

Kadaltilla

Adelaide Park Lands Authority

Defining and Identifying Alienation of Park Lands

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Board Meeting**

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Public

Purpose of Workshop

The purpose of this workshop is to explore the relationships between community access to the Adelaide Park Lands and alienation of Park Lands for community or other purposes. The workshop considers terminology and concepts being used to describe community access to, and public benefit generated by, the Adelaide Park Lands, and possible reframing of that language.

Key terminology and concepts include:

- Alienation of Park Lands
- Hardstand areas
- Concept of 'No Net Loss'
- What are Park Lands related purposes?
- Community use and expectation for Park Lands
- Role of Kadaltilla to advise, direct and control land use and its advice to State Government and Council for this purpose.

Key Questions

- What are Board Members views on the proposed definitions and concept of a hierarchy of alienation?
- What advice do Board Members have to progress and embed definitions with the State Government and Council?

Background

1. At the Kadaltilla Board meeting held on 27 April 2023 an action was recorded that Administration bring back a range of definitions for the consideration of Kadaltilla that progress the concept of no net loss of Park Lands.
2. This report is provided in support of workshop content to explore the relationships between community access to the Adelaide Park Lands and alienation of Park Lands for community or other purposes.

Purpose of the Adelaide Park Lands

3. The purpose in which the Adelaide Park Lands are held, derived from the Statutory Principles of the Adelaide Park Lands Act 2005 (SA), is:

To provide benefit to the people of South Australia by being publicly accessible and supporting a diverse range of environmental, natural heritage, cultural, recreational and social values and activities, providing a defining feature to the City of Adelaide and contributing to the economic and social well-being of the city.

Alienation of Adelaide Park Lands

4. One of the most prominent issues related to the Adelaide Park Lands is the alienation and the loss of public access to land.
5. The alienation of the Park Lands began back in the mid 1800's when an initial 380 acres were acquired for 'public buildings', mostly along the south side of River Torrens, that is the northern edge of South Adelaide.
6. Initially the Park Lands covered 2,300 acres but alienated land amounted to a loss of over 600 acres, today the total area is approximately 1,730 acres.
7. The current State Government program of development will further alienate Park Lands. These purposes do not closely align with the purpose in which the Park Lands are held. Kadaltilla has sought improved definitions to address alienation and built form footprint that supports the enhancement and protection of the Park Lands, by increasing the State Government and the public's understanding of alienation of the Adelaide Park Lands.

Defining Alienation

8. The alienation of 'Community Land' generally refers to: the sale, transfer or leasing/licensing of land held by Government that leads to restricted public access to land.
9. In some contexts, it refers to the transfer of land from one party to another. This might be the permanent transfer of State/Local Government owned land to a private owner resulting in removal of public access. It could also be defined through a less permanent measure, such as a lease or license that restricts public access for a period of time such as a license to a sporting club or a major event.

Alienation of land in Property Law is defined as:

10. In property law, alienation is the voluntary act of an owner of some property to dispose of the property, while alienability, or being alienable, is the capacity for a piece of property or a property right to be sold or otherwise transferred from one party to another.

Local Government Act 1999 (SA)

11. Section 202 (Alienation of community land by lease or licence) of the *Local Government Act 1999 (SA)* outlines the alienation of Community Land by way of lease or license.
12. A lease or licence may provide for—
 - 12.1 the erection or removal of buildings and other structures for the purpose of activities conducted under the lease or licence;
 - 12.2 the exclusion, removal or regulation of persons, vehicles or animals from or on the land, and the imposition of admission or other charges
13. These leases and license essentially allow for uses such as sporting clubs that have exclusive use of a facility that can restrict public access.

Alienation of the Adelaide Park Lands – Adelaide Park Lands Management Strategy (APLMS)

14. The former Adelaide Park Lands Management Strategy 1999, defined alienated Park Lands as:

Those areas of the original Park Lands (including the nine original designated reserves) which are not publicly accessible

May or may not already be under the care and control of City of Adelaide.
15. The 1999 Strategy recommended the return of public access to alienated land and its subsequent return to the care and control of Council. The recommended areas for return were predominantly the transfer of ownership of identified land from Federal / State ownership to the City of Adelaide.
16. The current Adelaide Park Lands Management Strategy 2015-2025 seeks to ensure no further alienation of the Park Lands and facilitate the return of alienated land back to Park Lands wherever possible.

Redefining Alienation in the Adelaide Park Lands

17. It is increasingly difficult for 'alienated land' to be returned to public access and City of Adelaide, due to the nature of land that is, or is becoming alienated, or is already alienated, for example: the West Terrace Cemetery.
18. There is also limited remaining parcels of Adelaide Park Lands not in the care and control of the City of Adelaide.
19. A new definition of 'Alienated Park Lands' is proposed as follows:

A substantial intrusion on the Adelaide Park Lands (defined by the Adelaide Park Lands Plan) for 'Non-Park Land Purposes' that results in:

 - *Permanently restricting general public access*
 - *'Net loss' of publicly accessible Park Lands.*
20. This definition can apply to Parks (or part of) that may be under the care and control of the City of Adelaide or the State Government.
21. The new definition provides greater clarity on what the alienation of Park Lands is in today's context and introduces a new 'Alienation Hierarchy' that is based on definition of Park Land Purposes and Non-Park Land Purposes.
22. A supporting 'Alienation Hierarchy' is proposed that provides for Non-Park Land Uses to be returned to Park Land Uses and adopts the concept of:

Enhance to protect the Adelaide Park Lands in accordance with the purpose in which the Park Lands are held.

