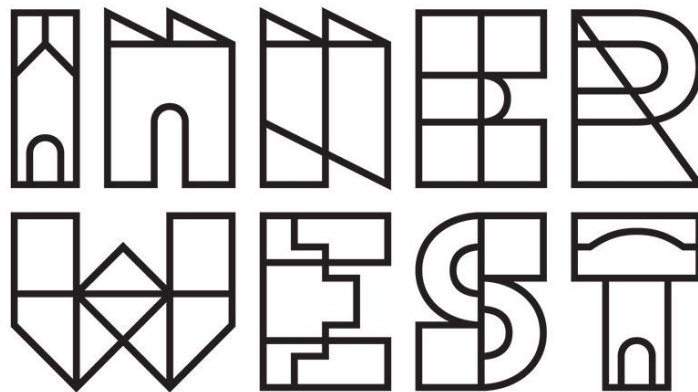


SUPPLEMENTARY AGENDA 1

Distributed on 16 June 2023



COUNCIL MEETING

TUESDAY 20 JUNE 2023

6.30pm

Location Ashfield Service Centre, 260 Liverpool Road, Ashfield

Item No: C0623(1) Item 57
Subject: HENSON PARK - PUBLIC PRIVATE PARTNERSHIP - LICENCES - SUPPLEMENTARY INFORMATION
Prepared By: Matthew Pearce - General Counsel
Authorised By: Peter Gainsford - General Manager

Item 57

RECOMMENDATION

1. That Council confirms that the outcomes and deliverables of the Henson Park Grandstand Redevelopment Project as outlined in the Henson Park PPP Final Assessment are acceptable;
2. That Council continue to proceed with the Henson Park Grandstand Redevelopment Project as a Public Private Partnership with the AFL (NSW/ACT) Commission Limited;
3. That Council authorise the General Manager to:
 - a) certify that the Henson Park Licence for Use and Construction Licence, as part of the Henson Park Grandstand Redevelopment Project, has been prepared in accordance with the Public Private Partnership Guidelines 2022;
 - b) confirm that there have been no material change to the Public Private Partnership of the Henson Park Grandstand Redevelopment Project or its cost since the full assessment by the Office of Local Government;
4. That Council seek approval from the Office of Local Government to execute the Henson Park Licence for Use and Construction Licence in respect of the Henson Park Grandstand Redevelopment Project.
5. That Council delegate to the General Manager the authority, if approval is provided by the Office of Local Government, to execute the Henson Park Licence for Use and Construction Licence in respect of the Henson Park Grandstand Redevelopment Project.
6. That Council delegate to the General Manager (or his delegate) the authority to execute the Henson Park Deed of Agreement for Use in respect of the Newtown Jets with a term of 21 years noting that the AFL Henson Park Licence for Use also has a term of 21 years.

DISCUSSION

This report is to be read in conjunction with Item 12 *Henson Park - Public Private Partnership – Licences*.

Background

On 13 December 2022, Council resolved, at an Extraordinary meeting, to proceed with the Henson Park Redevelopment Project as a Public Private Partnership with the AFL (NSW/ACT) Commission Limited and referred an executed Heads of Agreement to the OLG for consideration (refer to the attachment).

On 22 December 2022, the PPP submission was forwarded to the OLG for full assessment and on 1 March 2023 Council received a response from OLG, (**refer to the attachment**).

The AFL Licence for Use

The detailed terms of the AFL Licence for Use between Council and the AFL (**refer to the attachment**) are as follows:

(a) Term - 21 years (this is the maximum period for a Licence of Community Land under the Act);

(b) Licence - A non-exclusive licence to use Henson Park in the following terms:

- (i) 20 days for match games annually for ticketed community and elite Australian football (limited to 5 hours per day) over the Winter and Summer seasons (Match Days);
- (ii) A seasonal licence for the Winter season (April to September) for community football; and
- (iii) Non-ticketed match games and training will be booked in accordance with the with principles and criteria in Council’s Allocation Policy.

(c) Licence Fee – The fee will be charged in accordance with Council’s Annual fees and charges for Henson Park:

(d) Mandatory Use - The licence to use Henson Park will be subject to the following ongoing mandatory use:

- (i) use by the Newtown Jets;
- (ii) a minimum amount of community use of the facilities;
- (iii) the facilitation of junior sports; and
- (iv) public access outside the playing surface during non-ticketed community match days that includes but is not limited to local residents and dog walkers.

