

**CSF276: PROPOSED NEW COMMUNITY LICENCE AGREEMENT –
CENTENNIAL STADIUM INC. FOR THE FOOTBALL STADIUM –
CENTENNIAL PARK SPORTING PRECINCT**

Land Description : Crown Reserve 405, Lot 1359 on Deposited Plan 185302, the subject of Certificate of Title Volume LR3009 Folio 774

Proponent : Centennial Stadium Inc.

Owner : Crown

Attachments : Licence Plan

Report Prepared by : Team Leader Property and Leasing (T Catherall)

Responsible Officer : Executive Director Corporate Services (M Cole)

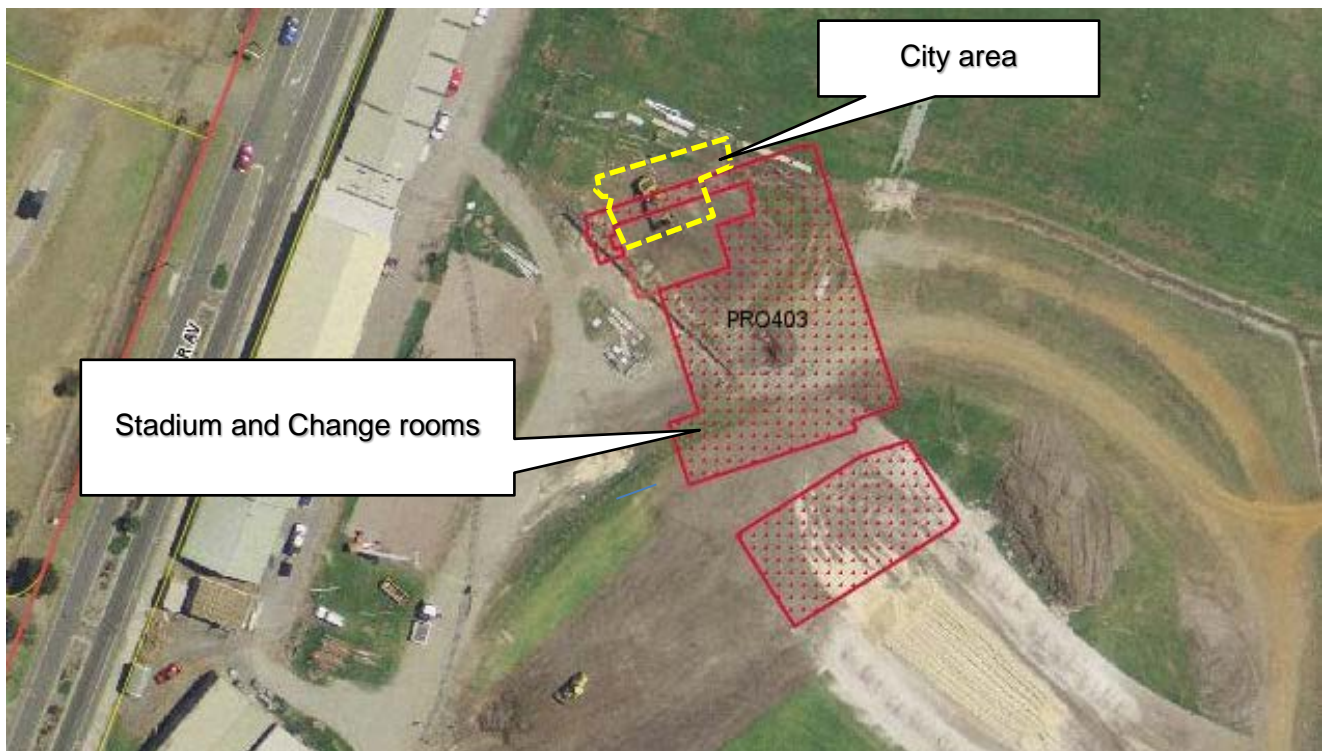
Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategy:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations

Maps and Diagrams:



In Brief:

- Council is requested to consider a new licence over the Football Stadium buildings in the Centennial Park Sporting Precinct to Centennial Stadium Inc. with both Royals Football and Sporting Club Inc & Albany Football and Sporting Club Inc (known as Sharks) as Guarantors.
- The licence terms being five years with an option for two further five year terms.
- It is recommended that Council approve the new licence.

