

8.4 FLOREAT ATHENA FOOTBALL CLUB (INC.) - REQUEST FOR IN PRINCIPLE APPROVAL OF A NEW FIVE YEAR LEASE

TRIM Ref: D19/28516
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Attachments: Nil

RECOMMENDATION:

That Council:

1. **WELCOMES and SUPPORTS** the announcement of \$3 million from the Australian Government towards Litis Stadium improvement works through its Community Development Grants Programme.
2. **REQUIRES** Floreat Athena Football Club (Inc.) to collaborate with the City's Chief Executive Officer, prior to the submission of any additional information to the Australian Government, to ensure that Litis Stadium improvement works funded through the Community Development Grants Programme are prioritised to deliver the greatest community benefit.
3. **NOTES** the request from Floreat Athena Football Club (Inc.) for in principle approval of a new five year lease arrangement for Litis Stadium to satisfy requirements associated with the Australian Government Community Development Grants Programme.
4. **REAFFIRMS** the intention to enter into a further 1 year lease option with Floreat Athena Football Club (Inc.) from 1 January 2020 to 31 December 2020 for Litis Stadium, 41 Britannia Road, Leederville subject to satisfactory completion of the following:
 - 4.1 **Preparation of a Facility Management Plan** that outlines strategies to effectively manage the Stadium and meet lease obligations;
 - 4.2 **Provision of a Community Benefit Statement** that identifies the positive community impacts associated with Club activities and any future facility tenure arrangements;
 - 4.3 **Preparation of a Financial Plan** to determine organisational viability and capability as the basis for any future facility tenure arrangements;
 - 4.4 **Investigation of facility options** that meet National Premier League requirements, ensure long term financial and organisational sustainability, and maximise the use of community assets through co-location; and
 - 4.5 **Implementation of strategic planning, governance, business model and community engagement initiatives** as identified within the 'Club Development Plan – Progress Report' as submitted with the Litis Stadium Master Plan.
5. **ADVISES** Floreat Athena Football Club (Inc.) that suitable tenure arrangements for Litis Stadium beyond 31 December 2020, including but not limited to a new five year lease, will be negotiated subject to the outcomes of the abovementioned financial, governance and facility planning.

PURPOSE OF REPORT:

To advise Council of the recent request from Floreat Athena Football Club (Inc.) for in principle approval of a minimum five year lease for Litis Stadium in order to meet the Australian Government Community Development Grants Programme requirements.

BACKGROUND:

At the Ordinary Council Meeting on 14 November 2017 it was resolved:

“That Council:

