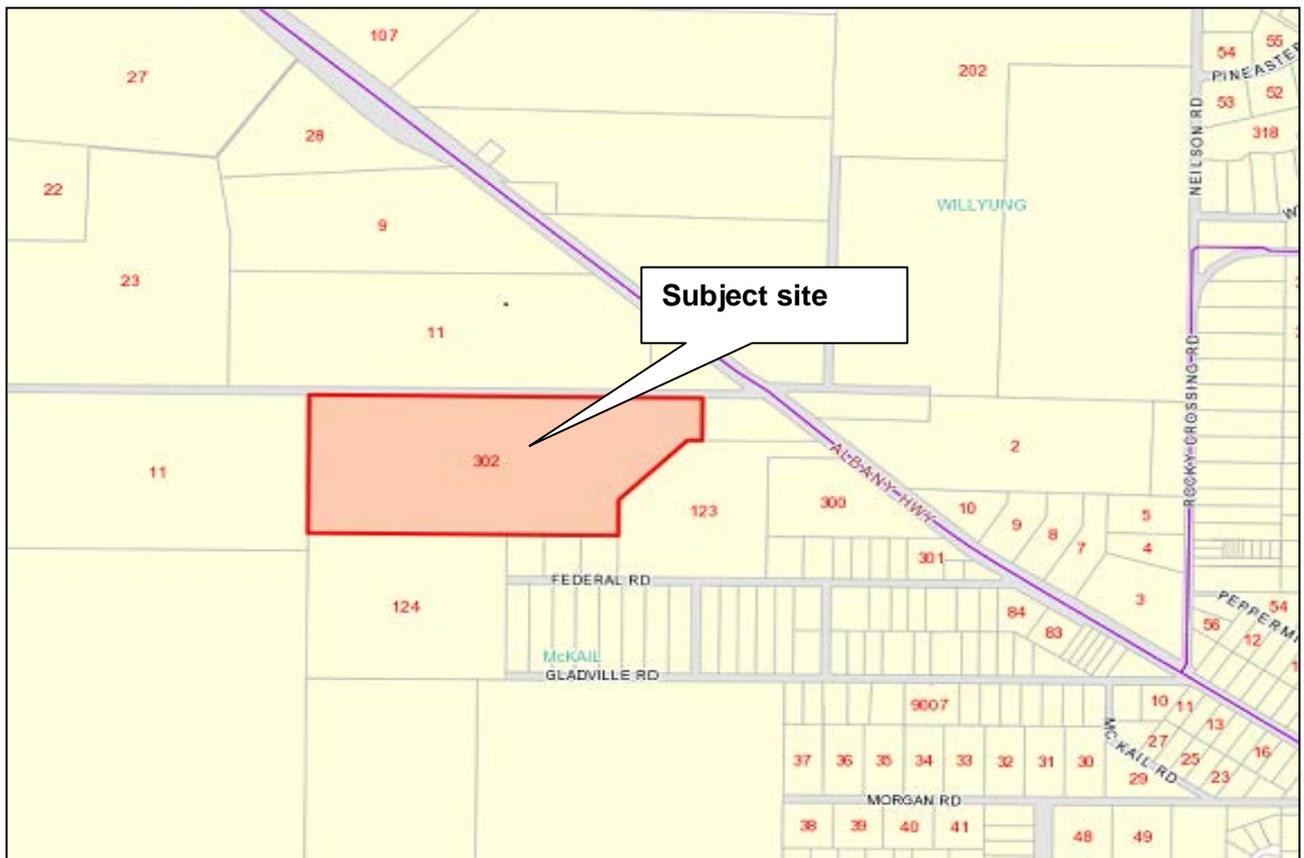


## 4.4: NEW LEASE – ALBANY SPEEDWAY CLUB INC. – PORTION CROWN RESERVE 23290, MCKAIL

<b>Land Description</b>	: Crown Reserve 23290 and being Lot 302 on Plan 45694 and being the whole of land contained in Certificate of Title Volume LR 3121 Folio 653, McKail
<b>Proponent</b>	: Albany Speedway Club Inc.
<b>Owner</b>	: Crown
<b>Attachment(s)</b>	: Nil
<b>Responsible Officer</b>	: Executive Director Corporate Services (G Adams)
<b>Maps and Diagrams</b>	



### IN BRIEF

- Council is requested to consider a new lease for the Albany Speedway Club Inc. over the area it currently occupies on Reserve 23290.
- Lease term being 21 years for the purpose of speedway facilities and associated activities.