RECOMMENDATION

**CSF276: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council:

(1) APPROVE a community licence over portion of Reserve 405, Centennial Park to Centennial Stadium Inc. with Royals Football and Sporting Club Inc & Albany Football and Sporting Club Inc as Guarantors, subject to:

- Licence purpose being Sporting Association activities in accordance with the Association incorporations objectives.**
- Licence area being 2099.1m² (Stadium 1495.4m² and Change rooms 603.7m²).**
- Licence term being five years with an option for two further five year terms.**
- Licence commencement dates being as soon as practicable following completion of construction of the stadium.**
- Licence fee being equivalent to the minimum rate as set by Council each year, currently \$968 plus GST.**
- Licence special condition to document that the clubs agree to comply with the Centennial Park Sporting Precinct Management Framework and the City of Albany Sporting Precincts Grounds User Guide.**
- Legal costs associated with the preparation, execution and completion of the Deed of Licence are to be payable by the clubs.**
- Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent being obtained.**
- Licence being consistent with Council Policy – Property Management (Leases and Licences).**

(2) APPROVE a self-supporting loan to Centennial Stadium Inc. for furniture and equipment up to an amount of \$140,000 and give one month's local public notice of the proposal.

CSF276: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR PRICE
SECONDED: COUNCILLOR HOLLINGWORTH**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CSF276: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) APPROVE a community licence over portion of Reserve 405, Centennial Park to Centennial Stadium Inc. with Royals Football and Sporting Club Inc & Albany Football and Sporting Club Inc as Guarantors, subject to:
 - a) Licence purpose being Sporting Association activities in accordance with the Association incorporations objectives.
 - b) Licence area being 2099.1m² (Stadium 1495.4m² and Change rooms 603.7m²).
 - c) Licence term being five years with an option for two further five year terms.
 - d) Licence commencement dates being as soon as practicable following completion of construction of the stadium.
 - e) Licence fee being equivalent to the minimum rate as set by Council each year, currently \$968 plus GST.
 - f) Licence special condition to document that the clubs agree to comply with the Centennial Park Sporting Precinct Management Framework and the City of Albany Sporting Precincts Grounds User Guide.
 - g) Legal costs associated with the preparation, execution and completion of the Deed of Licence are to be payable by the clubs.
 - h) Pursuant to Section 18 of the Lands Administration Act 1997, the Minister for Lands consent being obtained.
 - i) Licence being consistent with Council Policy – Property Management (Leases and Licences).
- (2) APPROVE a self-supporting loan to Centennial Stadium Inc. for furniture and equipment up to an amount of \$140,000.

BACKGROUND

2. Council at its meeting on 25 February 2014 adopted the Centennial Park Sporting Precinct Master Plan and Concept Designs. Since this date the Football Stadium in the Eastern Precinct and the Soccer/Cricket Pavilion in the Western Precinct have been approved and progressed.
3. In November 2015, the City commenced earthworks for the stadium and playing field site.
4. At Special Council Meeting on 28 January 2016, Council awarded the tender to Smith Constructions to construct the Football Stadium in the Eastern Precinct. The site was handed over to Smith Constructions in March 2016.
5. The practical completion date for the stadium is currently being reviewed due to weather. It is anticipated this will be sometime between December 2016 and mid-February 2017.
6. The new stadium is located on portion of Crown Reserve 405. The reserve is under Management Order H597356 to the City of Albany with the power to lease, sub-lease or licence for the purpose of 'Recreation and Showground' for any term not exceeding 21 years subject to the consent of the Minister for Lands.
7. The licence area consists of stadium (1495.4m²) and change rooms (603.7m²) areas, with the City retaining a 251.4m² portion of the building comprising meeting rooms and foyer for its own use.

Royals Football and Sporting Club (Royals)

8. The Royals 10 year lease agreement with the City over portion of freehold Lot 305, adjoining Reserve 405 expired in December 2013 and Royals have continued to occupy the property on holding over arrangements.