1. *RECEIVES the Litis Stadium Master Plan as prepared by Floreat Athena Football Club Inc.;*
2. *ADVISES Floreat Athena Football Club Inc. that the Litis Stadium Master Plan does not provide the following information as requested by Council and deemed necessary to consider any long term lease arrangements:*
 - 2.1 *Facility Management Plan;*
 - 2.2 *Community Benefit Statement; and*
 - 2.3 *Financial Plan demonstrating that the Club has the capacity to fund the project.*
3. *NOT ENTER into any long-term lease for Litis Stadium with Floreat Athena Football Club Inc. on the basis that the Club has not demonstrated an ability to meet the financial and management implications of the capital improvements, asset management and lease obligations relating to the existing facility and the facility proposed within their Master Plan;*
4. *REQUESTS that Administration now investigate the future use, management and development of Litis Stadium as part of the Britannia Reserve Master Plan Review scheduled for completion in 2019/20;*
5. *APPROVES a 2 year lease to Floreat Athena Football Club Inc. from 1 January 2018 to 31 December 2019 plus a further 1 year option from 1 January 2020 to 31 December 2020 for Litis Stadium, 41 Britannia Road, Leederville on the following key terms:*
 - 5.1 *Term: 2 years plus 1 year option at the City’s absolute discretion;*
 - 5.2 *Rent \$5,000 plus GST (indexed to CPI) per annum;*
 - 5.3 *Rates & Taxes: Lessee to pay including rubbish bin charges and ESL;*
 - 5.4 *Outgoings: Lessee to pay;*
 - 5.5 *Repairs & Maintenance: Lessee responsible for all repairs and maintenance and to keep premises clean and in good condition, this includes repair of damage due to fair wear and tear and structural maintenance. Lessor not responsible for any structural repair.*
 - 5.6 *Minimum Level of Service: Lessee to pay for cost of statutory compliance, and pest inspections and treatment;*
 - 5.7 *Insurance: Lessee to effect a public liability policy with cover not less than \$20 million, and pay premium for building insurance policy;*
 - 5.8 *Indemnification: Lessee to indemnify the City against all costs and claims;*
 - 5.9 *Permitted Purpose: Sporting, recreational and community activities;*
 - 5.10 *Shared Use: Lessee permitted to hire out clubrooms, function rooms and football pitch at its discretion provided that the use is consistent with the Permitted Purpose;*
 - 5.11 *Alterations: Not without the prior approval in writing of the Lessor;*
 - 5.12 *Capital Works: Not without the prior approval in writing of the Lessor and subject to the conditions stated;*
 - 5.13 *Lessor’s Covenant: Lessor will provide Lessee with quiet enjoyment of the premises for the term of the lease;*
 - 5.14 *Payment Without Delay: Lessee must duly and punctually pay all rent, rates and taxes, outgoing, costs and interest on the terms specified by the Lessor;*
 - 5.15 *Nuisance and Incidental Use: Lessee must submit a Management Plan for approval in writing by the Lessor for any events commencing from and continuing beyond 5pm, any events with amplified or live music, and any national/international sporting events;*
 - 5.16 *Parking & Traffic Management: Lessee must submit a Parking and Traffic Management Plan for approval in writing by the Lessor for any events with an estimated attendance above 1,000 people; and*
 - 5.17 *Sporting Club Health Check: Lessee must submit a fully completed Sporting Clubs & Community Groups Health Check each year of the lease term upon request from the Lessor.*
6. *Subject to satisfactory negotiations being carried out by the Chief Executive Officer AUTHORISES the Mayor and Chief Executive Officer to affix the common seal and execute the*

lease in 5 above;

7. *RECOMMENDS that Floreat Athena Football Club Inc. in collaboration with Football West progress the following initiatives over the term of the proposed new lease for Litis Stadium:*
 - 7.1 *Investigate facility options that meet National Premier League Requirements, ensure long term financial and organisational sustainability, and maximise the use of community assets through co-location;*
 - 7.2 *Prepare a Facility Management Plan that outlines strategies to effectively manage the Stadium and meet lease obligations;*
 - 7.3 *Prepare a Financial Plan to determine organisational viability and capability as the basis for any future facility tenure arrangements; and*
 - 7.4 *Implement strategic planning, governance, business model and community engagement initiatives as identified within the 'Club Development Plan – Progress Report' as submitted with the Litis Stadium Master Plan; and*

8. *REQUIRES Administration to present a further report to Council no later than June 2019 providing an update on progress by Floreat Athena Football Club Inc. towards:*
 - 8.1 *Provision of the information referenced in Recommendation 2; and*
 - 8.2 *Completion of the initiatives identified within Recommendation 7; as the basis for decision making regarding the further 1 year lease option from 1 January 2020 to 31 December 2020."*

Administration met with Floreat Athena Football Club (Inc.) on several occasions throughout 2018, including meetings with Football West and Department of Local Government Sport & Cultural Industries representatives. Limited progress had been made on the bodies of work deemed necessary prior to Council considering any long-term lease arrangements.

In November 2018, Administration was advised that the Club had established a new Board with a focus on providing both immediate and long-term financial sustainability. The new Board Chair, Mr Paul Kotsoglo, proactively met with the Mayor, Chief Executive Officer and Director Community Engagement to reaffirm the Club's intention to meet the requirements set by Council in order to obtain long-term tenure at Litis Stadium. The Board Chair also advised that the Club would be liaising with the Department of Infrastructure, Regional Development and Cities (the Department) to ensure that all requirements associated with the previously announced \$3 million Community Development Grant could be satisfied.

