

**4.5: NEW LEASE – ALBANY MODEL AERO CLUB INC. – PORTION  
CROWN RESERVE 34370, ROBINSON**

**Land Description** : Crown Reserve 34370 and being Lot 311 on Plan 48576 and being the whole of the land contained in certificate of Title Volume LR3138 Folio 729, Robinson

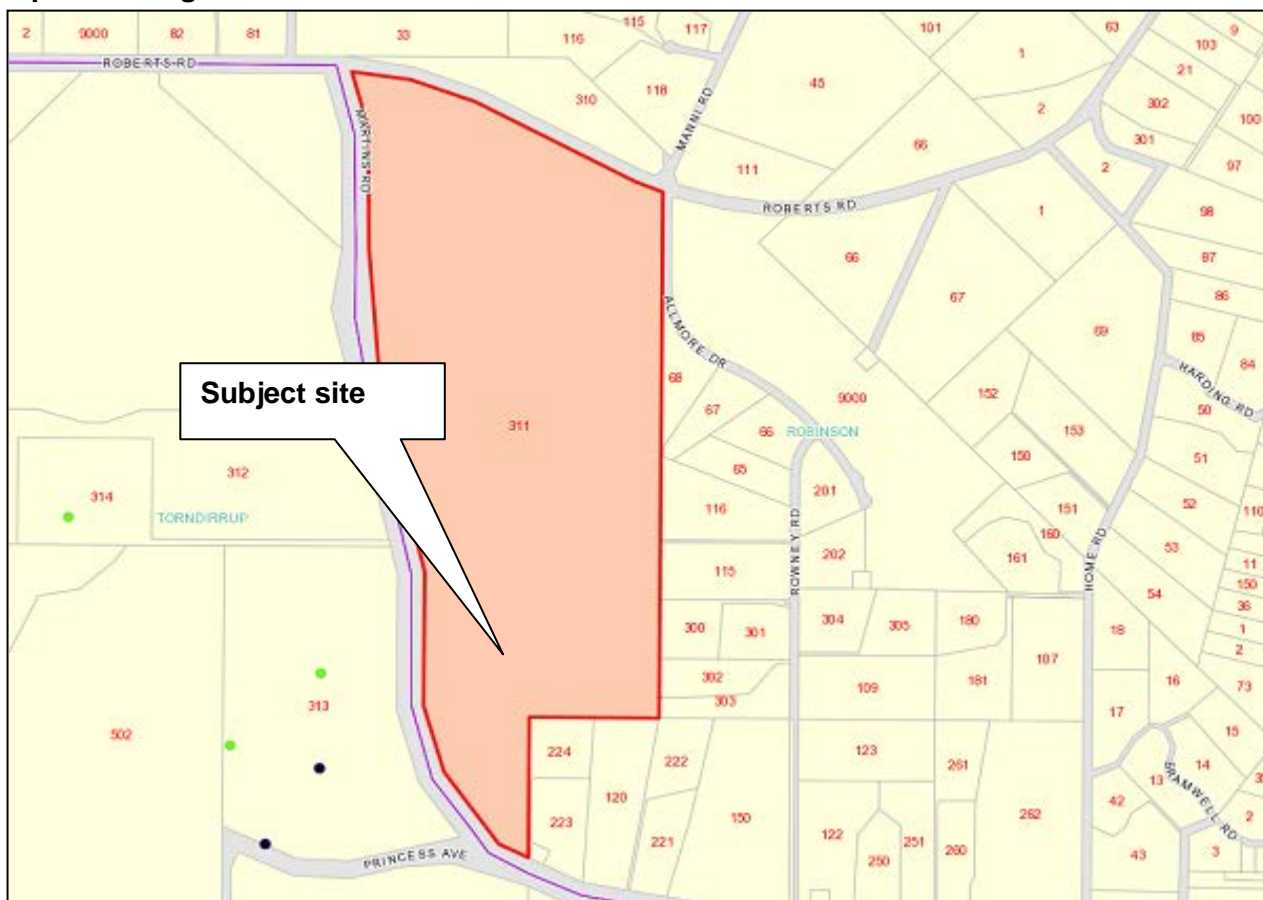
**Proponent** : Albany Model Aero Club Inc.

