

**CSF019: NEW LEASE – JOHANNES PIETER VERMEULEN – AIRPORT
HANGAR SITE 10 – ALBANY REGIONAL AIRPORT**

Land Description	: Portion of Lot 213 on Diagram 94445 and the whole of the land contained in Certificate of Title Volume 2158 Folio 588 at 35615 Albany Highway, Drome
Proponent	: Johannes Pieter Vermeulen
Owner	: City of Albany
Attachments	: Nil
Responsible Officer(s)	: Executive Director Corporate Services (G Adams)

Responsible Officer's Signature:	
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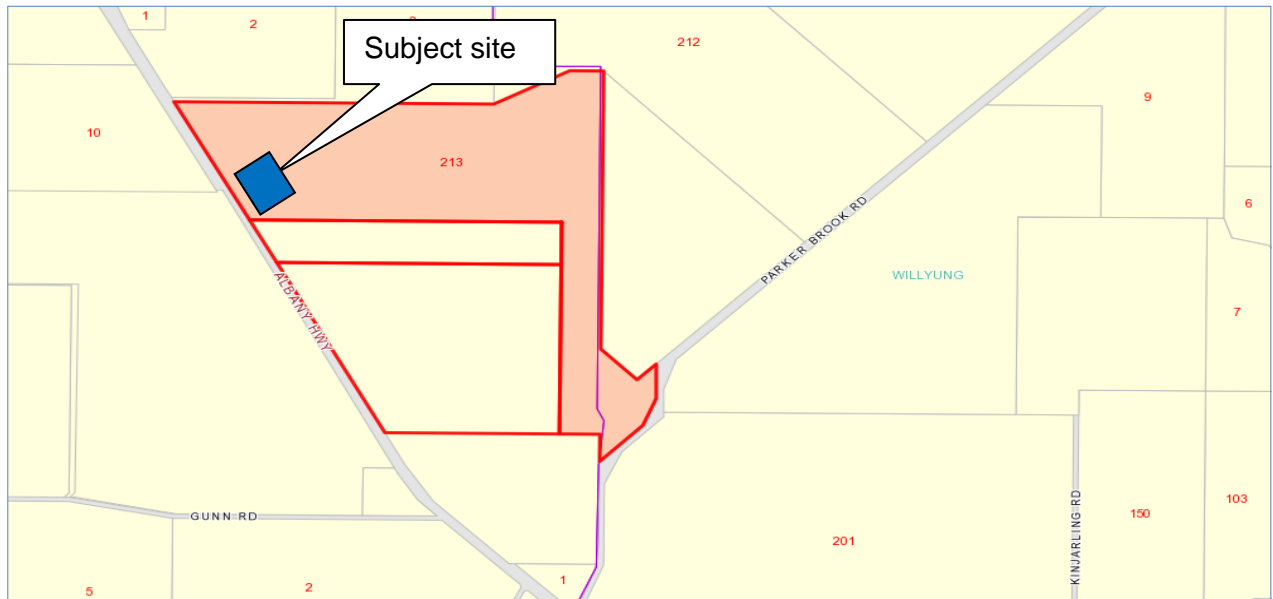
STRATEGIC IMPLICATIONS

1. This item relates directly to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
 - a. **Key Theme:** Civic Leadership.
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.2 Systems Development and Improvement: Improve leased property management.

IN BRIEF

- Council is requested to consider a new lease for Mr Johannes Pieter Vermeulen over the area he currently occupies being hangar site 10, Albany Regional Airport at 35615 Albany Highway, Drome.
- Lease term being 10 years with an option for a further 10 year term for the purpose of airport hangar for airport hangarage only.
- Lease request proposal complies with the 2012 Albany Regional Airport Master Plan recommendations.