**ITEM 4.4: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council APPROVE the request from the Albany Speedway Club Inc. for a new lease over portion Crown Reserve 23290 and being Lot 302 on Plan 45694, McKail subject to:**

- 1. Lease term being 21 years commencing 1 January 2013.**
- 2. Lease rental being a peppercorn rate of \$10.00 plus GST annum.**
- 3. Lease area being approximately 9.78 hectares.**
- 4. Lease purpose being speedway facilities and associated activities.**
- 5. Section 18 of the *Lands Administration Act 1997*, the Minister for Land's consent is obtained.**
- 6. All costs associated with the development, maintenance and operations of the lease area to be payable by the proponent.**
- 7. All legal costs associated with the preparation, execution and completion of the Deed of Lease to be payable by the proponent.**
- 8. Lease being consistent with Council Policy – Property Management – Leases and Licences.**

**BACKGROUND**

1. Crown Reserve 23290 is under a Management Order H621889 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of "Recreation" for a term not exceeding 21 years and subject to the consent of the Minister for Lands.
2. Crown Reserve 23290, an area of approximately 31.40 hectares is located at Lot 302 Reddale Road McKail.
3. On the 1 January 1992 the former Shire of Albany entered into a new lease with the Albany Speedway Club Inc. for a period of twenty one years over Crown Reserve 23290 for the purpose of "The establishment of a speedway track and associated facilities". Current rental being peppercorn rent \$10.00 per annum; this lease is due to expire on the 31<sup>st</sup> December 2012.
4. The Club has developed the lease area by constructing a speedway track, pit area, safety fencing, clubrooms, bar area and canteen facilities.
5. The Club maintains all of the buildings and infrastructure upon the leased area of Crown Reserve 23290, at no cost to Council.
6. On the 21 September 2012 the City wrote to the Club informing them the current lease was due to expire on the 31 December 2012, and requesting the Club to advise the City of their intentions with regard to applying for a new lease over Reserve 23290.
7. On the 8 October 2012, a formal request was received from the Albany Speedway Club Inc. for a new lease over Reserve 23290 for the maximum period of 21 years.

**DISCUSSION**

8. Albany Speedway Club Inc began its existence in 1962 as the Albany Hot Rod Club when a few locals came together and applied to use the gravel pit located George Street off South Coast Hwy.
9. The Club moved to its present location in the late 1960's. This arrangement was formalised by a Deed of Lease in 1992 with the former Shire of Albany.
10. Since the Club's inception it has gained a strong membership and spectator base. The Club through its strong Committee system has raised funds to assist with the upgrade of the lease site to accommodate the modifications to the racing rules and structures, and to cater for the requirements of the increase in numbers of members and spectators.
11. In the late 1970's daytime racing gave way to evening racing. The Club gained a self supporting loan through assistance of the then Shire of Albany, and the support of their members, to facilitate the upgrades required to cater for evening racing.
12. Since the Albany Speedway Club Inc. have held the lease over Reserve 23290 many improvements have been made to the speedway facility through the Club's fund raising efforts, including the following:
  - Purpose built track fencing to accommodate changes in safety regulations
  - Purpose built club rooms to cater for growing membership
  - Application and approval of a liquor licence
  - Installation of Bar facility area
  - New ablution block
  - Installation of Corporate boxes
  - Additions and upgrade to club rooms
  - Upgrade to food servery area (canteen)
  - Upgrade of facilities to cater for disabled and senior members and spectators
  - Electrical upgrades as required
  - Works to assist the prevention of erosion and beautification of the area
  - Tree planting to assist with noise abatement
13. Club committee members have always been enthusiastic and dedicated to supporting their sport. The current Club President is a former Commissioner of the Speedway Commission, appointed by the State Government. This Commission was set up to oversee the future development of Speedway in Western Australia.
14. The Albany Speedway Club season runs for six months of the year, the remaining six months the facility is not utilised. The Club is investigating new ideas and strategies to fully maximise the excellent facilities they have established within the lease area. The following proposals have been identified and are currently being investigated by the Club:
  - Developing a Driving Training Centre with the involvement of the Royal Automobile Club (RAC).
  - Forming an alliance with the Great Southern Street Machine Association enabling the Association use of their track and facilities.
  - Expanding their facilities further to enable a multi use type facility.

