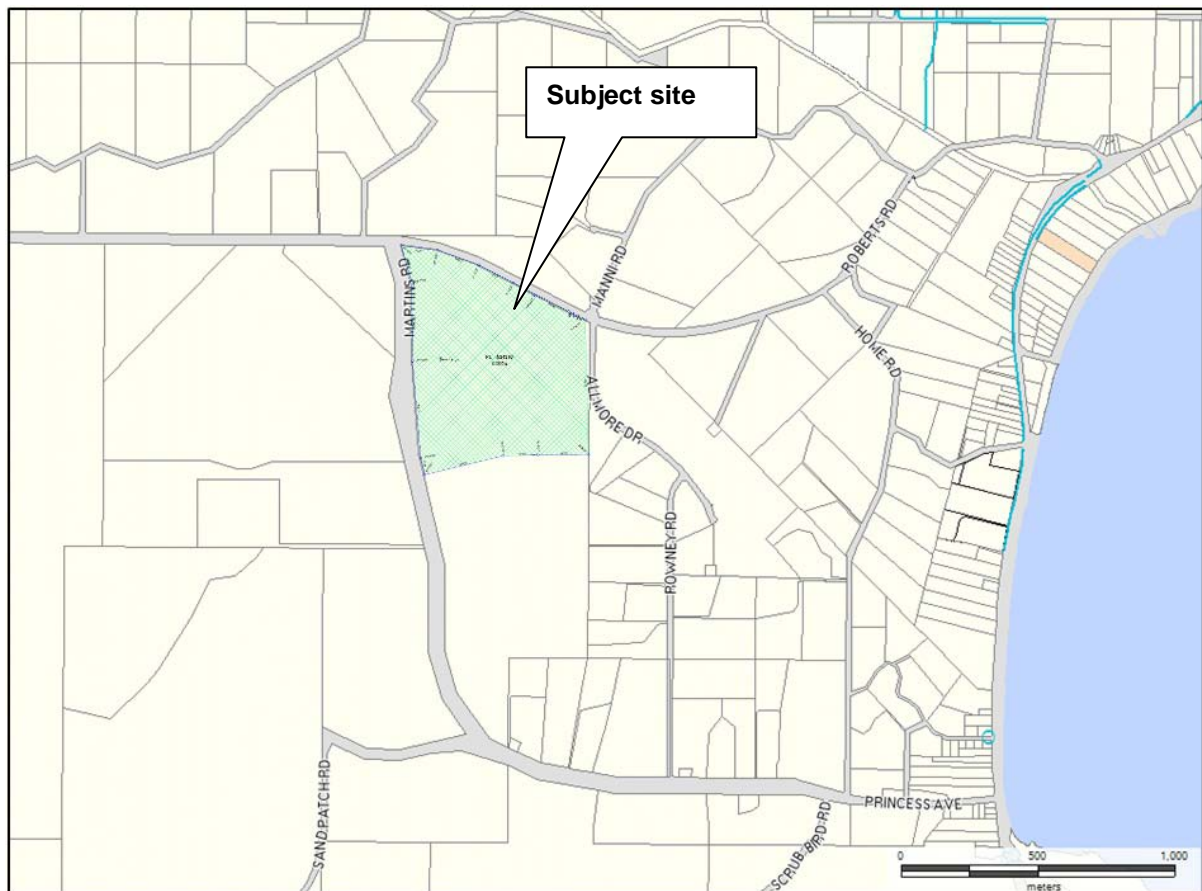


**2.4: ALBANY EQUESTRIAN CENTRE INC. – NEW LEASE OVER
PORTION OF RESERVE 34370**

- Land Description** : Lot 311 on Plan 48576 and being land contained in Certificate of Title LR3138 Folio 729 – Reserve 34370 Roberts Road, Robinson
- Proponent** : Albany Equestrian Centre Inc.
- Owner** : Crown
- Appendices** : Lease area survey plan
- Responsible Officer** : E/Director Corporate & Community Services (WP Madigan)
- Maps and Diagrams**



CEO:

RESPONSIBLE OFFICER:

IN BRIEF

- Consider request for a new lease to Albany Equestrian Centre Inc. over portion of Reserve 34370 located at Lot 311 Roberts Road, Robinson.