9. Royals lease end of term clause provides they must remove all fixtures and fittings and make good the building. The City has waived the make good requirement given the Albany Agricultural Society will be taking over the building and future planned internal works.

Albany Football and Sporting Club Inc (Sharks)

10. Sharks currently occupy space at the North Albany Football and Sporting Club building.

Albany Agricultural Society Inc (AAS)

11. The AAS licence for buildings on Centennial Park (the location for the stadium, playing fields and car parking) expired 31 December 2010 and AAS had continued to occupy the property on holding arrangements.
12. In November 2014 the City issued a termination notice to AAS and their occupation of the site terminated in November 2015.
13. After extensive negotiations with AAS a Deed of Agreement between the City and AAS was executed in December 2015 that provided for AAS future tenure within the Centennial Park Sporting Precinct, while securing the City's future tenure of the Hanrahan Landfill Facility.
14. The Deed allowed the City to commence demolition of AAS buildings in order to start the stadium building works.
15. The City proposes to amend the Deed as below, subject to Council approval, to reflect negotiations with AAS:
 - a. Variation to the Centennial Park Precinct Lease area from 1.048ha along Symers Street and Cockburn Road to 1.091ha along Cockburn Road, subject to survey. This variation will minimise the costs associated with the earthworks required for the construction of the AAS three sheds.
 - b. Variation to minimise AAS priority use rights over the Central and Eastern Precinct (grounds and facilities) during the show period.
16. The above variations will be subject to a further item to Council.

DISCUSSION

17. A Football Stadium working group was established, consisting of representatives from the City, Royals and Sharks. The working group has been actively engaged in the development of the stadium and the negotiation of club tenure terms and conditions over the facility.
18. Royals and Sharks have established a joint club incorporated entity, Centennial Stadium Inc. to manage their co-location of the stadium.
19. It has been agreed, subject to Council and Minister for Lands consent, that a non-exclusive community licence agreement between the City and Centennial Stadium Inc. is the best approach to formalise tenure arrangements for the stadium.
20. Key provisions of the community licence will be:
 - a. Term being five years with an option for two further five year terms.
 - b. Licensee will contribute an amount equal to 50% to the fitout, furniture and equipment for the stadium.
 - c. Licensee may purchase the furniture and equipment from the City at 50% of the written down value at the time.
 - d. Licensee will contribute to a maintenance fund, administered by the City, for planned and programmed maintenance, annual services and renewal of furniture and equipment.
 - e. Licensee will be responsible for cleaning, preventative maintenance, consumables, utilities and outgoings.
 - f. A Sponsorship Committee consisting of City and both club representatives will consider naming rights of the stadium to a sponsor and provide a recommendation to Council for approval of a sponsor. The Licensee will receive a 40% share of any cash profits (less expenses) to be offset against annual maintenance fund contributions and licence fees. No cash will be paid to the Licensee.

- g. Occasional hire of the stadium for community purposes by the Licensees is permitted. All fees from hiring will be kept by the Licensee.
 - h. City may request priority use of the stadium for major events of regional or economic benefit to the City by giving 26 week's notice, on a cost recovery basis of utilities and other consumables.
 - i. AAS have rights to use the stadium for the Annual Show each year on a cost recovery basis of utilities and other consumables. This reflects AAS rights in the December 2015 Deed of Agreement with the City.
 - j. Licensee will enter into a sub-licence with Southern Districts Junior Football Association Inc. (SDJFA) for use of an office in the stadium.
 - k. Licensee agrees to comply with the Centennial Park Sporting Precinct Management Framework and the City of Albany Sporting Precincts Grounds User Guide.
21. Other than as set out above, standard terms will apply as applicable to a City of Albany community licence.