Further, Council and the AFL have reached an agreement in respect of the Match Days for the Sydney Swans AFLW at Henson Park. Clause 2.1(c) ensures that the AFL has a discretion to determine play home matches at Henson Park during annual competitions but is also required to consult Council concerning the allocation of match days for the Sydney Swans AFLW. In addition, the use of Henson Park by the Sydney Swans AFLW has been mandated for the playing seasons up to 2026.

The NSW Office of Sport grant, made by the AFL, states that the Project will “lead to a projected 14% increase in women’s community sporting use”. The Commonwealth Funding Application, made by Council, states that an outcome of the Project is that “the new facilities will also be utilised as the home ground for the Sydney Swans AFLW competition team” and that “Inner West Council is committed to increasing access and opportunities for quality recreation experiences for diverse community members, including women and girls.”

It is expected that the Licence will achieve such objectives and outcomes.

The AFL Construction Licence

Henson Park is community land and is subject to a Plan of Management. The POM requires that a Construction Licence is required if works are to be undertaken at the Park. The Council, through the Construction Licence, grants the AFL occupation and use of a construction area to enable the AFL to undertake the Henson Park Grandstand Redevelopment Project. The parties have reached an agreement in respect of the construction of the Project and the Construction Licence is ready to be executed (**refer to the attachment**).

The Newtown Jets Deed of Agreement

The term of the Deed is 21 years whereby the Newtown Jets along with the ALF are the primary users of Henson Park with other formal use requests by the Jets to be considered with regards to the ongoing management of the grounds as a premier sporting venue. The 2016 Deed currently in place with the Jets will be replaced with this new Deed (and when the construction works in respect of the PPP are completed).

The parties have reached an agreement in respect of the Newtown Jets use of Henson Park and as such the Newtown Jets Licence is ready to be executed (**refer to the attachment**).

ATTACHMENTS

- 1. [↓](#) Heads of Agreement
- 2. [↓](#) OLG Letter
- 3. [↓](#) AFL Henson Park Licence for use
- 4. [↓](#) AFL Construction Licence
- 5. [↓](#) Newtown Jets Henson Park – Deed of Agreement

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INNER WEST COUNCIL AND AFL (NSW/ACT) COMMISSION LIMITED
HENSON PARK DEVELOPMENT
HEADS OF AGREEMENT

1. Background

- (a) AFL (NSW/ACT) Commission Limited ABN 53 086 839 385 (**AFL NSW/ACT**) has approached Inner West Council ABN 19 488 017 987 (**Council**) regarding Henson Park. AFL NSW/ACT proposes to upgrade the grandstand known as the King George V Memorial Grandstand (**Grandstand**) to ensure compliance and inclusive amenities for players, officials and spectators. AFL NSW/ACT also propose to construct a new multipurpose building (**Multipurpose Building**) to support match day operations, broadcast and media. The proposed improvements will enhance the facilities and amenity of Henson Park for current users and the broader community, and allow Henson Park to be used for elite women's AFL games.
- (b) The concept designs submitted by AFL NSW/ACT will cater for female use of the facilities and major improvements are also planned for the spectator environments which will include improved and safer circulation and accessibility, canteen and toilet facility upgrades. The value of works for the Grandstand upgrades and Multipurpose Building are estimated between \$10 – 11 million.
- (c) In 2021, Council upgraded the playing field at Henson Park at a cost of approximately \$2.6 million. Given its recent investment in Henson Park, Council has resolved to cap its contribution to any future upgrade of the Grandstand to \$500,000 ex GST.
- (d) The Sydney Swans FC (**Swans**) were recently successful in being granted entry into the NAB AFL Women's Competition from Season 7 in 2022 (**Women's Competition**). Inclusion of the Swans into the Women's Competition will significantly lift the profile of girl's and women's AFL in NSW.
- (e) Season 7 of the Women's Competition is scheduled to commence in the last weekend of August and conclude with the Grand Final on weekend of 25-27 November 2022. The Swans will request Council allocate Henson Park for match play in Season 7 for the Women's Competition. This request is to be made regardless of the status or progress of the Project Works contemplated by these Heads of Agreement.
- (f) AFL NSW/ACT is seeking to host elite women's Australian football match play and training at Henson Park for a period of 21 years. This will be in addition to community Australian football and rugby league matches by Newtown Jets RLFC (**Newtown Jets**).
- (g) AFL NSW/ACT and the Newtown Jets have agreements for non-exclusive use of Henson Park for match play and training during the winter season until 31 March 2025. These agreements followed upgrading the lighting at Henson Park for match play including a \$75k contribution by AFL NSW/ACT.
- (h) Council resolved on 13 September 2022 that the proposal by AFL NSW/ACT to undertake the Project Works and host elite women's Australian football match play and training at Henson Park for a period of 21 years is a Public Private Partnership under the *Local Government Act 1993 (NSW)*.

