Government,
Honourable Maciu Katamotu Nalumisa**

Parliamentary Response: 14 April 2023

Parliament

14 April, 2023

Government Buildings

SUVA

Written Question 86/2023

86/2023 Hon. Ratu Isikeli Tuiwailevu to ask the Minister for Housing and Local Government – Can the Minister update Parliament on the following –

(a) what is the current legal status of the publicly funded Lautoka swimming pool; and

(b) in the interest of transparency to taxpayers, all the contractual documentation, contract variation costs, contract disputes and supporting documents pertaining to the Lautoka swimming pool saga.

Mr. Speaker Sir, the question by Hon. Tuiwailevu is in two parts, hence, my response is provided accordingly.

(a) What is the current legal status of the publicly funded Lautoka swimming pool

Mr. Speaker Sir, the Lautoka Swimming Pool is a major capital development project, which remains incomplete due to dispute between the Lautoka City Council (LCC) and the Lead Consultant/Contractor.

The Pool, if constructed in a timely manner would have generated revenue that would have supported the Council's financial position.

Mr. Speaker Sir, the Lead Consultant and one of the contractors challenged the Council's decision to terminate the Contract and instituted legal proceedings against the Council. The LCC terminated the contract of the Lead Consultant, in 2020, due to poor project management and poor metal work done by the contractor responsible. Furthermore, the project progress was slow. The Contractors were not able to meet the set timelines.

Given this contractual disagreement, a meeting was called to discuss the issues and find a workable solution. The resolution was to carry out a Peer Review Exercise.

Mr Speaker Sir, a Terms of Settlement was drafted between the LCC and the Lead Consultant, due to a civil litigation instituted by the Lead Consultant's solicitors for the initial termination of the consultant's Contract. This was to ensure that the matter is put on hold, whilst the peer review process is carried out by the Construction Implementation Unit (CIU) from the then Ministry of Economy.

A Terms of Reference was drafted by the CIU to engage a consultant for the Peer Review. The Terms of Reference was discussed in detail with the CIU, LCC, Lead Consultant's Solicitors and the Office of the Solicitor-General.

The initial Terms of Settlement and the Terms of Reference was vetted and finalised by the Office of the Solicitor-General. The CIU undertook the advertisement and recruitment of a consultant to carry out the Peer Review.

Mr. Speaker Sir, a Peer Review was to assess the work carried out by the Lead Consultant and the Contractors. This was to ensure that the work was carried out in accordance with the scope of works in the Contract between the Lautoka City Council and the Lead Consultant and other relating Contractors.

From the Expression of Interest and the assessment undertaken of the applicants, an independent Consultant had been engaged by the Ministry of Local Government to carry out the said Peer Review.

Mr. Speaker Sir, the parties to the Contract had withdrawn the case, against LCC, from Court, as the Peer Review exercise had commenced. It is worth noting that the Peer review exercise has been completed and the parties are yet to determine the way forward based on the findings and recommendations in the Peer Review Report. The Peer Review exercise was undertaken in 2022, with a final report submitted in June 2022. This Peer Review Report is currently being considered by the Ministry of Finance and Ministry of Local Government to determine the feasible way forward.

Mr. Speaker Sir, there were no works and/or construction undertaken on the Project during the Peer Review process.

Mr. Speaker Sir, therefore, there is no pending legal matter in relation to the Lautoka Swimming Pool and the construction is yet to be completed.

b) In the interest of transparency to taxpayers, all the contractual documentation, contract variation costs, contract disputes and supporting documents pertaining to the Lautoka Swimming Pool saga.

Mr. Speaker Sir, the Lautoka Swimming Pool Project started with a lot of enthusiasm by the Lautoka City Council, in 2015. The Council carried out the tender and appointment of the Lead Consultant and Contractors within the provisions of the Manual of Accounts that was used by the Councils to guide their operations previously. This is now replaced by the Finance Manual for the Municipal Councils.

Mr. Speaker Sir, one of the challenges faced by the Council was the lack of technical expertise in-house. This shortage of experts is a perennial problem faced by most Councils. Hence, this led to the Council to rely heavily on the Project Architect, who also assumed the role of the Project Lead Consultant.

The Council, as a statutory body (by virtue of section 8 of the Local Government Act 1972) made independent decision on the procurement process. The decision by the Council to award the contract to the contractors was within the ambit of the provisions of the Manual of Accounts.

Mr. Speaker Sir, in August 2015, the Council made a submission to the Ministry of Local Government with respect to the Project background information and the engagement of an Architect Consultant to provide the concept design and detailed drawings.

The Council submitted their proposal to the Ministry of Local Government for budget consideration, for the construction of a Swimming Pool for all users comprising of the following:

- a. two pools, which will include:
 - i. competition pool of FINA compliant (size) 50m x 8 lanes; and
 - ii. community pool of 25m x 6 lanes and associated facilities.