Maps and Diagrams



CSF019: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council APPROVE the request from Mr Johannes Pieter Vermeulen for a new lease for hangar site 10 at the Albany Regional Airport on portion of Lot 213 on Diagram 94445 at 35615 Albany Highway Drome, subject to:

1. Lease term being 10 years commencing 1 September 2013, with an option for a further 10 year term.
2. Lease rental fee being determined by a current market valuation provided by a licensed Valuer, being \$2,025.00 plus GST per annum.
3. Lease rent being reviewed by current market valuation every three years with Consumer Price Index applied for intervening years.
4. Lease area being approximately 270 square metres.
5. Lease purpose being aircraft hangar for aircraft hangarage only.
6. Section 3.58 of the *Local Government Act 1995* advertising requirements.
7. All costs associated with the preparation, execution and completion of the Deed of Lease being payable by the Lessee.
8. All costs associated with the ongoing operations of the lease premises being payable by the Lessee.
9. Lease being consistent with Council Policy – Property Management – Leases and Licences.

CSF019: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF019: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE the request from Mr Johannes Pieter Vermeulen for a new lease for hangar site 10 at the Albany Regional Airport on portion of Lot 213 on Diagram 94445 at 35615 Albany Highway Drome, subject to:

1. Lease term being 10 years commencing 1 September 2013, with an option for a further 10 year term.
2. Lease rental fee being determined by a current market valuation provided by a licensed Valuer, being \$2,025.00 plus GST per annum.
3. Lease rent being reviewed by current market valuation every three years with Consumer Price Index applied for intervening years.
4. Lease area being approximately 270 square metres.
5. Lease purpose being aircraft hangar for aircraft hangarage only.
6. Section 3.58 of the *Local Government Act 1995* advertising requirements.
7. All costs associated with the preparation, execution and completion of the Deed of Lease being payable by the Lessee.
8. All costs associated with the ongoing operations of the lease premises being payable by the Lessee.
9. Lease being consistent with Council Policy – Property Management – Leases and Licences.

BACKGROUND

2. In September 1993 the former Shire of Albany granted a new lease for hangar site 10, an area of approximately 270 square metres at the Albany Regional Airport to Mr John Charles Woollett for the purpose of airport hangar for airport hangarage only.
3. Hangar site 10 is located on portion of Lot 213 which is City of Albany owned freehold and adjacent to the Airport Terminal.
4. The lease was assigned to Mr Johannes Pieter Vermeulen on the 19 September 2007 for the remainder of the term.
5. As there had been a degree of uncertainty regarding the term outlined in the earlier hangar leases, in 2008 the City sought legal advice that determined the term to be 20 years with no option for a further term.

6. At Ordinary Council Meeting 19 August 2008, Council resolved to limit hangar leases to a maximum term of 20 years. All hangar Lessees were informed of the resolution and how this would affect their individual leases.
7. The Lease for hangar site 10 expires on the 31 August 2013.
8. On 10 July 2013, the City wrote to Mr Vermeulen informing him the current lease was due to expire on the 31 August 2013, and requested that Mr Vermeulen advise the City of his intentions with regard to applying for a new lease over hangar site 10.
9. On 16 July 2013, the City received a written request from Mr Vermeulen requesting a new lease over hangar site 10, the area he has occupied since September 2007, for a term of 10 years with an option for a further 10 year term.
10. The Lessee continues to occupy the leased area on a holding over basis as a month to month tenant. The conditions of the tenancy preserve the obligations of the lease, except in respect to the term of the lease.

DISCUSSION

11. In October 2010 the City's lawyers developed a standard lease for Airport hangar sites. At this time, the City provided a copy of the draft lease to hangar Lessees for their review.
12. The City received feedback from the Lessees, who advised they had a number of concerns regarding the draft lease and also sought an update on the Airport Master Plan.
13. City staff met with Lessee representatives on several occasions and after extensive discussions, it was agreed after taking into consideration the Lessee's concerns and as a gesture of goodwill to finalise the standard lease, the lease be amended as follows:
 - a. Rent payment method: Insert additional payment methods.
 - b. Rent amount: The City considered a second valuation (AON, Licensed Valuer) and agreed to the current market rent determined of \$7.50 per square metre plus GST per annum. The valuation remains current for six months (until 4 December 2013).
 - c. Rent reviews: In line with Council Policy Property Management Leases and Licences being three yearly market valuations with CPI applied for intervening years.
 - d. Bank Guarantee: Delete requirement.
 - e. Tenants Obligations, Common Area: Delete payment of Tenant's proportion of costs towards maintenance of common area and remove common area plan.
 - f. Relocation: Amend to reflect Tenant liable for costs if hangar relocation is a legislative requirement, alternatively the City will be responsible for relocation costs.
14. The standard hangar site lease has now been updated to reflect all of the above amendments.
15. Mr Vermeulen has been provided with a copy of the draft standard hangar site lease for consideration and agreement to the lease will be sought.