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- (i) AFL NSW/ACT and Council wish to enter into this Heads of Agreement (**Heads of Agreement**) to record the proposed core commercial terms for a more formal agreement to facilitate the Project Works and an arrangement for AFL NSW/ACT to host elite women's Australian football match play and training at Henson Park for a period of 21 years (**Development Agreement**).

2. Development Agreement - Core Commercial Terms

The parties anticipate that the following items will be core commercial terms of the Development Agreement between the parties.

2.1 Project Works

The project works to be carried out by AFL ACT/NSW are to comprise of the following:

- (a) Grandstand - repairs to the first-floor seating area, providing DDA lift access to upper levels and complete upgrades to meet regulatory access requirements;
- (b) Player amenities in Grandstand - upgrade and reconfigure, providing change areas suitable for female players, accessible toilets, increase storage areas for sporting equipment;
- (c) Grandstand extension – new building at the rear of the grandstanding providing female friendly player and officials change rooms, amenities, gym, clubroom, and a lift providing wheelchair access to the upper levels of the grandstand;
- (d) Multipurpose Building – new building providing public amenities including baby change facilities, accessible toilets, game day canteen, coaches boxes, media broadcast facilities and solar panels on the roof; and
- (e) Upgrade the areas surrounding the Grandstand, including interchange and official bench areas, paving and drainage requirements,

(Project Works).

2.2 Media and Communications

- (a) Neither party will make any public communications or undertake any promotional activity regarding the Project Works or the future use of Henson Park by the AFL NSW/ACT without the prior approval of the other party.
- (b) The restriction on public communications does not apply to the Mayor or the Councillors considering matters in Council meetings or otherwise making comments as elected representatives.
- (c) All activities to promote the Project Works by the AFL NSW/ACT must be undertaken in consultation with Counciland, where appropriate, provide for the attendance of the Mayor and the Councillors.
- (d) The parties agree to work co-operatively on all activities relating to the Project Works.

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2.3 Development Application

- (a) AFL NSW/ACT has engaged architects, engineers and consultants for the development application and prepared the development application for the Project Works.
- (b) Council to provide landowner's consent for the development application.
- (c) AFL NSW/ACT to submit development application for satisfactory development consent with all parties to review and confirm application is acceptable prior to submission.
- (d) Development Application to be reviewed by external planning consultants and determined by external Planning Panel.
- (e) Modifications/appeals are subject to agreement of all parties.

2.4 Designs

- (a) AFL NSW/ACT to be responsible for and undertake the design of the Project Works in consultation with Council.
- (b) AFL NSW/ACT to submit designs to Council on a progressive basis for review and comment. Council to provide comment/approval in a timely manner.
- (c) The designs must comply with the Development Consent, Council's policies and technical requirements as set out in the Development Agreement and any other reasonable requirements of Council.
- (d) AFL NSW/ACT to undertake construction according to final designs approved in writing by Council and certified in writing by the Independent Certifier as complying with the requirements of the Development Agreement.
- (e) Any design modifications must be resubmitted for review and approval in writing by Council and certified in writing by the Independent Certifier as complying with the requirements of the Development Agreement.
- (f) Approval in writing from Council of designs at each review stage for the purposes of the Development Agreement shall not be construed as approval or consent by Council as a regulatory authority.

2.5 Project Control Group (PCG)

The Development Agreement to:

- (a) establish and identify the participants of the PCG comprising representatives of each party and, where appropriate, including consultants;
- (b) set out the roles of the participants, meetings and decisions; and
- (c) set out the functions of the PCG.

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2.6 Funding

The Project Works will be funded as follows:

- (a) Council to contribute up to a maximum of \$500,000 (ex GST) to be expended by Council as set out in the Development Agreement (**Council's Contribution**);
- (b) AFL NSW/ACT to contribute up to \$2,500,000 (ex GST) to the Project Works;
- (c) AFL NSW/ACT has applied for and received approval for grant funding from the NSW Office of Sport for \$5,000,000.00 (ex GST); and
- (d) Council to apply for grant funding from the Commonwealth for \$2,500,000.00 (ex. GST).