GOVERNMENT & PUBLIC CONSULTATION

22. The Department of Lands will be consulted, as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister for Land's consent is obtained.
23. Section 3.58 of the *Local Government Act 1995* outlines the requirements for the disposal of property, including leased/licensed land and buildings. The Act requires the following:
- a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease/licence.
24. Section 30 of the *Local Government (Functions & General) Regulations 1996* defines the dispositions to which the advertising requirements of Section 3.58 of the Act do not apply. Section 30 (2) (b) (i & ii) states that Section 3.58 of the Act is exempt if:
- (b) The land is disposed of to a body, whether incorporated or not –
 - (i) the object of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
25. The sporting clubs are exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

26. Section 18 of the *Land Administration Act 1997* states that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land or create or grant an interest in Crown land without the prior approval in writing of the Minister for Lands.
27. As this is Crown land, under Management Order held by the City, the Minister's consent will be sought.
28. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings including advertising requirements.
29. This item requires an **Absolute Majority**.

POLICY IMPLICATIONS

30. Council adopted a revised Property Management (Leases and Licences) Policy in July 2015.
31. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
32. The recommendation is consistent with Council Policy Property Management (Leases and Licences).

RISK IDENTIFICATION & MITIGATION

33. The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation: new licence not approved.	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
Community: new licence not approved – Royals remain in current building allocated to AAS	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
Financial: new licence not approved – no rental income	<i>Unlikely</i>	<i>Low</i>	<i>Low</i>	<i>Seek to negotiate terms to Council satisfaction.</i>

FINANCIAL IMPLICATIONS

34. All costs associated with the development, execution and completion of the licence documentation will be met by the clubs, limited to \$600.00 + GST.
35. The new licence rental will be the equivalent of minimum rate as set by Council each year, currently \$968.00 plus GST.
36. It is proposed to set up a maintenance fund for the stadium to ensure good asset management and a high level of building maintenance into the future. It is recognised that this is a new model for building maintenance. However it has been recommended as the best option for this precinct to ensure the community buildings are well kept.
37. The City and club will contribute annually into the fund for planned and programmed maintenance, annual services and renewal of furniture and equipment.
38. It has been agreed that this cost sharing will require that the City will contribute two thirds and the club one third of the required annual maintenance contribution. The clubs contribution is \$17,800 per annum. This amount will be reviewed annually and adjusted against actual costs with the adjustment being no greater than 10% of the preceding annual contribution amount.
39. Should this option be supported by Council it is noted that the City would be responsible for any difference between the required annual contribution and the negotiated amount.
40. It is proposed the annual maintenance fund contribution will be waived in the first year for the clubs.
41. The clubs have requested Council's approval of a self-supporting loan up to the amount of \$140,000. The final amount will be determined following the outcome of a number of grant applications.

LEGAL IMPLICATIONS

42. The Deed of Licence with enforceable conditions will be prepared by City's lawyers, at the licensee's expense.

ENVIRONMENTAL CONSIDERATIONS

43. There are no environmental considerations related to this report.

ALTERNATE OPTIONS

- 44. Given the existing commitments made with Royals and Sharks it is not considered that there is an alternate option. The proposed licence will formalise the intention for stadium use.
- 45. Both clubs require use of clubrooms in close proximity to the fields associated with its sport. If the stadium is not the preferred location for their clubrooms this may impact on the future intentions for the recreational use of the Centennial Park Sporting Precinct.

SUMMARY CONCLUSION

- 46. The stadium is scheduled to reach practical completion sometime between December 2016 and mid-February 2017.
- 47. Royals and Sharks have established an incorporated entity, Centennial Stadium Inc., to manage co-location of the stadium as Licensee.
- 48. It is proposed to set up a maintenance fund for the stadium to ensure good asset management and a high level of maintenance into the future. The City and Centennial Stadium Inc. will contribute annually into the fund for planned and programmed maintenance, annual services and renewal of furniture and equipment.
- 49. The City will retain a 251.4m² portion of the building comprising meeting room and foyer for its own use.
- 50. The proposed licence sets out the terms and conditions under which Centennial Stadium Inc. will occupy and use the buildings. Other than the specials conditions that apply to the stadium building this agreement is generally consistent with the City’s standard community licence.
- 51. To satisfy the City’s agreed commitments to the Centennial Stadium Inc., it is recommended the new licence be approved.

Consulted References	:	<ul style="list-style-type: none"> • Council Policy – Property Management (Leases and Licences) • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	PRO403 , A92318 (Frederickstown Ward)
Previous Reference	:	OCM 25/02/2014 Item CS008 SCM 28/01/2016 Item SCM013