DETAILS:

On 21 February 2019, the Floreat Athena Football Club Board Chair formally requested approval in principle for a minimum five-year lease for Litis Stadium in order to satisfy the Community Development Grant requirements. A copy of that correspondence has been provided to Council Members, and a summary of the key points is provided below:

- The Club requests that the City of Vincent support its endeavours to secure the \$3 million grant announced by the Australian Government under the Community Development Grants Programme;
- Club representatives have been liaising with Australian Government representatives regarding key grant prerequisites and criteria that must be met;
- Since appointment the new Club Board has undertaken a review into the progress of the Club Development Plan, determined key portfolios for Board members, dealt with pressing financial matters including reducing Club debt, successfully initiated football clinics within local primary schools, and progressed discussions with community groups including Little Athletics WA regarding use of Litis Stadium;
- The Board has prepared briefs and sought proposals for the work required to meet City requirements as per Council's November 2017 resolution. Approximately \$30,000 has been committed for this purpose in addition to the \$70,000 expended on the Litis Stadium Master Plan despite the absence of any security of tenure;
- A key Community Development Grant Programme requirement is for the Club to have a secure lease of at least five years, and given the current situation the Australian Government has agreed to accept an in principle lease agreement for a minimum of five years;
- The Club requests in principle approval of a lease for a period not less than five years and understands that the requirements as per Council's November 2017 resolution will still need to be met;

- Advice on a future lease must be provided to the Australian Government by mid-March to enable the grant to be confirmed prior to the expected announcement of a Federal Government election otherwise the \$3 million grant will almost certainly be lost; and
- The Board has prepared a 'Capital Campaign' aimed at leveraging a further \$6 to 9 million towards Litis Stadium redevelopment upon securing the \$3 million grant.

The Club must provide key project information to the Department by 31 March 2019 that will be assessed and may then form the basis of a Funding Agreement. Project information that must be provided includes the following:

- Audited financial statements for the last two years
- Cash flow forecasts for the next five years
- Business Plan and/or Feasibility Study
- Project Management Plan
- Asset Operations Management Plan
- Confirmation of partnership funding
- Evidence of third party leasing arrangements
- Facility design
- Cost estimate or contracted cost

The Community Development Grants Programme 'Request for Information' states that "where land and buildings are owned by a third party (i.e. the City) the applicant must confirm that leasing arrangements have been confirmed and secured, in writing."

As per the November 2017 Council resolution, Administration is to provide a further report no later than June 2019 providing an update on progress by the Club towards the preparation of a Facility Management Plan, Community Benefit Statement, and Financial Plan. These bodies of work as well as the investigation of co-location opportunities and implementation of initiatives included with their Club Development Plan are to inform Council decision making regarding any further lease options for Litis Stadium. The absence of this information led to Council not entering into a long-term lease for Litis Stadium in November 2017. The Club has not yet completed these requirements and Administration does not recommend a new five year lease in principle until Council's conditions have been met.

Administration has recently discussed the Club's request with the Department, and it was confirmed that under a Funding Agreement with the Commonwealth there is an operational requirement of five years tenure agreement. Although the Department has advised that if lease arrangements are still under negotiation this would be dealt with through a risk mitigation strategy within the Funding Agreement. This would require the Club to provide evidence of the finalised lease arrangements at some point during the project deliverables. The Department fully understands that the Club has until June 2019 to meet the conditions as per Council's November 2017 and Council would then be in a better position to consider ongoing lease arrangements for Litis Stadium.