2.7 Value Management

AFL (NSW/ACT) will arrange for a quantity surveyor to prepare a budget for completing the Project Works and provide this to Council (**Project Budget**).

The parties will provide for value management adjustments in the Development Agreement.

2.8 Guarantee

The obligations of AFL NSW/ACT will be guaranteed by its parent company the Australian Football League.

2.9 Council's Project Manager, Quantity Surveyor and Consultants

- (a) Council will engage a project manager to have oversight of Council's rights and responsibilities with respect to the Development Agreement and the Project Works (**Council's Project Manager**).
- (b) Council's Project Manager is to have quality control sign-off at key milestones during design and construction.
- (c) Project Works are not to be continued until Council's Project Manager has signed off on the key milestones as set out in the Development Agreement, with milestones to be agreed between the parties. Council's Project Manager will act reasonably and with all reasonable speed in providing the quality control sign-offs.
- (d) Council may engage their own quantity surveyor to provide a pre-tender estimate for the Project Works (**Council's QS**).
- (e) Council will have the right to engage its own consultants to provide advice on the Project Works (**Council's Consultants**). AFL NSW/ACT and its contractors are to respond to reasonable requests for information and enable access to the site to Council's Consultants.
- (f) Council's Contribution will not be expended on Council's Project Manager, Council's QS and Council's Consultants.

2.10 Construction Contractor

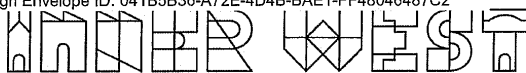
- (a) AFL NSW/ACT must in consultation with Council prepare a tender for the Project Works.

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- (b) Council's Project Manager to review the Project Budget for the Project Works prior to tender.
- (c) AFL NSW/ACT must conduct a competitive tender complying with industry standard tender requirements to appoint a contractor to undertake the Project Works (**Construction Contractor**).
- (d) Council (by its nominated representative) will have an opportunity to comment on the tender assessment. AFL NSW/ACT must have regard to Council's comments on the tender assessment when selecting and appointing the Construction Contractor.
- (e) The tender will seek value management opportunities or alternative methodologies from the Construction Contractor noting these are to be provided separately to the confirming tender for consideration.
- (f) AFL NSW/ACT must provide evidence to Council that it has sufficient funds (taking into account funds to be allocated by Council to from its Commonwealth grant) prior to entering into a contract with the Construction Contractor for the Project Works. AFL NSW/ACT must not enter into a contract with the Construction Contractor for the Project Works if there is insufficient funding held by the AFL NSW/ACT to pay for the Project Works.
- (g) AFL NSW/ACT must ensure that the Construction Contractor is:
 - (i) suitably qualified with sufficient experience to undertake the Project Works; and
 - (ii) solvent and reputable.
- (h) The Construction Contractor will be appointed by AFL NSW/ACT to undertake the Project Works.

2.11 Independent Certifier

- (a) AFL NSW/ACT must in consultation with Council engage an independent certifier approved in writing by Council to certify the designs and practical completion of the Project Works according to the requirements of the Development Agreement (**Independent Certifier**).
- (b) AFL NSW/ACT will provide Council with three candidates for the Independent Certifier. Council will within 10 business days of being notified of the candidates and reasonable detail as to their qualifications, provide written confirmation of whether, acting reasonably, it approves any or all of the candidates. If Council does not approve any or all of the candidates, it will provide reasons.
- (c) AFL NSW/ACT must ensure that the candidates presented to Council for Independent Certifier are:
 - (i) capable of acting independently of both AFL NSW/ACT and Council;
 - (ii) suitably qualified with sufficient experience to undertake the Project Works; and
 - (iii) solvent and reputable.
- (d) The Independent Certifier will be appointed by AFL NSW/ACT to undertake the independent certifier services under a contract acceptable to Council.

