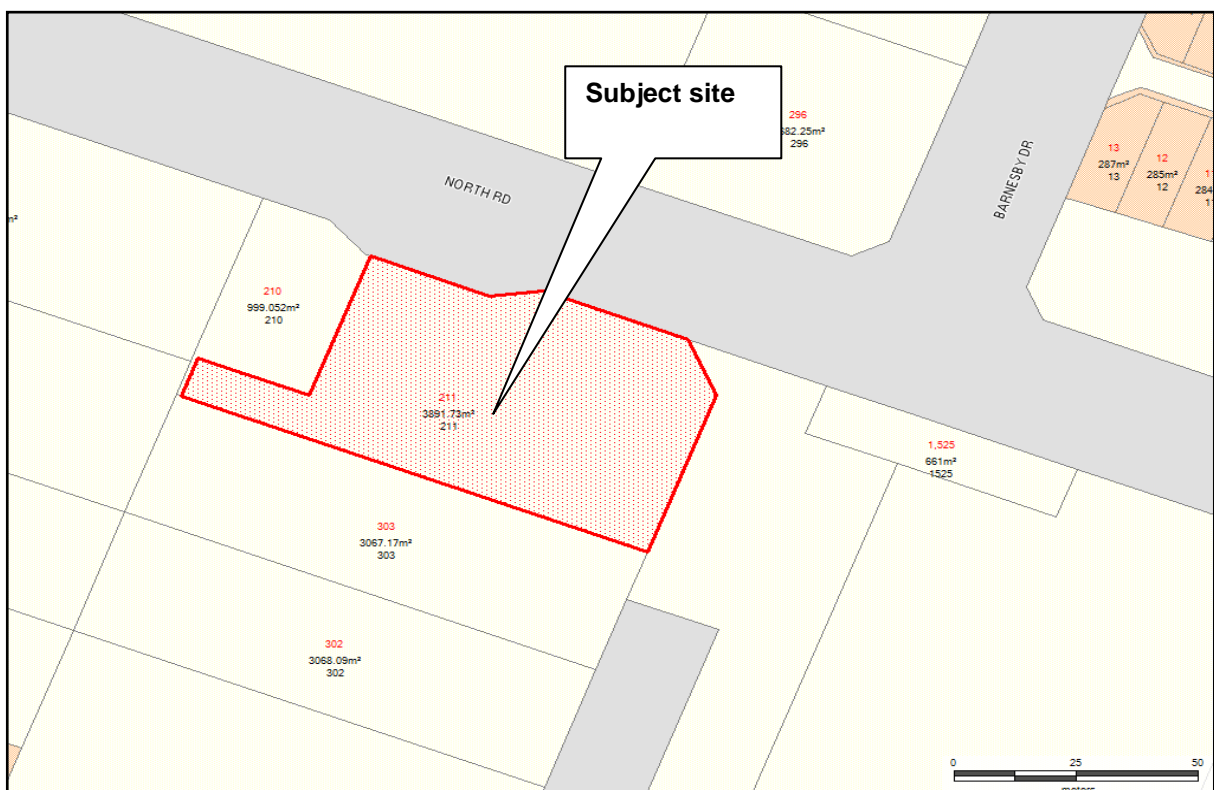


4.3: NEW LEASE – THE MULTIPLE SCLEROSIS SOCIETY OF WESTERN AUSTRALIA (INC.) AT LOTTERIES HOUSE – 211-217 NORTH ROAD, ALBANY

Land Description	: Lot 211 on Diagram 94113 and being whole of land contained in Certificate of Title Volume 2172 Folio 740 – 211-217 North Road, Centennial Park
Proponent	: The Multiple Sclerosis Society of Western Australia (Inc.), a Not For Profit Organisation
Owner	: City of Albany
Responsible Officer	: Acting Executive Director Corporate Services (P Wignall)

Maps and Diagrams:



IN BRIEF

- Consider request for a new lease to The Multiple Sclerosis Society of Western Australia (Inc.) at Lotteries House.
- Lease term being one year commencing 1 June 2011 with an option for a further two year term.
- Lease area being 73 square metres.