Based on that advice, rather than committing to a new lease in principle now it is recommended that Council confirm for the purposes of the Community Development Grants Programme Funding Agreement that suitable tenure arrangements (including but not limited to a new five year lease) will be negotiated upon satisfactory completion of the various financial, governance and facility management requirements. Noting that should the Club complete these requirements the current Lease enables Council to exercise a one year Lease option from 1 January 2020 to 31 December 2020. This recommendation confirms Council's intent to provide the Club with ongoing tenure at Litis Stadium beyond December 2020 based upon their requirements and capabilities. This would provide sufficient confidence regarding future tenure arrangements for the purposes of the Grant assessment process.

Discussions with the Department also confirmed that the Club must provide a detailed schedule of works at Litis Stadium that will be funded through the \$3 million Community Development Grant. The City of Vincent is the asset owner and should approve this schedule of works prior to submission to the Australian Government at the end of March 2019. The greatest possible community benefit should be achieved through these Commonwealth monies and balanced with specific Club priorities given that they applied for and will be allocated the Community Development Grant.

CONSULTATION/ADVERTISING:

Nil

LEGAL/POLICY:

Regulation 30 within the Local Government (Functions and General) Regulations 1996 provides a range of dispositions that are exempt from the application of Section 3.58 of the *Local Government Act 1995*. This includes dispositions to “a body, whether incorporated or not the objects of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and the members of which are not entitled or permitted to receive any pecuniary profit from the body’s transactions.”

Floreat Athena Football Club (Inc.) would meet the requirements of an exempt disposition in accordance with Section 3.58(5) of the Act meaning there is no requirement to advertise an intention to enter into any new lease between the City and the Club.

Council Policy No. 1.2.1 – Terms of Lease states that any new lease granted by Council shall usually be limited to a five year period, and any option to renew shall usually be limited to no more than a ten year period.

RISK MANAGEMENT IMPLICATIONS:

High: Providing in principle approval for a further lease at Litis Stadium will assist the Club to secure a \$3 million grant from the Australian Government. While Administration acknowledges the establishment of a new Board it remains necessary for the Club to complete the range of financial, governance and facility planning requirements prior to Council considering any long term lease arrangements.

STRATEGIC IMPLICATIONS:

This is in keeping with the City’s *Strategic Community Plan 2018-2028*:

Enhanced Environment

Our parks and reserves are maintained, enhanced and well utilised.

Connected Community

Our community facilities and spaces are well known and well used.

Thriving Places

Our physical assets are efficiently and effectively managed and maintained.

Innovative and Accountable

Our resources and assets are planned and managed in an efficient and sustainable manner.

SUSTAINABILITY IMPLICATIONS:

Nil

FINANCIAL/BUDGET IMPLICATIONS:

The key financial terms within the current lease between the City of Vincent and Floreat Athena Football Club (Inc.) for Litis Stadium, 41 Britannia Road, Leederville are as follows:

- Rent \$5,000 per annum plus GST (indexed to CPI);
- The Lessee must duly pay all Rates and Taxes directly assessed in respect of the Premises;
- The Lessee must promptly pay all charges for water consumption, gas, electricity, fuel, telephone and other utilities directly relating to the Premises;
- The Lessee must maintain, replace, repair, clean and keep the Premises clean and in good repair having regard to the age of the Premises;

- The Lessee must conduct the minimum level of service inspections at its own cost; and
- The Lessee must give effect to a public liability policy with cover not less than \$20 million, and pay premiums for a building insurance policy

As at February 2019, the Club has adhered to key terms of the Lease including the abovementioned financial obligations. Should a further lease be pursued between the City and the Club these key terms will need to be reviewed and approved by Council.

The proposed Litis Stadium Master Plan prepared by the Club includes two options estimated at \$7.47 million and \$3.87 million. The Community Development Grant announced by the Australian Government is \$3 million.

COMMENTS:

The potential investment of \$3 million by the Australian Government into community facilities within Vincent is highly valued. The City will work with the Club to enable the Community Development Grants Programme criteria to be satisfied. Administration will report to Council no later than June 2019 to provide an update on progress by the Club towards the financial, governance and facility planning requirements that will inform future tenure options at Litis Stadium.