**Owner** : Crown

**Attachment(s)** : Nil

**Responsible Officer** : Executive Director Corporate Services (G Adams)

**Maps and Diagrams**



**IN BRIEF**

- Council is requested to consider a new lease for the Albany Model Aero Club Inc. over the area it currently occupies on Reserve 34370.
- Lease term being 10 years with an option for a further 11 year term for the purpose of providing facilities for model engine aeroplanes and radio controlled cars and their associated activities.

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

**THAT Council APPROVE the request from the Albany Model Aero Club Inc. for a new lease over portion Crown Reserve 34370 and being Lot 311 on Plan 48576 Robinson subject to:**

- 1. Lease term being 10 years with a further 11 year option, commencing 1 January 2013.**
- 2. Lease rental being a peppercorn rate of \$10.00 plus GST annum.**
- 3. Lease area being approximately 19.80 hectares.**
- 4. Lease purpose being to provide facilities for model engine aeroplanes and radio controlled model cars and their associated activities.**
- 5. All relevant approvals being obtained.**
- 6. Section 18 of the *Lands Administration Act 1997*, the Minister for Land's consent is obtained.**
- 7. All costs associated with the development, maintenance and operations of the lease area to be payable by the proponent.**
- 8. All legal costs associated with the preparation, execution and completion of the Deed of Lease to be payable by the proponent.**
- 9. Lease being consistent with Council Policy – Property Management – Leases and Licences.**

**BACKGROUND**

1. Crown Reserve 34370 is under a Management Order L667588 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 34370, an area of approximately 150 hectares is located at Lot 311 Roberts Road Robinson.
3. On the 1 January 1992 the former Shire of Albany entered into a new lease with the Albany Model Aero Club Inc. for a period of twenty one years over Crown Reserve 34370 for the purpose of "The establishment of grounds suitable for the conduct and activities of a model aeroplane club". 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 facilities to suit the needs of their sport.
5. The Club maintains all of the buildings and infrastructure upon the leased area of Crown Reserve 34370, at no cost to Council.
6. As Reserve 34370 was classified a Priority 1 Public Drinking Water Supply Catchment area by the Waters and Rivers Commission, the Club's request for a new lease over this area was forwarded to the Department of Water for comment.

7. Department of Water representatives met with Aero Club members to discuss the lease proposal and the Club's future proposed development plans. The Department of Water have advised the City of Albany that they have no issues with the Club's proposals or lease renewal.
8. 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 portion Reserve 34370.
9. On the 6 November 2012, a formal request was received from the Albany Model Aero Club Inc. for a new lease over portion Reserve 34370 for the maximum period of 21 years.
10. The Albany Equestrian Centre Inc. holds a current lease with the City of Albany on Reserve 34370 in the area adjacent to the Albany Model Aero Club Inc. lease site.

## DISCUSSION

11. Albany Model Aero Club Inc. began its existence in the early 1980's when a group of aero model enthusiasts formed a group, initially flying their model aeroplanes in a vacant field adjacent to the Recycling Depot off Hanrahan Road.
12. Due to the expansion of the Recycling Depot, the Club was forced to seek an alternative venue and relocated to the current lease site within Reserve 34370. This arrangement was formalized by a Deed of Lease in 1992.
13. Since the Club's inception, it has had a fluctuating membership base. Current member numbers are in the vicinity of 20, with numbers hoping to grow through displays and membership drives, including a successful Albany Expo display.
14. Member's range from fifteen year olds through to eighty year olds.
15. Since the Albany Model Aero Club Inc. has held the lease over Reserve 34370 the following improvements have been made to the lease area, funded through the Club's own fund raising efforts:
  - o Two purpose built sealed landing strips
  - o One grassed landing strip
  - o Purpose built covered pit area with safety fencing
  - o Clubrooms (open ended)
  - o Small lock up shed with solar panels
16. Formal club meetings are conducted on Sundays and Wednesdays. The remainder of the week sees up to five Club members using the area daily, dependent of weather conditions.
17. The current models used by members are predominantly powered by electric motors. These motors are charged via solar powered batteries that are stored within the lock up shed. The noise levels of electric motors are substantially quieter than petrol style motors.