ITEM 4.3: RESPONSIBLE OFFICER RECOMMENDATION

The request from Multiple Sclerosis Society of Western Australia Inc. for a new lease over portion of Lot 211 on Diagram 94113 at Lotteries House be APPROVED subject to:

- i. Lease term being one year commencing 01 June 2011, with an option for a further two years term.
- ii. Lease area being 73 square metres.
- iii. Lease purpose being office space.
- iv. Lease rental being \$8,282.53 plus GST per annum as determined by the Lotteries House Tenant Committee.
- v. Lease rent reviews being carried out annually on 01 July by the Lotteries House Tenant Committee.
- vi. All costs associated with the development, maintenance and operations of the leased area to be payable by the proponent.
- vii. All costs associated with the development, execution and completion of the new lease to be payable by the proponent.

ITEM 4.3: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR MATLA

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

BACKGROUND

1. In September 1996 a Deed of Trust was entered into between the former Town of Albany and the Lotteries Commission for the management of Lotteries House, located at 211 on Diagram 94113, with the street address being 211-217 North Road, Centennial Park.
2. The Deed required a Management Committee with Tenant representation to be formed to oversee the management of the premises.
3. The City of Albany as Trustee, through the administration of the Management/Tenant Committee is to make and keep available the property for eligible organisations defined in Section 19 of the *Lotteries Commission Act 1990* to use exclusively for accommodation for benevolent or charitable purposes.
4. In November 2010 Rainbow Coast Neighbourhood Centre Inc. relocated from the subject area of 73 square metres to smaller area within Lotteries House.
5. Consequently, the City advertised the lease vacancy seeking submissions from interested parties that are eligible organisations as defined in Section 19 of the *Lotteries Commission Act 1990* to lease the 73 square metres vacant office space at Lotteries House.
6. A written submission was received from The Multiple Sclerosis Society of Western Australia (Inc.) ("MS Society of WA") to occupy the vacant lease area available at Lotteries House for a term of one year with an option for a further two year term.

7. The lease submission has been considered and approved by the Lotteries House Management/Tenant Committee at its meeting on Wednesday 13 April 2011.
8. The 73 square metres lease area will return a rental of \$8,282.58 plus GST per annum. This is based on a rate of \$113.46 plus GST per square metre as determined by the Lotteries House Management Committee.
9. A new rate of \$116.86 plus GST per square metre will be applied from 1 July 2011, returning a rental of \$8,530.78 plus GST per annum.
10. The Lotteries House Management Committee determines the rental by projecting operating expenses for the financial year. These expenses are levied as rental to each tenant based on a rate of per square metre of leased area.
11. The City of Albany currently has ten other leases with benevolent or charitable organisations at Lotteries House.
12. Ownership of the Lotteries House building is on an undivided share basis between the Lotteries Commission and the City of Albany as Trustee.
13. The City of Albany is responsible for structural maintenance of the building and the Management/Tenant Committee is responsible for cleaning, gardening, and minor maintenance of the common areas. The Tenants are responsible for the cleaning and minor maintenance of their individual lease areas.
14. The City insures the buildings, plate glass and City owned fixtures and fittings at a cost of \$1,686.36 plus GST per annum. Additionally the City is also responsible for Public Liability insurance over the common areas. As the City's Public Liability insurance contribution is based on the whole of the City of Albany and the entire activities the individual cost for Lotteries House cannot be determined.
15. The Tenants are responsible for insuring their own individual fixtures, fittings and contents and are required to hold a minimum of not less than \$10 million Public Liability insurance.