15. The Speedway Club supports and promotes the Junior Division of the Club. The aim is to promote the community perception of the sport of speedway as a safe, family sport.
16. If the proposed new lease is approved the Club has committed to further improvements to the property within their five year strategic plan. This plan incorporates the above proposals and the need to further upgrade and expand the licence bar area.
17. The Club is aware they require City of Albany as Landlord prior consent in writing, plus any other relevant approvals before making any improvements, alterations or additions to buildings and infrastructure. The Club also acknowledges that any change in the use of their lease area may require Council approval.
18. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases and Licences within the category of Community Leases.

#### GOVERNMENT CONSULTATION

19. Under Section 18 (1) of the *Land Administration Act 1997* the Department of Regional Development and Lands has been consulted. Minister for Land's consent will be sort for the proposed new Deed of Lease on Crown Reserve 23290.

#### PUBLIC CONSULTATION / ENGAGEMENT

20. 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; and
  - c. A local government can then proceed with the lease.
21. Section 30 of the *Local Government (Functions & 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 profit from the body's transactions;*
22. The Albany Speedway Club Inc. is an incorporated, not for profit sporting group, therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

**STATUTORY IMPLICATIONS**

23. 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.
24. As this is Crown land, under Management Order H621889 issued to the City of Albany with the power to lease, for the purpose of “Recreation”, Minister for Land’s consent will be required.
25. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property, including leased land and buildings.
26. Under the City’s Town Planning Scheme Number 3, the subject land is zoned “Private Clubs and Institutions”. The proposed use of speedway and associated activities is an approved use in accordance with the Scheme.
27. The Western Australian Planning Commission (WAPC) consent is not required as this is Crown land.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**Key Focus Area**

- *Organisational Performance.*
- *Lifestyle and Environment.*

**Community Priority**

- *Policy and Procedures.*
- *A built environment for active lifestyles.*

**Proposed Strategies**

- *Develop clear processes and policies and ensure consistent, transparent application across the organisation.*
- *Incorporate into future plans, infrastructure in parks that encourages activity for all ages and abilities.*

**POLICY IMPLICATIONS**

29. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
30. This Policy aims to ensure that all requests for leases/licences, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.

18/12/2012

\*\*REFER DISCLAIMER\*\*

31. The Policy section relevant to this category of Community lease – requires the following:
- Rent for Community groups leasing land for community purposes will be a peppercorn rent of \$10.00 plus GST per annum.
  - Lessee must be an Incorporated body and a copy of their Articles of Association/Constitution be provided.
  - Lease to be for a term not greater than twenty one years.
  - Rental/Sublease agreements must be approved by the Landlord.
  - Lessee must have appropriate insurance pertaining to their particular sporting activities, as a minimum, and
  - Lessee will be responsible for all maintenance of the leased property at the Lessee's costs.
32. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

### RISK IDENTIFICATION & MITIGATION

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>Council does not approve a new lease – reputational loss to the City</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction Collaborate closely with Albany Speedway Club Inc. to ensure mutually agreeable outcomes</i>
<i>Council does not approve a new lease – loss of premises for the Club, they would need to seek new grounds</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction Collaborate closely with Albany Speedway Club Inc. to ensure mutually agreeable outcomes.</i>

### FINANCIAL IMPLICATIONS

34. The new lease rental will be peppercorn rent of \$10.00 plus GST per annum.
35. The new lease rental will be directed to COA 190430 Income – Other Leases.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

36. Council has the following options in relation to this item, which are:
- a. Approve the Club's request for a new lease, or
  - b. Decline the request.
37. Should Council decline the request, the Albany Speedway Club Inc. would be required to vacate the property, remediate the site and find an alternate location should they wish to continue providing speedway facilities.
38. Council could then invite expressions of interest to lease Crown Reserve 23290 for the designated purpose only of "Recreation".

**SUMMARY CONCLUSION**

39. The Albany Speedway Club Inc. is seeking a new lease over an area they have occupied formally since 1992 on Crown Reserve 23290.
40. The Albany Speedway Club Inc. has previously completed substantial improvements to the property and met the obligations of their previous lease.
41. The lease request to allow the Albany Speedway Inc. to continue to provide speedway facilities and associated activities is supported.

<b>Consulted References</b>	<ul style="list-style-type: none"> <li>• Council Policy – Property Management – Leases and Licences</li> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Land Administration Act 1997</i></li> </ul>
<b>File Number (Name of Ward)</b>	PRO182, A187399 (West Ward)
<b>Previous Reference</b>	Nil