18. On the 13 September 2010 a complaint was registered with the City with regard to noise and safety issues pertaining to the lease area held by the Aero Club. The City's Environmental Health Department made contact with the Club in this regard.
19. Club Executive addressed this issue with Club members, reinstating and updating the "Club Rules". These rules include but are not limited to:
  - Noise abatement regulations, including a flying buffer zone;
  - Safety regulations;
  - Civil Aviation Safety Authority (CASA) 101 compliance; and
  - Restrictions on flying timeframes.
20. The City's Principal Environmental Health Officer recommended to the City's Planning Department that a condition be placed on any subdivision application for adjoining land of Reserve 34370, that a note should be made on the certificate of title that any prospective purchaser of this land is made aware that the Albany Model Aero Club operates from the neighbouring property. Planning Officers requested that the Planning Commission make this a condition of subdivisions on adjoining land.
21. This complaint was resolved and to date no other known complaints have been recorded with the City with regard to the Albany Model Aero Club.
22. If the proposed new lease is approved, the Club has committed to further improvements to the property, including:
  - Resurfacing runways and pit areas (Stage One);
  - Refurbishing clubrooms and pit areas (Stage Two);
  - Extension to car park area; and
  - Fencing to separate flying and viewing areas.
23. The Club is exploring the possibility of becoming a multi use facility and is seeking to incorporate radio controlled model car facilities within the lease area.
24. A number of its current members also own radio controlled model cars, and the Club has been made aware that a facility of this type is in demand within Albany.
25. Albany Model Aero Club Executive believes the two hobbies would operate harmoniously within this site. The expected new and increased membership would be an asset to the Club's future growth and development.
26. The Club is aware that it requires City of Albany as Landlord prior consent in writing, plus any other relevant approvals, including Planning Scheme Consent, before making any improvements, alteration or additions to buildings and infrastructure.
27. 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

28. 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 34370.

## PUBLIC CONSULTATION / ENGAGEMENT

29. 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.
30. 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;*
31. The Albany Model Aero Club Inc. is an incorporated, not for profit recreational group, therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

## STATUTORY IMPLICATIONS

32. 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.
33. As this is Crown land, under Management Order L667588 issued to the City of Albany with the power to lease, for the purpose of "Recreation", Minister for Land's consent will be required.
34. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property, including leased land and buildings.
35. Under the City's Town Planning Scheme Number 3, the subject land is reserved for "Parks and Recreation". The proposed use of the conduct and activities of a model engine aeroplane and radio controlled car club is in accordance with the purpose of the Reserve and the requirements of the Scheme, subject to Planning Scheme Consent being issued.

36. The Western Australian Planning Commission (WAPC) consent is not required as this is Crown land.

### STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

37. 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

38. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
39. 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.
40. The Policy section relevant to this category of lease – 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.
41. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

**RISK IDENTIFICATION & MITIGATION**

42. 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 Model Aero 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 Model Aero Club Inc. to ensure mutually agreeable outcomes.</i>

**FINANCIAL IMPLICATIONS**

43. The new lease rental will be peppercorn rent of \$10.00 plus GST per annum.

44. The new lease rental will be directed to COA 190430 Income – Other Leases.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

45. 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.

46. Should Council decline the request, the Albany Model Aero Club Inc. would be required to vacate the property, remediate the site and find an alternate location should they wish to continue providing this type of sporting facility.

47. Council could then invite expressions of interest to lease Crown Reserve 34370 for the designated purpose only of "Recreation".

18/12/2012

\*\*REFER DISCLAIMER\*\*

**SUMMARY CONCLUSION**

48. The Albany Model Aero Club Inc. is seeking a new lease over an area they have occupied formally since 1991 on Crown Reserve 34370.
49. The Albany Model Aero Club Inc. has previously completed improvements to the property and met the obligations of their previous lease.
50. The lease request to allow the Albany Model Aero Inc. to provide facilities for model engine aeroplanes and radio controlled cars and their 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>	PRO189, A204721 (West Ward)
<b>Previous Reference</b>	Nil