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2.12 Conditions Precedent to Construction

Before commencing construction of the Project Works:

- (a) AFL NSW/ACT must obtain development consent and a construction certificate for the Project Works and provide a copy of all related documents to Council;
- (b) AFL NSW/ACT must obtain Council's written approval of the final designs to be used for construction and certified by the Independent Certifier;
- (c) AFL NSW/ACT must provide Council evidence and confirmation that it has approvals in place and sufficient funds to complete the Project Works;
- (d) AFL NSW/ACT must provide to Council confirmation from its quantity surveyor of adequate escalation and contingency provisions being captured within the Project Budget, which will require review to accommodate any protracted planning and/or PPP processes;
- (e) AFL NSW/ACT must provide to Council a certificate of currency evidencing all insurances required under the Development Agreement (see clause 2.15); and
- (f) AFL NSW/ACT must provide Council with a copy of the executed contract appointing the Construction Contractor to undertake the Project Works.

2.13 Construction Licence

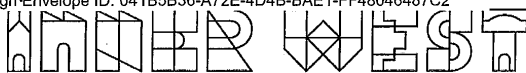
- (a) Council will grant the AFL NSW/ACT a non-exclusive licence to access designated areas of Henson Park (to be identified in the Development Agreement) (**Construction Area**) necessary to complete the Project Works (**Construction Licence**).
- (b) The term of the Construction Licence is for a period to be agreed based on the Construction timetable for the Project Works with reasonable extensions due to Force Majeure and other agreed extension of time events.
- (c) The term of the Construction Licence will expire on the earlier date of the period specified in subclause (b) or the date AFL NSW/ACT achieves Practical Completion of the Project Works and Handover to Council.
- (d) A nominal licence fee of \$1.10 (GST Inclusive) will be payable for the grant of the Construction Licence if demanded by Council.
- (e) The Construction Licence is subject to the existing occupancy rights in place with respect to Henson Park (including existing lease and licence arrangements). During the Construction Licence AFL NSW/ACT must cause as little interference as reasonably practicable to the other occupants of Henson Park.
- (f) During the Construction Licence Council must not authorise or allow any person to do anything in the Construction Area likely to impede AFL NSW/ACT's use of the Construction Area for the construction of the Project Works.
- (g) While access of the Construction Area will be under the terms of the Principal Contractor as the holder of all WHS responsibility, during the Construction Licence AFL NSW/ACT must ensure

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Council is permitted to access the Construction Area reasonably required by Council to:

- (i) inspect the progress of the Project Works and compliance with the Development Agreement; and
 - (ii) attend to matters as part of Council's day to day operation and management of Henson Park.
- (h) During the demolition and construction phase of the Project Works:
- (ii) the playing fields are to remain open;
 - (iii) AFL NSW/ACT will provide temporary facilities (such as a demountable) to be provided at Henson Park for use by AFL NSW/ACT and Newtown Jets only. Details of any demountables required are to be agreed and set out in the Development Agreement;
 - (iv) AFL NSW/ACT must provide to Council construction bonds for the amounts as determined by Council's Planning Panel through various stages of the development and set out in the Development Agreement; and
 - (v) If the AFL NSW/ACT fails to comply with the terms or remedy any breach of the Development Agreement within 14 days of a notice by Council, then Council may step in to rectify the non-compliance or remedy the breach and recover all reasonable costs and expenses incurred from the AFL NSW/ACT on a full indemnity basis.
- (i) If Practical Completion of the Project Works is not achieved within the term of the Construction Licence (as extended) AFL NSW/ACT (and its contractors) must:
- (i) comply with Council's directions with respect to removal, disposal or retention of:
 - (A) the Project Works (included any aspects partially completed or incomplete, but not including any aspects which have been fully completed); and
 - (B) any building materials and equipment located in the Construction Area used for the construction of the Project Works (**Project Materials**);
 - (ii) if requested by Council do all things necessary to assign its right title and interest to Council free of any encumbrances with respect to:
 - (A) the Project Works (included any aspects completed, partially completed or incomplete); and
 - (B) the Project Materials,

to be retained by Council;
 - (iii) comply with all repair obligations; and
 - (iv) comply with all Handover obligations with respect to those aspects of the Project Works completed.

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- (j) Following the expiration of the Construction Licence under subclause (h), Council may elect to complete all or any part of the Project Works and satisfy any outstanding repair obligations and recover all costs and expenses incurred from the AFL NSW/ACT on a full indemnity basis.