16. It is noted that the City has taken steps to reduce initial lease costs by developing the standard hangar site lease agreement and implementing shared Lessee costs arrangements for statutory advertising and market valuation requirements.
17. The Lessee has occupied hangar site 10 for the past six years and has met the obligations of the previous lease, including meeting a (fixed) rental rate of \$395.00 per annum.
18. A City of Albany Building Licence 9784 was issued on the 19 February 1992 approving the construction of the hangar on site 10.
19. The Lessee will be responsible for all ongoing maintenance, insurance and utilities for the Leased Premises, at no cost to Council.
20. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases and Licences.
21. The proposed new lease complies with the 2012 Albany Regional Airport Master Plan recommendations.

GOVERNMENT & PUBLIC CONSULTATION

22. No Government consultation is required as lease area is located within City of Albany owned freehold land.
23. 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.
24. The proposed new lease will be advertised to comply with the 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 current Town Planning Scheme No 3, the subject land is zoned "Rural", the existing use of hangar was approved in 1992 under Building Licence 9784 under delegation, in accordance with the Scheme.

POLICY IMPLICATIONS

- 27. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
- 28. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
- 29. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

RISK IDENTIFICATION & MITIGATION

- 30. The risk identification and categorisation relies on the City’s Risk Management Framework:

Risk	Likelihood	Consequence	Risk Rating	Mitigation
<i>Council does not approve a new lease – reputational loss to the City</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Seek to negotiate terms to Council satisfaction. Collaborate with prospective Lessee to reach a mutually agreeable outcome.</i>
<i>Council does not approve a new lease – loss of rental income in short term</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction. Collaborate with prospective Lessee to reach a mutually agreeable outcome.</i>

FINANCIAL IMPLICATIONS

- 31. The new lease rental determined by a current market valuation provided by licensed Valuer, will be \$2,025.00 plus GST per annum.
- 32. The new lease rental will be directed to COA 138130 Income – Airport Lease Rents.
- 33. All costs associated with the preparation, execution and completion of the new lease documentation including but not limited to legal, advertising, survey and valuation (if required) will be borne by the proponent.

LEGAL IMPLICATIONS

- 34. Should Council support the lease request the standard hangar site Deed of Lease will be prepared by the City’s lawyers.

ENVIRONMENTAL IMPLICATIONS

- 35. Nil

ALTERNATE OPTIONS

36. Council may:
- a. Approve the request for a new lease for hangar site 10; or
 - b. Decline the request.
37. Should Council decline the request, the Lessee would be required to vacate the leased premises and find an alternate location to store the aircraft.
38. The Lessee would within three months of expiration of the lease be required to remove fixtures and fittings and if the City of Albany directs remove hangar and structures erected on the leased premises and restore the area at the Lessee's cost.
39. If Lessee fails to remove the improvements as directed by the City of Albany, the improvements will become the property of the City of Albany.
40. Council could then invite expressions of interest to lease this site with Council considering any new lease for the vacant premises.

SUMMARY CONCLUSION

41. The current Lessee is seeking a new lease over hangar site 10, for a term of 10 years with an option for a further 10 year term for the purpose of airport hangar for airport hangarage only.
42. The Lessee has occupied this site for the past six years and has met the obligations of the previous lease including payment of rent and outgoings, at no cost to Council.
43. The new lease request complies with the 2012 Albany Regional Airport Master Plan recommendations.
44. The lease request to allow Mr Johannes Pieter Vermeulen to continue to lease hangar site 10 at the Albany Regional Airport, is supported.

Consulted References	<ul style="list-style-type: none">• Council Policy – Property Management – Leases and Licences• <i>Local Government Act 1995</i>
File Number (Name of Ward)	PRO168, A160490 (Kalgan Ward)
Previous Reference	OCM 19/08/2008 Item 13.3.1