

4.5: NEW LEASES AT LOTTERIES HOUSE

Land Description	: Lot 211 on Diagram 94113 being whole of land contained in Certificate of Title Volume 2172 Folio 740, Centennial Park (Lotteries House)
Proponent	: Albany Summer School Inc. Arthritis Foundation Inc. Neurological Council of WA Inc. Samaritan Befrienders Inc.
Owner	: City of Albany and the Lotteries Commission
Responsible Officer	: Executive Director Corporate Services (G Adams)
Maps and Diagrams	



IN BRIEF

- Council is requested to consider the renewal of the following four leases at Lotteries House:
 - a. Albany Summer School Inc. for a three year term.
 - b. Arthritis Foundation Inc. for a three year term.
 - c. Neurological Council of WA Inc. for a three year term.
 - d. Samaritan Befrienders Inc. for a one year term.

**ITEM 4.5: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE the following leases for Lotteries House at Lot 211 on Diagram 94113 in accordance Council's Policy – Property Management – Leases subject to:

- i) Lotteries House Management Committee approval.
- ii) Lease for Albany Summer School Inc.
 - a. Lease term being three years;
 - b. Lease area being 16 square metres; and
 - c. Lease rental being \$1,925.90 plus GST per annum as determined by the Lotteries House Management Committee.
- iii) Lease for Arthritis Foundation Inc.
 - a. Lease term being three years;
 - b. Lease area being 14 square metres; and
 - c. Lease rental being \$1,685.17 plus GST per annum as determined by the Lotteries House Management Committee.
- iv) Lease for Neurological Council of WA Inc.
 - a. Lease term being three years;
 - b. Lease area being 47 square metres; and
 - c. Lease rental being \$5,657.37 plus GST per annum as determined by the Lotteries House Management Committee.
- v) Lease for Samaritan Befrienders Inc.
 - a. Lease term being one year;
 - b. Lease area being 25 square metres; and
 - c. Lease rental being \$3,009.23 plus GST per annum as determined by the Lotteries House Management Committee.
- vi) Leases commencing 1 July 2012.
- vii) Leases purpose being office space.
- viii) Leases rent reviews being carried out annually on 1 July by the Lotteries House Management Committee.
- ix) Any costs associated with the preparation and implementation of the lease documentation to be payable by the Lessee.

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. Albany Lotteries House provides affordable office space for not for profit community organisations in a community service profile building. The Lotteries House conference room is hired out for workshops, meeting and other community gatherings.
5. At the Ordinary Council Meeting 16 June 2009, Council resolved to enter into new leases with the Albany Summer School Inc., the Arthritis Foundation Inc., the Neurological Council of WA Inc. and the Samaritan Befrienders Inc. for a term of three years. Lease agreements were entered into by the City of Albany and the incorporated groups on 1 July 2009. These agreements expired on 30 June 2012.
6. The Albany Summer School Inc., Arthritis Foundation Inc., Neurological Council of WA Inc. and Samaritan Befrienders Inc. have approached the City and the Lotteries House Management Committee for the renewal of leases over the area currently occupied by the groups for a further term of three years and one year respectively.
7. The lease renewal requests will be formerly considered by the Lotteries House Management Committee at its meeting on the 8 August 2012. Initial advice from the Committee is that all four lease requests will be approved.
8. The Lotteries House Management Committee set the rents to be charged per square metre of leased area. The Committee determines the rental rate by:
 - a. Reviewing the rents charged by other Lotteries House Management Committees;
 - b. Reviewing current commercial lease rents for similar type buildings; and
 - c. Reviewing operational expenditure costs of the building and projecting operating expenses for the financial year.
9. The new rate for rent is then adopted by the Management Committee and applied to leases annually from 1 July. The current rate is \$120.38 plus GST per square metre.
10. 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.
11. The City of Albany has six 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 Lessees 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 \$3,319.53 per annum for 2012/13. 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 Lessees 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 Lessee provides to the City a copy of insurance policies prior to the commencement of the lease.

DISCUSSION

16. The four Lessees have requested approval to continue tenancy at Lotteries House under the same terms and conditions as their previous leases.
17. The four Lessees have met all of the obligations of their previous leases including payment of rent and outgoings.
18. All four Lessees as community groups are incorporated, not for profit associations who provide a community based services to Albany and the wider community.
19. The proposed new leases will be developed in line with the existing Council's Policy – Property Management – Leases for this category of lease.
20. It is noted that the proposed Lotteries House leases will also be consistent with the revised Council's Policy – Leases and Licences considered at the Special Audit and Finance Committee on 7 June 2012.

GOVERNMENT CONSULTATION

21. No government consultation is required.

PUBLIC CONSULTATION / ENGAGEMENT

22. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased land and buildings. The Act requires the following:
 - a. A local government must give local public notice of the proposed lease 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.

23. Section 30 of the *Local Government (Functions and 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 from the body's transactions,*
24. The Albany Summer School Inc., Arthritis Foundation Inc., Neurological Council of WA Inc. and the Samaritan Befrienders Inc. are all incorporated, not for profit and benevolent organisations and therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

25. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased land and buildings.
26. Under the City of Albany Town Planning Scheme No 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

27. 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

28. The Council's Policy Property Management – Leases adopted in 2008 applies to the proposed leases.
29. A revised Council Policy Property Management – Leases and Licences was considered at the Special Audit and Finance Committee meeting on 7 June 2012. The revised Policy has been provided to stakeholders for information and comment. Any comments received will be presented at the next available Audit and Finance Committee meeting for consideration in finalising the revised Policy and subsequently noting a recommendation to Council.

30. 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.
31. The recommendation is consistent with Council's existing and revised Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council does not approve new leases – loss of operating Inc.ome for Lotteries House</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction. Collaborate closely with the community groups to assure them that the City will work towards mutually agreeable outcomes. Seek alternative Lessee as last resort.</i>
<i>Council does not approve new lease – loss of premises for the community groups</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Support the new lease proposals.</i>

FINANCIAL IMPLICATIONS

33. Any costs associated with the preparation and implementation of the new lease documentation will be borne by the Lessees.
34. All rental collected is used for Lotteries House operating expenses, including a \$5,000.00 annual service fee paid to the City to cover City's staff time for managing the property on behalf of the Lotteries House Management Committee.
35. There is no cost to the City to operate Lotteries House other than City's staff time and current insurance cost of \$3,319.53 per annum for 2012/13.
36. The new lease rental income totalling of \$12,277.67 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 leases, or
 - b. Decline the request.
37. Should Council decline the request, the four community Lessees will be required to vacate Lotteries House and find alternative premises should they wish to continue providing their current services to Albany and the wider community.
 38. 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

39. The four Lessees being the Albany Summer School Inc., Arthritis Foundation Inc., Neurological Council of WA Inc. and the Samaritan Befrienders Inc. are seeking to renew their leases for office space over areas they currently occupy at Lotteries House.
40. The four Lessees have fulfilled all prior lease obligations at Lotteries House.
41. In view of the community service provided by the Albany Summer School Inc., Arthritis Foundation Inc., Neurological Council of WA Inc. and the Samaritan Befrienders Inc. to Albany and the wider community, the Lessees request for new leases at Lotteries House is supported.

Consulted References	<ul style="list-style-type: none"> • Council Policy – Property Management – Leases • <i>Local Government Act 1995</i> • Deed of Trust – Albany Lotteries House
File Number (Name of Ward)	PRO383, A150439 (Frederickstown Ward)
Previous Reference	OCM 16 June 2009 Item 12.11.2