Defining Other Important Terms

23. The concept of 'No Net Loss' has been used as rationale and method to aggregate hard stand and built form to contribute to a footprint to enable larger scale development in the Park Lands.
24. The Adelaide Park Lands are defined by the Adelaide Park Lands Plan held by the General Register Office (GRO), therefore the boundary of this plan would need to be amended for there to be a 'net loss of Adelaide Park Lands'.
25. An option is to reframe this narrative to define Net Loss of publicly accessible Park Lands as occurring when a Park (or part of) changes from having a 'Park Lands Purpose' to a 'Non-Park Lands Purpose'.
26. Return to Park Lands is another term that is used. An example is the State Government with the new Women's and Children Hospital and Mounted Police Unit. State Government has outlined that areas would be 'Returned to Park Lands', however, this needs to be defined so that land to be 'returned' is land that does not currently have a 'Park Lands Purpose'. Only land that currently is a "Non-Park Lands Purpose" can be 'Returned to Park Lands'.
27. Return to Park Lands can therefore be defined as:

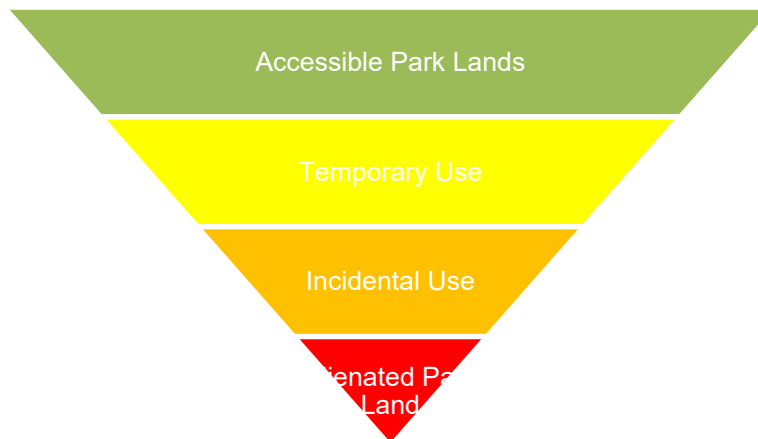
'Land previously used for a 'Non-Park Lands Purpose' being permanently returned to the general public for a 'Park Land Purpose'.
29. This does not necessarily require the land to be transferred to the City of Adelaide, as ownership does not always dictate public access, for example; the Torrens Parade Grounds and the Adelaide Botanic Gardens, which are under the State ownership, but are generally accessible to the general public.

Alienation of Park Lands Framework

30. The proposed alienation framework describes what constitutes:
 - 30.1. Park Lands Purposes (Unalienated Park Lands), that should be promoted, enhanced and protected
 - 30.2. Non-Park Land Purposes (Alienated Park Lands), that should be limited and where appropriate, 'returned to a Park Land Purpose'
 - 30.3. Leases and Licenses (Alienated/Unalienated Park Lands), which are carefully examined to determine the extent to which exclusivity is granted and a public benefit is served and may be considered as an alienation of Park Lands if the lease is not for a 'Park Lands Purpose'.

Alienation Hierarchy

31. The hierarchy of alienation can then be determined using a series of characteristics, which apply to all (or part of) a Park within the Adelaide Park Lands regardless of ownership/custodianship of the land, under the following headings:
 - 31.1. Accessible Park Lands (Unalienated Park Lands), Park Lands that are openly accessible and provide unrestricted access to the general public
 - 31.2. Temporary Use (Unrestricted Public Access) (Unalienated Park Lands), Park Lands that host a temporary use but maintain unrestricted access to the general public
 - 31.3. Incidental Use (Restricted Public Access) (Unalienated Park Lands), Park Lands that host a temporary event that is restricted to the general public due to admission fee or are temporarily fenced to restrict public access.
 - 31.4. Alienated Park Lands (Permanent Restricted Public Access), build form within the Park Lands that is for a 'Non-Park Land Purposes', has restricted general public access or incurs a fee for entry.



Next Steps

32. Pending discussions by Kadaltilla about an alienation hierarchy, Administration proposed the next steps will include:
 - 32.1. Internal workshopping and agreement of definitions and testing of hierarchy of alienation / framework for considering access to the Adelaide Park Lands
 - 32.2. Implementation and mapping of current conditions against the hierarchy / framework to establish baselines – this will allow for data and insights to be provided to Kadaltilla, outlining how the Park Lands fall under the hierarchy.
 - 32.3. Setting measurable targets for each tier of the hierarchy / framework
 - 32.4. Identifying quick wins for community access to the Adelaide Park Lands and relevant stakeholder engagement.