2.14 Construction of Project Works

- (a) AFL NSW/ACT must carry out the Project Works:
 - (i) at AFL NSW/ACT cost (subject to Council's Contribution, to be expended according to the requirements of the Development Agreement and payments pursuant to the Commonwealth grant obtained by Council for the Henson Park redevelopment);
 - (ii) in compliance with all laws, approvals, applicable standards, including the conditions and plans approved under the Development Consent and Construction Certificate, and the final designs as accepted by Council; and
 - (iii) by properly qualified and experienced contractors.
- (b) The AFL NSW/ACT must maintain a comprehensive record of the matters relevant to the construction of the Project Works including all plans, drawings, reports, applications to and consents from any relevant authority, licences and certificates and evidence of all payment and make this record available to Council on request (**Construction Records**).
- (c) Council will provide the funding obtained from the Commonwealth to AFL NSW/ACT by way of instalments corresponding to phases of construction, in accordance with a schedule to be set out in the Development Agreement. Funding will be provided at the completion of each phase of construction corresponding to key milestones signed off on by Council's Project Manager.

2.15 Project Works Time Frame

The parties acknowledge the following broad indicative time frames:

- (a) Development application to be lodged with Planning Panel January 2022;
- (b) Issue of public notifications for the licence within 3 months after the Licence is agreed by the parties and the Development Agreement is signed;
- (c) Following Development Consent application for Grants, funding approval and determination of Grants by 12 December 2022;
- (d) Design review process in consultation with Council commenced on 21 July 2022 and is anticipated to be completed by 21 October 2022;
- (e) Construction Certificate to be issued by 31 January 2023;
- (f) Construction to commence by 31 March 2023 for a duration of 12 months; and
- (g) Practical Completion and Handover compliance by 31 March 2024.

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2.16 Insurance

AFL NSW/ACT will ensure that the Head Contractor must maintain the following insurances noting the interest of Council during the Construction Licence:

- (a) Public liability and Products liability insurances for an amount not less than \$20 Million for any one occurrence endorsed to indemnify Council against any accident, injury or damage resulting from, or incidents arising from the use of Council property or facilities by AFL NSW/ACT;
- (b) Workers Compensation insurance for each person who is or may be engaged in the construction of the Project Works; and
- (c) Contractors all risk insurance for the value of the Project Works.

2.17 Project Works Liability and Indemnity to Council

- (a) AFL NSW/ACT must indemnify Council against:
 - (i) any loss damage or destruction to Council's property (including the Construction Area) caused by the Project Works;
 - (ii) any claim or liability against the Council in connection with any illness, injury or death, loss, damage or destruction to property arising from or in connection with:
 - (A) accessing the Construction Area;
 - (B) the Project Works; or
 - (C) any failure by AFL (or its Contractor) to comply with the Development Agreement,

except to the extent the loss, damage, destruction, illness, injury or death is caused or contributed by Council.

- (b) AFL NSW/ACT must not cause or permit any contamination and must comply with Environmental Protection laws;
- (c) AFL NSW/ACT will require its appointed contractors or their representatives not to store or use hazardous materials in the Construction Area and to comply with all work, health and safety legislation as the principal contractor (for the purposes of WH&S Legislation) and the occupier of the Construction Area; and
- (d) AFL NSW/ACT occupies the Construction Area at its risk and releases Council from all loss or claims except to the extent that the loss or claim is caused or contributed by Council.

2.18 Practical Completion and Handover Obligations

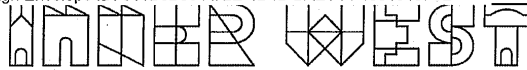
- (a) Practical Completion of the Project Works is achieved on the later date upon which:
 - (i) the Independent Certifier certifies in writing to Council that the Project Works have

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been completed in accordance with the requirements of the Development Agreement;
and

- (ii) an Occupation Certificate and Compliance Certificate issued with respect to the completed Project Works by the certifying authority are provided to Council,

(Practical Completion).

- (b) As soon as reasonably practicable following Practical Completion AFL NSW/ACT must:
 - (i) hand over and deliver up possession of the completed Project Works to Council free of any encumbrances;
 - (ii) provide as built drawings of the completed Project Works to Council;
 - (iii) provide a copy of all Construction Records to Council;
 - (iv) provide a copy of all maintenance manuals with respect to the completed Project Works to Council; and
 - (v) assign the benefit of all product, manufacture and contractor warranties to Council (including entering into a deed in a form and according to terms acceptable to Council and AFL NSW/ACT, both acting reasonably, to give effect to the assignment),
- (c) Council becomes the owner of the Project Works on Handover.

