

**CSF035: NEW LEASE – ALBANY HALFWAY HOUSE ASSOCIATION INC.
– LOTTERIES HOUSE – ALBANY**

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 : Albany Halfway House Association Inc.
Owner : City of Albany and the Lotteries Commission
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 at Lotteries House for Albany Halfway House Association Inc., over the area currently occupied since 1 February 2001.
- Lease term being three years commencing 1 February 2014.
- Lease request has been approved by the Lotteries House Tenant Management Committee.
- The recommendation proposes that Council approve the new lease.

Maps and Diagrams



**CSF035: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE the request for a new lease to Albany Halfway House Association Inc. at Lot 211 on Diagram 94113 known as Lotteries House subject to:

- 1. Lotteries House Tenant Management Committee approval.**
- 2. Lease term being three years, commencing 1 February 2014.**
- 3. Lease area being 28 square metres.**
- 4. Lease rental being \$3,470.04 plus GST per annum as determined by the Lotteries House Management Committee.**
- 5. Lease purpose being office space.**
- 6. Lease rent reviews being carried out annually on 1 July by the Lotteries House Tenant Management Committee.**
- 7. Costs associated with the preparation and implementation of the lease documentation, if any, to be payable by the proponent.**

CSF035: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR DOWLING

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CARRIED 12-0

CSF035: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE the request for a new lease to Albany Halfway House Association Inc. at Lot 211 on Diagram 94113 known as Lotteries House subject to:

1. Lotteries House Tenant Management Committee approval.
2. Lease term being three years, commencing 1 February 2014.
3. Lease area being 28 square metres.
4. Lease rental being \$3,470.04 plus GST per annum as determined by the Lotteries House Management Committee.
5. Lease purpose being office space.
6. Lease rent reviews being carried out annually on 1 July by the Lotteries House Tenant Management Committee.
7. Costs associated with the preparation and implementation of the lease documentation, if any, to be payable by the proponent.

BACKGROUND

2. 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.
3. The Deed required a Management Committee to be formed to oversee the management of the premises. The Lotteries House Tenant Management Committee for Albany is comprised of tenant representatives, community volunteers and a City officer.
4. 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.

5. 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.
6. Albany Halfway House Association Inc. has been a tenant at Lotteries House since 1 February 2001 occupying a lease area of 28 square metres.
7. Albany Halfway House Association Inc. lease expires on 31 January 2014. The City received a written request dated 3 September 2013 for a new lease at Lotteries House over the area it currently occupies for a term of three years commencing 1 February 2014 for the purpose of office space.
8. Albany Halfway House Association Inc. new lease request was considered and approved by the Lotteries House Tenant Management Committee at the last Committee meeting held on 16 October 2013.
9. The existing lease area of approximately 28 square metres at Lotteries House currently returns a rental of \$3,370.34 plus GST per annum. This is based on a rate per square metre of \$120.37 plus GST.
10. The Lotteries House Tenant Management Committee is responsible for setting 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 Tenant 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.
11. The new rate for rent is then adopted by the Committee and applied to leases annually from 1 July. The adopted rate for the 2013/14 financial year is \$123.93 plus GST per square metre.
12. 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 the end of financial year 30 June 2013 was \$64,460.00. This balance will not alter until the 30 June 2014 when end of year financial adjustments are made.
13. The City of Albany currently has eight other leases with benevolent or charitable organisations at Lotteries House.
14. Ownership of the Lotteries House building is on an undivided share basis between the Lotteries Commission and the City of Albany as Trustee.
15. 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.

16. The City in accordance with the Deed of Trust insures the buildings, plate glass and City owned fixtures, fittings and contents. The cost for 2013/14 financial year is \$3,485.51. 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.
17. 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

18. Albany Halfway House Association Inc. is a local not for profit association providing a community based and managed service to adults diagnosed with mental illness.
19. Albany Halfway House Association Inc. work co-operatively with service users and other agencies to encourage self empowerment and determination in the development of skills that will enhance the lives of individuals through their 'Outreach Services' program.
20. Albany Halfway House Association Inc. administers the program from Lotteries House.
21. The proposed new lease will be consistent with Council's Policy – Property Management – Leases and Licences for this category of lease.

GOVERNMENT & PUBLIC CONSULTATION

22. No Government consultation is required.
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. 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,

25. Albany Halfway House Association Inc. 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

26. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased land and buildings.
27. Under the City of Albany Town Planning Scheme 1A, the land is zoned ‘Clubs and Institutions’. The proposed use for office space is in accordance with the Scheme.

POLICY IMPLICATIONS

28. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
29. 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.
30. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

RISK IDENTIFICATION & MITIGATION

31. 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>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
<i>Council does not approve proposed new lease – loss of operating income for Lotteries House</i>	<i>Unlikely</i>	<i>Moderate</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 – Albany Halfway House Association Inc. will need to seek alternative premises</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>

FINANCIAL IMPLICATIONS

32. Any costs associated with the preparation and implementation of the new lease documentation will be borne by the proponent

33. 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 Management Committee.
34. There is no cost to the City to operate Lotteries House other than the City's Officers time and the insurance cost of \$3,485.51 plus GST per annum for 2013/2014 financial year.
35. The new lease rental income of \$3,469.86 plus GST per annum will be directed to COA 12093 – Lotteries House Income.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

37. Nil

ALTERNATE OPTIONS

38. Council may:
 - a. Approve the request for a new lease; or
 - b. Decline the request.
39. Should Council decline the request, Albany Halfway House Inc. will need to find alternative premises should they wish to continue providing the current services.
40. The City could then invite expressions of interest to lease the area and may risk a loss of rental during this process that may impact negatively on the operations of Lotteries House.

SUMMARY CONCLUSION

41. Albany Halfway House Association Inc. are seeking a new lease over 28 square metres of office space at Lotteries House, an area they have occupied since 1 February 2001.
42. Albany Halfway House Association Inc. has fulfilled all previous lease obligations including payment of rent and outgoings.
43. In view of the community service provided by the Albany Halfway House Association Inc. to 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 and Licences • <i>Local Government Act 1995</i> • <i>Lotteries Commission Act 1990</i> • Lotteries House Tenant Management Committee Minutes – October 2013
File Number (Name of Ward)	PRO383, A150439 (Frederickstown Ward)
Previous Reference	OCM 17/04/2012 Item 4.3