

4.9: SURRENDER OF LEASE – ALBANY INJURY PREVENTION ASSOCIATION INC. – PORTION OF RESERVE 26860

Land Description : Crown Reserve 26860 and being Lot 6906 on Deposited Plan 189260 being part of the land contained in Certificate Title Volume LR 3082 Folio 535, Spencer Park

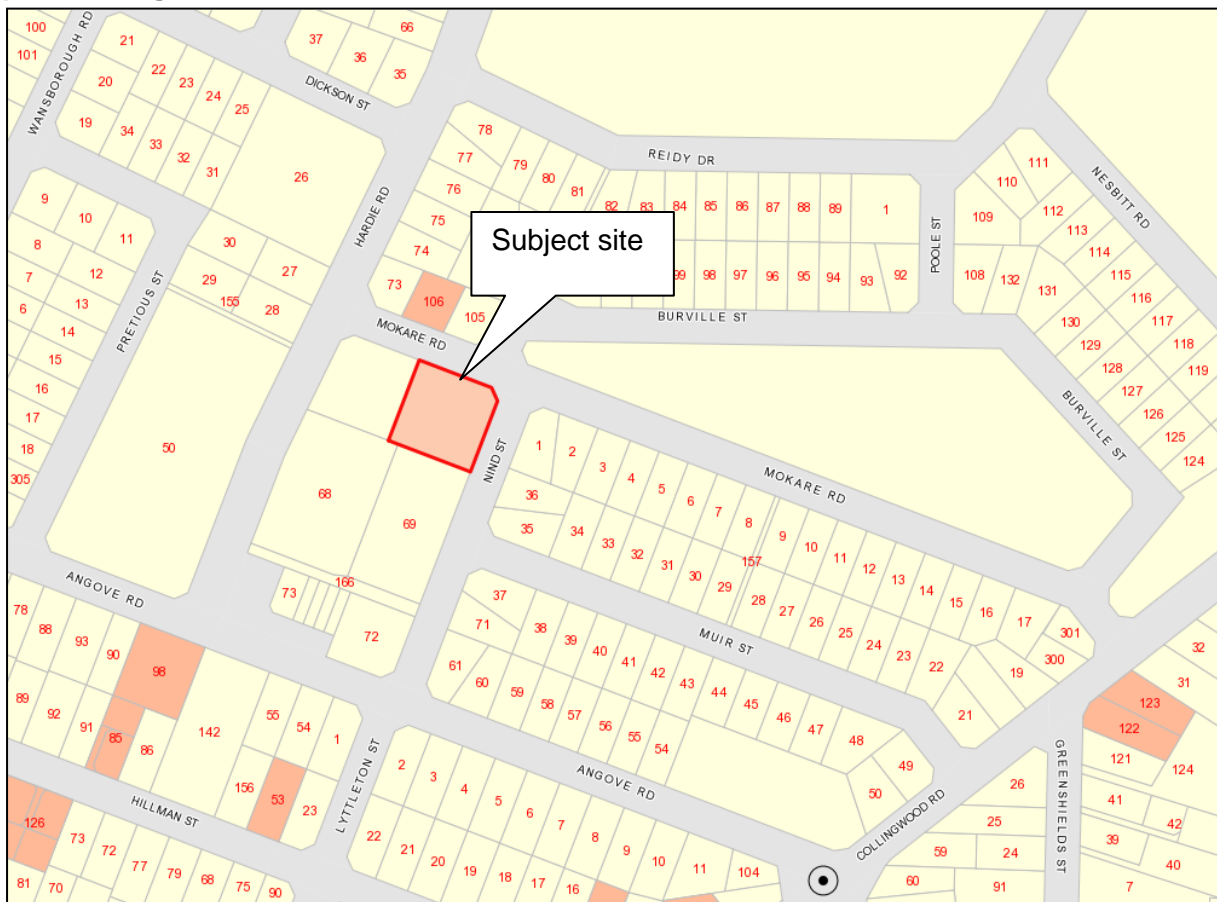
Proponent : The Albany Injury Prevention Association Inc.

Owner : Crown

Attachment(s) : Nil

Responsible Officer : Executive Director Corporate Services (G Adams)

Maps and Diagrams



IN BRIEF

- Council is requested to consider the Albany Injury Prevention Association Inc. request for surrender of lease on portion of Crown Reserve 26860, being 11 – 13 Nind Street Spencer Park.

**ITEM 4.9: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE the request from Albany Injury Prevention Association Inc. for surrender of the lease for the purpose of a safety demonstration house and meeting facility on portion of Crown Reserve 26860 and being Lot 6906 on Deposited Plan 189260 subject to:

- i) Deed of Surrender of Lease date to be as at 31 May 2012.**
- ii) All costs associated with the preparation, execution and completion of the Deed of Surrender of Lease to be met by the proponent.**

BACKGROUND

1. Crown Reserve 26860 is under Management Order H633652 to the City of Albany with power to lease, sub lease or licence for the purpose of “Community Purposes” for a term not exceeding 21 years and subject to the consent of the Minister for Lands.
2. Crown Reserve 26860, an area of 2554.43 square metres is located at street address 11 – 13 Nind Street Spencer Park.
3. In December 1995 Council entered into a lease agreement with the Albany Injury Prevention Association Inc. (Association) for the purpose of safety demonstration house and meeting facility.
4. The lease was for a period of ten years commencing 1 December 1995, with an option for a further ten year term.
5. The Association exercised the option for the further ten year term, expiring on 30 November 2015.
6. The City of Albany owns the building located within the lease area. The City is responsible for all structural maintenance including electrical wiring of the lease property with the Lessee responsible for all other repairs and maintenance.
7. The building is occupied by both the Albany Injury Prevention and the Spencer Park Community and Child Health Centre.
8. The portion of building occupied by the Association is set up as a display type home, with functional kitchen, bathroom and laundry facilities.
9. In May 2012 the City received a formal request from the Association to surrender their lease as at 31 May 2012.

