

4.3: NEW LEASE TO ALBANY HALFWAY HOUSE ASSOCIATION INC. AT LOTTERIES HOUSE

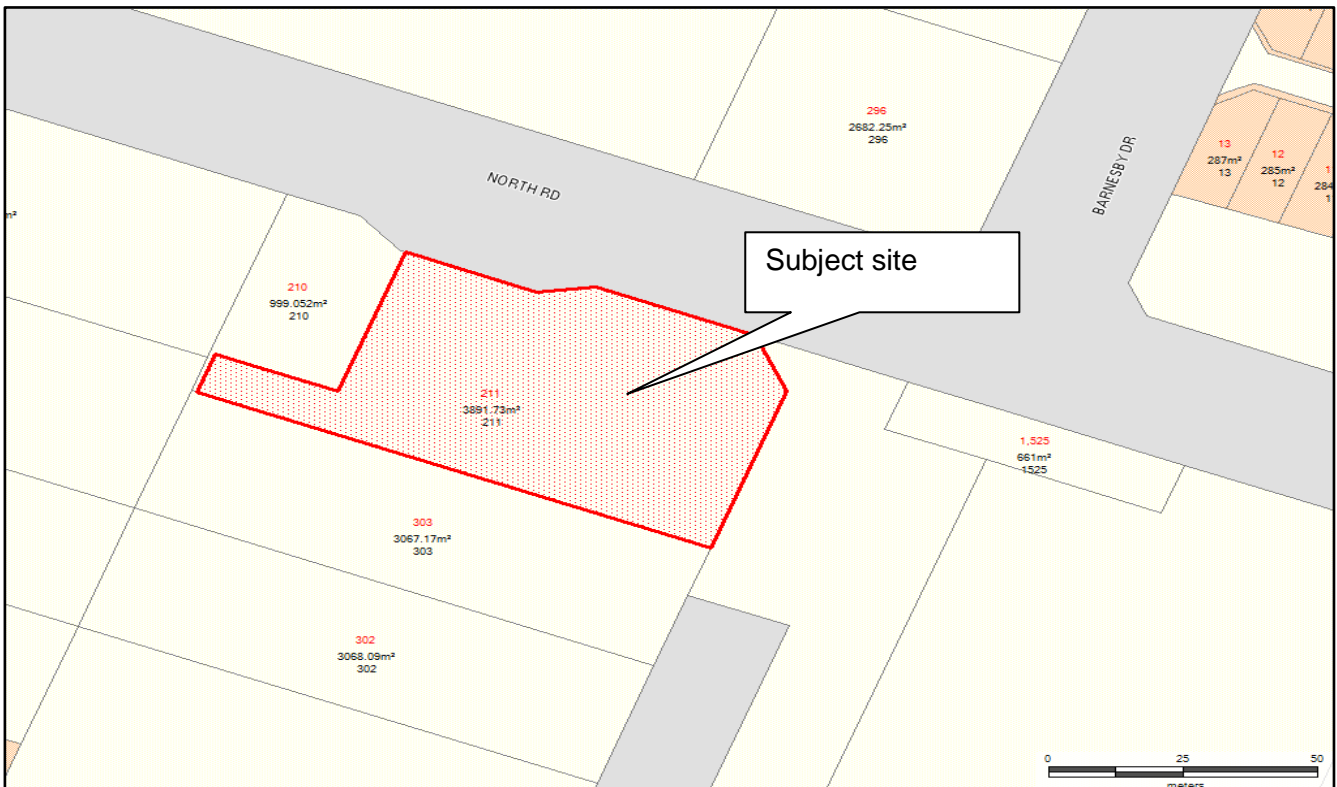
Land Description : Lot 211 on Diagram 94113 being whole of land contained in Certificate of Title Volume 2172 Folio 740

Proponent : Albany Halfway House Association Inc.

Owner : City of Albany and the Lotteries Commission

Responsible Officer : Acting Executive Director Corporate Services (P Wignall)

Maps and Diagrams



IN BRIEF

- Consider a new lease to Albany Halfway House Association Inc. at Lotteries House.
- Lease term to be three years.

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| CEO: | RESPONSIBLE OFFICER: |
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**ITEM 4.3: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE the request for a new lease to Albany Halfway House Association Inc. at Lot 211 on Diagram 94113 known as Lotteries House subject to:

- i) Lease term being three years.**
- ii) Lease area being twenty eight square metres.**
- iii) Lease purpose being office space.**
- iv) Lease rental being \$3,272.17 plus GST per annum as determined by the Lotteries House Management Committee.**
- v) Lease rent reviews being carried out annually on 1 July by the Lotteries House Management Committee.**
- vi) Any costs associated with the preparation and implementation of the lease to be payable by the proponent, Albany Halfway House Association Inc.**

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 211-217 North Road, Albany.
2. The Deed required a Management Committee to be formed to oversee the management of the premises.
3. The City of Albany (the Trustee) through the administration of the Management 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. At the Ordinary Council Meeting 15 May 2007, Council resolved to enter into a new lease with Albany Halfway House Inc. A lease agreement was entered into by the City of Albany and the Albany Halfway House Association Inc. on the 1 February 2007 for a period of one year, with a further one year option.
5. A further new lease agreement was entered into with the Albany Halfway House Association Inc. on the 1 February 2009 for a period of one year, with a further one year option. This agreement expired on the 31 January 2011. The Tenant has been allowed to continue occupancy at Lotteries House on a month to month tenancy.
6. The Albany Halfway House Association Inc. has approached the City and the Lotteries House Management Committee for a new lease over the area currently occupied by the Association for a further term of three years.