DISCUSSION

16. In 1972 the MS Society of WA was formed by a group of people with multiple sclerosis who came together to support each other.
17. In 1973 the Constitution was accepted and The Multiple Sclerosis Society of Western Australia (Inc.) as a Not for Profit organisation was incorporated under the Associations Incorporations Act.
18. The MS Society of WA is an independent, state based organisation supporting people with multiple sclerosis, their families and carers through the supply of health care professionals.
19. Today the MS Society of WA employs over 180 healthcare professionals (69 full time equivalents) and assists more than 1,600 with multiple sclerosis.
20. In addition, the MS Society of WA plays a vital role in educating the community about the disease, liaising with government and other bodies on multiple sclerosis issues and advocating for the rights of all people with multiple sclerosis.

21. The MS Society of WA currently operates from several locations in the metropolitan area and provides regional Outreach services to the areas of Bunbury and Albany.
22. The MS Society of WA also manages its own fundraising program from its metropolitan office in Wilson. Funds raised through these initiatives, together with government grants, and other income generating programs, fund the supply of services to people with multiple sclerosis and contributes towards research to find a cure.
23. The multiple sclerosis members from the Albany Outreach Group and surrounding areas were meeting every Friday at the Albany Leisure and Aquatic Centre in Barker Road but have since been required to relocate temporarily to the Calvary Church on Serpentine Road pending the outcome of the MS Society of WA request to lease vacant space at Lotteries House.
24. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases for this community benefit category of lease.

GOVERNMENT CONSULTATION

25. No government consultation is required.

PUBLIC CONSULTATION / ENGAGEMENT

26. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
27. This Section requires there to be local public notice of the proposal for a period of two 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.
28. 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;*
29. The Multiple Sclerosis Society of Western Australia Inc. is a Not for Profit benevolent organisation, therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

30. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property, including leased land and buildings.
31. Under the City's Town Planning Scheme 1, the land is zoned 'Clubs and Institutions'. The proposed use for Office Space is in accordance with the Scheme.

STRATEGIC IMPLICATIONS

32. This item directly relates to the following elements from the Albany Insight ~ Beyond 2020 Corporate Plan...

Community Vision:
 Nil

Priority Goals and Objectives:

Goal 4: Governance... The City of Albany will be an industry leader in good governance and service delivery.

Objective 4.3 Deliver excellent community services that meet the needs and interests of our diverse communities.

City of Albany Mission Statement:

At the City of Albany we are accountable and act as a custodian with respect to Council Assets.

POLICY IMPLICATIONS

33. 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.
34. The recommendation is consistent with Council's Policy.

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Rating	Mitigation
New lease not approved - loss of operating income for Lotteries House	Possible	Medium	High	Seek to negotiate terms to Council satisfaction Collaborate closely with Multiple Sclerosis Society of Western Australia to assure them that the City will work towards mutually agreeable outcomes Seek alternative Lessee as last resort

FINANCIAL IMPLICATIONS

35. Any costs associated with the preparation and implementation of the new lease documentation will be borne by the proponent, the MS Society of WA.
36. The new lease rental income of \$8,282.53 plus GST per annum will be directed to COA 120930 – Lotteries House Income

37. All rental collected is used for Lotteries House operating expenses, including a \$5,000.00 annual service fee paid to Council to cover the City’s Officers time for managing the property on behalf of the Lotteries House Management/Tenant Committee.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

38. Council has the following options in relation to this item, which are:
- a. Approve the request for a new lease; or
 - b. Decline the request.
39. Should Council decline the request, the City will be required to re advertise the vacancy and risks a further loss in rental during this process that may impact negatively on the operations of Lotteries House.

SUMMARY CONCLUSION

40. In view of the service provided by The Multiple Sclerosis Society of Western Australia (Inc.) to the Albany and wider community at no cost to Council, the request for a new lease for one year commencing 1 June 2011 with an option for a further two year term is recommended.

Consulted References	<ul style="list-style-type: none"> • Council's Policy – Property Management – Leases • <i>Local Government Act 1995</i> • Lotteries House Tenant Committee meeting minutes of 13 April 2011 • Deed of Trust – Albany Lotteries House
File Number (Name of Ward)	CP.USG.3 (Frederickstown Ward)
Previous Reference	Nil