DISCUSSION

10. The Association advised that after fifteen years of providing a safety demonstration house for families within the Albany region, that due to a lack of numbers utilising this service, the Association has decided to close the doors.
11. The reason for this decision is that the location of the building in Spencer Park is not well known within Albany and attracts no “walk through” traffic. Injury prevention information now being available on the internet is another reason cited as to the reduction in usage.
12. The Association will continue to operate as association and continue to provide support to various safety related projects within the City and will work closely with Kidsafe WA.
13. Following the Association’s request to surrender the lease premises, City staff inspected the property and found the building and fixtures and fittings to be in good condition.
14. The Association as Lessee will be required to remove their fittings and fixtures, at the Lessee’s own cost, unless the City otherwise agrees otherwise.
15. The Association erected a small garden shed with Landlord’s permission in 2008, and have indicated they would prefer for the shed remain on the leased site and be utilised by the next Lessee. The City has agreed to this arrangement.
16. The Lessee must make good any damage caused by removal of any fittings and fixtures and restore the leased property to the same condition as at the beginning of the lease.
17. A final inspection of the property will be undertaken prior to the Deed of Surrender of Lease being finalised.
18. The Association has fulfilled all lease obligations including payment of rent and outgoings.
19. If approved by Council, a formal Deed of Surrender of Lease will be developed by the City’s lawyers with all costs associated with the Deed being payable by the proponent.
20. The City has received an expression of interest from the Depression Support Network Albany Incorporated to lease the premises to be vacated by the Association should they become available.
21. The Depression Support Network has been made aware of the terms and conditions on which the City enters into community leases and they have indicated these are acceptable to the group.
22. Any new lease request will be presented to Council for consideration.

GOVERNMENT CONSULTATION

23. Pursuant to Section 18 (1) of the *Land Administration Act 1997* the Department of Regional Development and Lands (RDL) has been consulted. RDL advises that Minister for Land's consent is not required. However RDL do require a copy of the finalised Deed of Surrender of Lease for their records.
24. As the surrender of lease proposal does not require land works or changes to land title there are no *Native Title Act 1993* and the *Aboriginal Heritage Act 1972* implications.

PUBLIC CONSULTATION / ENGAGEMENT

25. Section 3.58 of the *Local Government Act 1995* defines the disposal of property including leased land and buildings advertising requirements.
26. The surrender of the lease does not constitute a disposal of property and therefore the advertising requirements of Section 3.58 do not apply.

STATUTORY IMPLICATIONS

27. 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.
28. Section 3.58 of the *Local Government Act 1995* defines with the disposal of property, including leased land and buildings.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Key Focus Area

- *Organisational Performance.*

Community Priority

- *Policy and Procedures.*

Proposed Strategies

- *Develop clear processes and policies and ensure consistent, transparent application across the organisation.*

POLICY IMPLICATIONS

30. The Council's Policy Property Management – Leases adopted in 2008 applies to the existing lease.
31. A revised Property Management – Leases and Licences Policy 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.

32. 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.
33. 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 accountable methodology and in line with statutory procedures.
34. The recommendation is consistent with Council's existing and revised Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council does not approve surrender of lease</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
<i>Council approves surrender of lease – loss of rental income</i>	<i>Likely</i>	<i>Minor</i>	<i>Low</i>	<i>Seek new Lessee</i>

FINANCIAL IMPLICATIONS

36. Any costs associated with the development, execution and completion of the Deed of Surrender of Lease documentation will be borne by the proponent, Albany Injury Prevention.
37. The Association currently pay a peppercorn rent of \$10 plus GST for leasing land and City building.
38. Any new community lease rent would be negotiated in line with Council's revised Property Management – Leases and Licences Policy. Rent for any community groups leasing land and City building will be at the annual minimum rate set by Council each year. The current minimum rate is \$820 plus GST.
39. The City is responsible for structural maintenance and electrical wiring of City buildings.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

Council has the following options in relation to this item, which are:

- a. Approve the request to surrender the lease, or
 - b. Decline the request.
40. Should Council decline the request the current Lessee would be advised that the lease terms will continue until expiry in 2015. The lease area would be vacated and this space would not be available for lease until 2015.
41. Should Council approve the request a new lease can be negotiated over this property.

SUMMARY CONCLUSION

42. The Albany Injury Prevention Association seeks to surrender their lease over portion of Crown Reserve 26860 located at 11 – 13 Nind Street, Spencer Park due to the safety demonstration house no longer being utilised by the community.
43. The Association has met all lease obligations including payment of rent and outgoings.
44. The City has already received an expression of interest from a community group to lease the property.

Consulted References	<ul style="list-style-type: none"> • Council Policy – Property Management – Leases • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i>
File Number (Name of Ward)	PRO071, A110445 (Breaksea Ward)
Previous Reference	Nil