7. The lease submission has been considered and approved by the Lotteries House Management Committee at a meeting on the 8 February 2012.
8. The Lotteries House Management Committee sets the rents to be charged per square metre of leased area. The Committee determines the rental rate by:
 - Reviewing the rents charged by other Lotteries House Management Committees;
 - Reviewing current commercial lease rents for similar type buildings; and
 - Reviewing operational expenditure costs of the building.The new rate for rent is then adopted by the Management Committee and applied annually from 1 July.
9. Under the Deed of Trust for the building, any surplus rent generated annually is placed in trust for Lotteries House major building maintenance projects. At present there is \$38,574 in trust. An annual report, including audited financial statements is submitted to Lotterywest as per the Deed.
10. The Albany Halfway House twenty eight square metre lease area will return a rental of \$3,272.17 plus GST per annum. This is based on a rate of \$128.55 per square metre as determined by the Lotteries House Management Committee.
11. The City of Albany 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 in accordance with the Deed of Trust is responsible for structural maintenance of the entire building and the cleaning, gardening and minor maintenance of common areas. The tenants are responsible for the cleaning and minor maintenance of their individual lease areas.
14. The City in accordance with the Deed of Trust insures the buildings, plate glass and City owned fixtures, fittings and contents at a cost of \$2,199 per annum. Additionally the City is also responsible for the 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 its entire activities the individual cost to 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. The tenant provides to the City a copy of insurance policies prior to the commencement of the lease.

DISCUSSION

16. Albany Halfway House Association Inc. is a local not for profit association providing a community based and managed service to adults diagnosed with mental illness.
17. Albany Halfway House Association Inc. work co-operatively with service users and other agencies to encourage self empowerment and determination in the development of skills that will enhance the lives of individuals through their 'Outreach Support' program.
18. Albany Halfway House Association Inc. administers the program from Lotteries House.

GOVERNMENT CONSULTATION

19. No government consultation is required.

PUBLIC CONSULTATION / ENGAGEMENT

20. Section 3.58 of the *Local Government Act 1995* requires there to be local public notice of the proposed licence inviting submissions from the public, for a period of two weeks. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
21. Section 30 of the *Local Government (Functions and 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 from the body's transactions,*
22. Albany Halfway House Association Inc. is a not for profit benevolent organisation and therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

23. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property, including leased land buildings.
24. 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 & ALIGNMENT TO CORPORATE PLAN

25. This item relates to the following elements of the City of Albany Strategic Plan (2011-2021):

Key Focus Area

Community Focussed Organisation.

Community Priority

Services for Seniors and the Disabled.

Proposed Strategies

Improve accessibility to City services/facilities for seniors and people with disabilities.

POLICY IMPLICATIONS

26. Council adopted a Property Management – Leases Policy in 2008. This policy aims to ensure that all requests for leases and licences, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
27. The recommendation is consistent with Council's Policy.

RISK IDENTIFICATION & MITIGATION

28. The risk identification and categorisation relies on the City's Risk Management Framework.

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|----------------------------------------------------------------------------------------------|-------------------|--------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Council does not approve a new lease – loss of operating income for Lotteries House | Unlikely | Major | Medium | Seek to negotiate terms to Council satisfaction. Collaborate closely with Albany Halfway House Association to assure them that the City will work towards mutually agreeable outcomes. Seek alternative tenant as last resort. |
| Council does not approve a new lease – loss of premises for Albany Halfway House Association | Unlikely | Major | Medium | Support the new lease proposal. |

FINANCIAL IMPLICATIONS

29. Any costs associated with the preparation and implementation of the new lease documentation will be borne by the proponent, Albany Halfway House Association Inc.
30. All rental collected is used for Lotteries House operating expenses, including a \$5,000.00 annual service fee paid to the City to cover the City's Officers time for managing the property on behalf of the Lotteries House Management Committee.
31. There is no cost to the City to operate Lotteries House other than the City Officers time and current insurance cost of \$2,199 per annum for 2011/12.
32. The new lease rental income of \$3,272.17 plus GST per annum will be directed to COA 120930 – Lotteries House Income.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

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.
33. Should Council decline the request, Albany Halfway House Inc. will need to vacate Lotteries House and find alternative premises should they wish to continue providing the current services.
 34. The City would then advertise the vacant area and risk a loss of rental during this process that may impact negatively on the operations of Lotteries House.

SUMMARY CONCLUSION

35. In view of the community service provided by the Albany Halfway House Association Inc. to Albany and the wider community, the Association requests a new lease for three years at Lotteries House.

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| Consulted References | <ul style="list-style-type: none"> • Council Policy – Property Management – Leases • <i>Local Government Act 1995</i> • Lotteries House Management Committee meeting minutes of 8 February 2012 • Deed of Trust – Albany Lotteries House |
| File Number (Name of Ward) | PRO383 (Frederickstown Ward) |
| Previous Reference | OCM 15 May 2007 Item13.5.1 |