Mr. Speaker Sir, in September 2015, a “Call for Tender” was advertised for Architectural Consultancy services in the local dailies twice by LCC. The LCC formed a Committee to evaluate the tenders received. The Evaluation Committee comprised of a representative from a private technical firm with engineering background.

The Committee recommended an architectural firm, which was awarded the contract on 27 July 2016. The appointment of the Consultant was made in accordance with the Manual of Accounts and consultation with the Ministry of Local Government.

Mr. Speaker Sir, the variation on the cost of the project arose when the initial concept was amended.

The initial Project was for two swimming pools: a FINA compliant competition pool (50m x 8 lanes) and a community pool of 25m x 6 lanes.

The project included the construction of associated facilities for the pool, which includes one medical room, two sets of public convenience for male and female with access for physically challenged individuals, two sets of change rooms, a pool attendant’s room, storage room and 1 ticket booth.

The estimated cost for the initial Project design was \$2 million.

The budget for the new Concept Proposal after several site visits and site meetings increased to \$3 million and then to \$7.8 million.

This was due to the change in scope of works as outlined below:

- 10 lane Competition Pool
- 4 lane Community Pool
- 4 lane Warm Up Pool
- Sports Village with 1,000 seater stadium

Mr. Speaker Sir, the above was approved by 17 January 2017.

The Lautoka City Council and the Lead Consultant executed the Consultancy Agreement for the Swimming Pool Development on 18 December 2017, when the Project Cost had escalated to \$12.6 million due to further changes in scope.

The changes were as follows:

- 10 lane Competition Pool
- 8 Lane Warm Up Pool
- 1 Children's Pool
- All to be at Olympic International Standard

It is important to note that an Olympic Standard Swimming Pool Facility is a competitive and for high performance swimming classification, which amongst the above-mentioned required specialised pool equipment, timing system, water quality control equipment, balance tank to maintain water quantity and level, flood lights of 1,500 lux and other facilities, such as changing rooms, shower rooms, etc.

In addition, the site for the pool was changed after a site visit was conducted by the Ministry of Local Government.

Mr. Speaker Sir, the new site required more civil works and it was on a higher level. The change in the project scope led to the increase of the project cost.

When the Contract was executed by the LCC in December 2017, the total project cost increased to \$12.6 million. The estimates from the beginning were based on the calculations, by the Project Consultant, of market prices of construction material and labour at that time.

The Project Team included a Quantity Surveyor who worked with the Project Architect in terms of project supervision for the progress payments.

Mr. Speaker Sir, the tender for the construction work was also publicly advertised and the company with experience and expertise in the construction of swimming pool did not want to be involved with the construction of the associated facilities.

Hence, the Council had two contractors engaged for the project, one specifically to construct the three pools (as Contract A) and the other contractor engaged for the associated facilities, which were the change rooms, restrooms, medical room and kiosks (as Contract B).

These two contracts were separately awarded to the contractors, whilst the Project Architect was tasked to evaluate the bidders' submission and forward to the Council the evaluation paper with his recommendations.

Mr. Speaker Sir, the awarding of the contracts was carried out as per the procurement guidelines that was used by all Municipal Councils. It is important to note that the composition of the Evaluation Committee that carries out evaluation had an important role in awarding the respective tenders.

Mr. Speaker Sir, in summary, the process for the Lautoka Swimming Pool Project started in 2015, with LCC expressing interest to construct a pool for the residents and ratepayers of Lautoka. The Expression of Interest was called for the Project Consultants. The cost estimates provided by the Consultant for the project was on the initial scope. The scope was changed by the Ministry of Local Government, in 2016, when approval was being sought by LCC. In 2016, only civil works and leveling of ground had started. The changes by the Ministry increased the project cost estimates from \$2 million to \$7.8 million and when the tender for the construction was called and quotations received the actual project cost reached \$12.6 million. The concept of the Lautoka Swimming Pool was approved in January 2017. Furthermore, the contract was executed in December 2017, with construction of the swimming pool started in 2018. In 2020, LCC had terminated the contract of the Project Consultant and Contractors due to the delay in works and not meeting project timelines for completion. Since 2020, there has been no construction undertaken at the site, as all the parties involved agreed to have a Peer Review exercise undertaken. In 2022, the Peer Review was done and report is currently with the Fiji Government, which is being discussed with LCC to formulate a feasible way forward for the completion of the project.

Mr. Speaker Sir, since 2018, there was an improvement in the major Capital Project tender process, as it was handled by the Fiji Procurement Office within the Ministry of Finance, Strategic Planning, National Development and Statistics. The Government Tender Board consists of appropriate technical persons required to evaluate submissions and make pragmatic recommendations.

Furthermore, I would like to reiterate that the Ministry of Local Government has developed a new Finance Policy for Council, which sets out specific provisions on the procurement process. The Ministry of Local Government consults relevant stakeholders to ensure appropriate implementation of Development Projects.

Mr. Speaker Sir, the above response is submitted. Thank you.