ITEM 2.4: RESPONSIBLE OFFICER RECOMMENDATION

The request from the Albany Equestrian Centre Inc. For a new lease over portion of Reserve 34370 be SUPPORTED subject to:

1. Lease term being 21 years commencing 1 January 2011.
2. Lease purpose being horse riding and associated equestrian activities.
3. Lease rental being equivalent to Minimum Land Rate as set by Council per annum. This is currently \$725.00 plus GST per annum.
4. Lease area being approximately 40.55 hectares.
5. Department of Water 'Environmental Guidelines for Horse Facilities and Activities' be incorporated into the lease.
6. Section 18 of the *Lands Administration Act 1997*, Minister for Lands consent.
7. All costs associated with the development, maintenance and operations of the leased area to be payable by the proponent.
8. All costs associated with the development, execution and completion of the new lease to be payable by the proponent.

ITEM 2.4: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR WELLINGTON

SECONDED: COUNCILLOR WOLFE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

BACKGROUND

1. Reserve 34370 is under a Management Order J711662 issued to the City of Albany (the City) with the power to lease, sub-lease or licence for the purpose of "Recreation" for any term not exceeding 21 years and subject to the consent of the Minister for Lands.
2. Reserve 34370 is located at Lot 311 Roberts Road, Robinson and is east of the Albany Town centre.
3. In 1992 the former Shire of Albany granted a new lease to the Albany Equestrian Centre Inc. (the Club) over portion of Reserve 34370 and adjacent Reserve 30496 for the purpose of the establishment of grounds suitable for the riding of horses and conducting other equestrian events.
4. The lease term of 21 years commenced on 1 January 1990 and expired on 31 December 2010 with a nominal rental fee of \$10.00 per annum.

5. The expired lease has been held over on a month-to-month tenancy basis, with the conditions of tenancy preserving the covenants and obligations of the lease, pending a decision by Council regarding a new lease.
6. As there has been a degree of uncertainty regarding the lease boundary City staff have been liaising with the Club to review lease area and establish a more suitable lease area over portion of Reserve 34370.
7. A written request has been received from the Club for new lease over a portion of Reserve 34370 of 40.55 hectares for a term of 21 years. The Club has formally advised they no longer require a lease over Reserve 30496.
8. The Club has developed the lease area by constructing a cross country course, an outdoor and indoor sand arena, a club house and kitchen and a number of enclosed riding and jumping areas.
9. The Club maintains all of the buildings and infrastructure upon the leased portion of the Reserve.
10. As Reserve 34370 was classified a Priority 1 Public Drinking Water Supply Catchment area by the Waters and Rivers Commission, the Clubs request for a new lease over this area was forwarded to the Department of Water (now responsible for water matters) for comment.
11. The Department of Water have no objections to a new lease as the Club's horse facilities and activities are an existing use of the land. However, as there are several Water Corporation production bores in close proximity to the area, it is important this area is well managed to avoid increasing any risk to the water resource.
12. Basically the Department of Water would not want to see any intensification of land use in the Reserve and have requested the "Environmental Guidelines for Horse Facilities And Activities" form part of the conditions of the lease.
13. The guidelines have been prepared in consultation with Horse Industry stakeholders to promote knowledge and understanding within the horse industry where there is a potential to affect the quality of land or water resources.
14. Existing horse activities in environmentally sensitive areas are requested to progressively adopt the best practices in the guidelines, but are not mandatory for established facilities, like the Albany Equestrian Centre.
15. The Albany Model Aero Club Inc. currently holds a lease for 19.80 hectares on the southern a portion of Reserve 34370 for a term of 21 years commencing 1 January 1992 and expiring 31 December 2013.

DISCUSSION

16. The Club was established in 1990 and currently has over 200 members. The Club is home to Albany Horseman's Club, Southern Districts Dressage Club, Albany Pony Club, Albany Natural Trail riders and is home base for the Stidwell Bridle Trails.

