

4.4: NEW LEASE – THE FAMILY PLANNING ASSOCIATION OF WESTERN AUSTRALIA INC. IN PARTNERSHIP WITH PEOPLE 1ST PROGRAMME 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	: The Family Planning Association of Western Australia Inc. in partnership with People 1 st Programme
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 a new lease at Lotteries House to The Family Planning Association of Western Australia Inc. in partnership with People 1st Programme.
- Lease term being three years.

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

That Council **APPROVE** the request for a new lease to The Family Planning Association of Western Australia Inc. in partnership with People 1st Programme at Lot 211 on Diagram 94113 known as Lotteries House subject to:

- i) **Lotteries House Tenant Committee approval.**
- ii) **Lease term being three years, commencing as soon as practicable.**
- iii) **Lease area being 20 square metres.**
- iv) **Lease rental being \$2,407.45 plus GST per annum as determined by the Lotteries House Management Committee.**
- v) **Lease purpose being office space.**
- vi) **Lease rent reviews being carried out annually on 1 July by the Lotteries House Management Committee.**
- vii) **Costs associated with the preparation and implementation of the lease documentation, if any, to be payable by the proponent.**

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 secure and affordable accommodation 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. On 24 December 2012, The Federation of Western Australia Police and Community Youth Centres Inc. (PCYC) in partnership with Neighbourhood Watch vacated the lease area occupied within Lotteries House due to funding constraints.
6. On 3 January 2013, the City advertised for Expressions of Interest for the lease area previously occupied by PCYC in partnership with Neighbourhood Watch at Lotteries House.

7. A subcommittee of the Lotteries House Tenant Committee reviewed the applications received with The Family Planning Association of Western Australia Inc. (FPWA) in partnership with People 1st Programme (PIP) being the successful applicant. This was formally approved and minuted at the Lotteries House Tenant Committee (formally known as the Lotteries House Management Committee) meeting held on the 20 February 2013.
8. The Tenant/Management Committee has provided strong direction for Lotteries House and ensured the building has been well maintained.
9. The Lotteries House Tenant 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 lease rents for similar type buildings; and
 - c. Reviewing operational expenditure costs of the building and projecting operating expenses for the financial year.
10. The new rate for rent is then adopted by the Tenant Committee and applied to leases annually from 1 July. The subsidised rate is calculated to cover costs associated with running the building. The current rate for 2012/13 is \$120.38 plus GST per square metre.
11. Under the Deed of Trust for the building, any surplus rent generated annually is placed in trust for Lotteries House major building maintenance projects. The balance of the trust account as at 30 June 2012 was \$54,336. This balance will not alter until the 30 June 2013 when any further surplus funds will be added. Annual reports are no longer required to be submitted to Lotterywest. The Lotteries House Tenant Committee has been advised in writing that they need to be submitted upon request.
12. The City of Albany has 10 other leases with benevolent or charitable organisations at Lotteries House.
13. Ownership of the Lotteries House building is on an undivided share basis between the Lotteries Commission and the City of Albany as Trustee.
14. 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.
15. 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.

16. 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, and annually upon request.

DISCUSSION

17. People 1st Programme is a not for profit project of Family Planning WA, under The Family Planning Association of Western Australia Inc.
18. The PIP project was established in 1993 to provide one to one education and counselling to people with an intellectual disability, their families and carers' in understanding and dealing with human relationships and sexual health issues.
19. PIP offers a comprehensive range of services to people with an intellectual disability, their significant others, parents, carers and disability workers. Services are inclusive, available to people of all ages and work towards the development of positive relationships. The services provided include:
 - One to One education, Perth, Albany, Bunbury, Busselton.
 - School Programmes, carried out in schools.
 - Support for parents, during sessions.
 - Professional Development in service provider venues.
 - Parents Workshops.
20. PIP is a project of Family Planning WA and is funded by the Disability Services Commission of Western Australia. The support of Family Planning WA provides a sound management and governance structure and enables the program to be managed efficiently and effectively.
21. The lease area at Lotteries House will be utilised to deliver the group's programs. The Albany educator works two days per week, 9.30am until 4.30pm.
22. The proposed new lease will be developed in line with Council's Policy – Property Management – Leases and Licences for this category of lease.

GOVERNMENT CONSULTATION

23. No government consultation is required.

PUBLIC CONSULTATION / ENGAGEMENT

24. 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.
25. 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,
26. The People 1st Programme is a project of Family Planning WA , under The Family Planning Association of Western Australia Inc. which is a not for profit charitable organisation and therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

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

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

Key Focus Area

- *Organisational Performance.*
- *Community Focussed Organisation.*

Community Priority

- *Policy and Procedures..*
- *Support for Community Groups*

Proposed Strategies

- *Develop clear processes and policies and ensure consistent, transparent application across the organisation.*
- *Support community groups by identifying funding opportunities.*

POLICY IMPLICATIONS

30. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
31. 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.
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.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council does not approve proposed new lease – loss of operating income for Lotteries House</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction. Seek alternative Tenant as last resort.</i>
<i>Council does not approve proposed new lease – People 1st Programme will need to seek alternative premises</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction. Collaborate closely with People 1st Programme to assure them that the City will work towards mutually agreeable outcomes.</i>

FINANCIAL IMPLICATIONS

34. Any costs associated with the preparation and implementation of the new lease documentation will be borne by the proponent.
35. 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 Tenant Committee.
36. There is no cost to the City to operate Lotteries House other than the City's Officers time and current insurance cost of \$3,319.53 per annum for 2012/13.
37. The new lease rental income totalling of \$2,407.45 plus GST per annum will be directed to COA 120930 – Lotteries House Income.

LEGAL IMPLICATIONS

38. The agreement with the Lessee is a formal Deed of Lease which grants an interest in the land and buildings with enforceable conditions.

ALTERNATE OPTIONS

39. 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.
40. Should Council decline the request, the proponent would be required to find alternative premises. If they are not able to do so, they may need to discontinue the service delivered in Albany and the wider community.
41. 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

42. The Family Planning Association of Western Australia Inc. in partnership with People 1st Programme (PIP) are seeking to secure a lease over 20 square metres of office space at Lotteries House.
43. People 1st Programme is a project of Family Planning WA and is funded by the Disability Services Commission of Western Australia.
44. In view of the community service provided by the People 1st Programme to Albany and the wider community, the request for a new lease 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 • Lotteries House Tenant Committee Minutes – February 2013
File Number (Name of Ward)	PRO383, A150439 (Frederickstown Ward)
Previous Reference	Nil