2.19 Defect Liability Period

- (a) AFL NSW/ACT must (and procure its Contractor to) provide a defects warranty period as set out in this clause.
- (b) An initial defects warranty period extends 12 months from the date of Practical Completion of the Project Works.
- (c) During the defect warranty period AFL NSW/ACT must rectify any defects notified in writing by Council.
- (d) Any rectified defects will be subject to a further defects warranty period of 12 months extending from the date of rectification.

2.20 Agreement for Licence

- (a) Licence Agreement to be attached to the Development Agreement prepared according to the core commercial terms set out in clause 3 with the commencement and expiry dates left blank.
- (b) The Licence Agreement is to commence on the date upon which Council notifies AFL NSW/ACT in writing that the Preconditions to Licence (set out in clause 2.20), Practical Completion and Handover have been satisfied (**Licence Commencement Notification**).

2.21 Preconditions to Licence

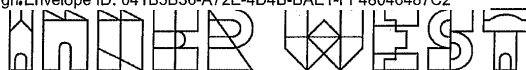
- (a) The parties acknowledge that Council cannot grant a licence over community land until after:

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- (i) it has given public notice in the form prescribed;
 - (ii) it has considered any submissions with respect to the proposal;
 - (iii) where an objection is raised it has obtained the Minister's consent (where the licence exceeds 5 years). **(Preconditions to Licence)**
- (b) Council must use all reasonable endeavours to satisfy the Preconditions to Licence following the entry of the Development Agreement.
 - (c) Council must notify AFL NSW/ACT in writing as soon as reasonably practical upon the Preconditions to Licence being satisfied.
 - (d) If Council notifies AFL NSW/ACT in writing that the Preconditions to Licence cannot be satisfied (for example where Minister's consent is required but refused) then either party may terminate the Development Agreement by notice in writing. If the Development Agreement is terminated under this clause neither party may make a claim against the other arising from the termination.

3. Licence Agreement - Core Commercial Terms

The following items are the core commercial terms of the Licence Agreement between the parties.

- 1. **Term** 21 years
- 2. **Licence Grant** A non-exclusive annual seasonal licence to use Henson Park for up to 20 days for ticketed match games in the summer and winter seasons for the Women's Competition, during the term of the licence agreement.
On each match day, AFL NSW/ACT can:
 - (a) restrict access to Henson Park for up to 5 hours; and
 - (b) further restrict access to parts of Henson Park (but not the oval and seating) for set up and dismantling.
- 3. **Mandatory Use** The licence to use Henson Park will be subject to the following ongoing mandatory use, in accordance with Council's adopted Sporting Grounds Allocation Policy:
 - (a) use by the Newtown Jets;
 - (b) a minimum amount of community use of the facilities as provided in Council's adopted Sporting Grounds Allocation Policy;
 - (c) the facilitation of junior sports, as provided in Council's adopted Sporting Grounds Allocation Policy; and
 - (d) public access outside the playing surface during non-ticketed community match days that includes but is not limited to local residents and dog walkers.

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Item No: C0623(1) Item 58

Subject: HENSON PARK DEVELOPMENT AGREEMENT - SUPPLEMENTARY INFORMATION

Prepared By: Matthew Pearce - General Counsel

Authorised By: Peter Gainsford - General Manager

RECOMMENDATION

That Council adopt the recommendation in the *Confidential Attachment 1*.

DISCUSSION

Council will move into closed session to deal with the Henson Park Development Agreement, for information which is classified as confidential under Section 10A(2)(d)(i) of the *Local Government Act 1993*. The matter is deemed confidential, as the matter is commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

Pursuant to section 10A(2), 10(2) and 10A(3) of the *Local Government Act 1993*, the media and public will be excluded from the meeting on the basis that the business to be considered is classified as confidential under Section 10A(2)(d)(i) of the *Local Government Act 1993*.

ATTACHMENTS

1. Henson Park Confidential Report - Supplementary Information - *Confidential*
This attachment is confidential in accordance to commercial information of a confidential nature (Section 10A(2)(d)(i) of the Local Government Act 1993) that would, if disclosed prejudice the commercial position of the person who supplied it.
2. AFL letter of Support - *Confidential*
This attachment is confidential in accordance to commercial information of a confidential nature (Section 10A(2)(d)(i) of the Local Government Act 1993) that would, if disclosed prejudice the commercial position of the person who supplied it.
3. Development Agreement - *Confidential*
This attachment is confidential in accordance to commercial information of a confidential nature (Section 10A(2)(d)(i) of the Local Government Act 1993) that would, if disclosed prejudice the commercial position of the person who supplied it.