17. Horse riding is a very popular recreational pursuit and as the demand for areas to ride grew the Stidwell Bridle Trails were developed in the Albany bush region for community use.
18. The Club through its activities promotes all kinds of approved sport connected with horses and riding. The Club hosts one-day events, dressage competitions, hacking events, specialist riding lessons, visiting instructors and horsemanship clinics.
19. If the proposed new lease is approved the Club has indicated their commitment to upgrading their facilities and grounds to include new horse yards. The new yards will assist in attracting more visiting instructors and participants who currently travel from Perth, Esperance and the Great Southern Region to attend events.
20. The Club is aware they require City of Albany as Landlord prior consent in writing before making any improvements, alterations or additions to buildings and infrastructure on the leased area.
21. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases for this category of lease.

PUBLIC CONSULTATION / ENGAGEMENT

22. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property including leased land and buildings.
23. This Section requires there to be local public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
24. Section 30 of the *Local Government (Functions & General) Regulations 1996* deals with dispositions to which the advertising requirements of section 3.58 of the Act does 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 Albany Equestrian Centre Inc. is not for profit sporting association, therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

26. Section 18 (1) of the *Land Administration Act 1997* states that a person must not, without the prior approval in writing of the Minister assign, sell, transfer or otherwise deal with interests on crown land.

27. As this is Crown land, under a Management Order J711662 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Recreation”, Minister for Lands consent will be required.
28. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property, including leased land and buildings.
29. Under the City’s Town Planning Scheme 3, the area is zoned “Parks and Recreation”. The proposed use for horse riding and equestrian activities is permitted use in accordance with the Scheme.
30. The Western Australian Planning Commission (WAPC) consent is not required as this is Crown land.

FINANCIAL IMPLICATIONS

31. All costs associated with the development, execution and completion of the new lease documentation including but not limited to legal, advertising, survey and market valuation (if required) will be borne by the proponent.
32. The new lease rental fee will be equivalent to Minimum Land Rate as set by Council per annum. This is currently \$725.00 plus GST per annum.
33. The new lease rental will be directed to COA 190430 Income – Other Leases.

POLICY IMPLICATIONS

34. Council adopted a Property Management - Leases Policy in 2007. This policy aims to ensure that all requests for leases, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
35. The Policy section relevant to this category of lease – Sporting Associations requires the following:
 - Crown Reserve leases with or without City owned buildings on site, will incur a rental based on minimum land rate as set by Council per annum;
 - Must be Incorporated bodies and a copy of their Articles of Association/Constitution be provided;
 - Lease to be for a term not greater than 21 years;
 - Rental/Sublease agreements must be approved by the landlord;
 - Must have appropriate insurance pertaining to their particular sport, as a minimum; and
 - Maintenance of grounds/leased area is to be undertaken by the Lessee at the Lessee’s cost.
36. This land has a current zoning as “Parks and Recreation” Reserves, under the Town Planning Scheme No 3. Land is also indentified as a local reserve in the Albany Local Planning Strategy.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

37. Council has the following options in relation to this item, which are:
- a. Approve the request for a new lease over portion of Reserve 34370; or
 - b. Decline the request.
38. Should Council decline the request for a new lease, the Albany Equestrian Centre would be required to remove all buildings and infrastructure and return the land to its original condition. Council could then invite expressions of interest to lease the portion of Reserve 34370.
39. The Albany Equestrian Centre would have to find an alternative location should they wish to continue providing this facility.

SUMMARY CONCLUSION

40. In view of the service being provided by Albany Equestrian Centre facilities to the Albany, Great Southern and wider communities, at no cost to Council, the Albany Equestrian Centre request for a new lease over portion of Reserve 34370 or a term of 21 years is recommended.

Consulted References	<ul style="list-style-type: none">• Council's Policy – Property Management – Leases• <i>Local Government Act 1995</i>• <i>Land Administration Act 1997</i>
File Number (Name of Ward)	PRO199 (West Ward)
Previous Reference	OCM 01.01.1990