

Park Lands Lease and Licence Policy

Strategic Alignment - Thriving Communities

Public

Tuesday, 3 October 2023

City Community Services and
Culture Committee

Program Contact:

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EXECUTIVE SUMMARY

The purpose of this report is for the City Community Services and Culture Committee to consider adoption of the Draft Park Lands Lease and Licence Policy ('draft policy').

The draft policy incorporates local government best practice recommendations including the introduction of an incentivised community lease and licence fee structure.

In May 2022, the draft policy was supported by Council for the purpose of undertaking community consultation. Community consultation occurred between 24 May and 14 June 2022.

A number of amendments are proposed to the policy following community consultation, a subsequent Motion on Notice endorsed by Council, workshops with Council Members on community buildings and further review of the document by Council Administration.

The draft policy was considered and supported by the Kadaltilla / Adelaide Park Lands Authority on 27 April 2023.

If adopted, this draft policy will supersede the Adelaide Park Lands Lease and Licence Policy adopted by Council in January 2016.

This draft policy will have an immediate effect on the negotiation of new lease agreements going forward, including the assessment of eight EOIs that have just concluded, and inform the management of existing lease agreements, excluding agreed lengths of tenure, lease fees and any conditions unique to a particular agreement.

RECOMMENDATION

The following recommendation will be presented to Council on 10 October 2023 for consideration

THAT THE CITY COMMUNITY SERVICES AND CULTURE COMMITTEE RECOMMENDS TO COUNCIL
THAT COUNCIL

1. Adopts the Park Lands Lease and Licence Policy as per Attachment A to Item 7.3 on the Agenda for the meeting of the City Community Services and Culture Committee held on 3 October 2023.
 2. Authorises the Chief Executive Officer to make editorial amendments or formatting changes of a minor nature to the Park Lands Lease and Licence Policy if required.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Thriving Communities This policy supports the strategic intent to increase use of and access to the Park Lands.
Policy	If adopted, this Draft Park Lands Lease and Licence Policy will supersede the Adelaide Park Lands Lease and Licence Policy adopted by Council in January 2016.
Consultation	Community consultation on the draft policy occurred between 24 May and 14 June 2022. If approved, an information session will be held with lessees and licensees to advise of the policy along with written communications.
Resource	Implementation of the policy, including the development of supporting documents and guidelines, will be undertaken with existing resources.
Risk / Legal / Legislative	In relation to leasing and licensing (alienation) of community land and the Adelaide Park Lands, this draft policy is consistent with the <i>Adelaide Park Lands Act (2005)</i> and <i>Local Government Act (1999)</i> . An internal audit undertaken in 2020 identified a need to improve visibility in relation to sub-leasing arrangements in the Park Lands. The draft policy requires lessees to report annually on sub-letting agreements and to submit all requests for sub-letting on-line for Administration approval.
Opportunities	This policy presents the opportunity to implement improved practices for managing community land.
22/23 Budget Allocation	Not as a result of this report
Proposed 23/24 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	The next review of this policy will be due in five years (2028).
22/23 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	The policy retains responsibility for the maintenance of leased and licenced facilities with the lessee and licensee.
Other Funding Sources	Not as a result of this report

DISCUSSION

1. In January 2016, Council adopted an Adelaide Park Lands Lease and Licence Policy and Operating Guidelines (Policy and Guidelines). The Policy and Guidelines were developed to guide lease and licence negotiations consistent with the Adelaide Park Lands Management Strategy (2015-2025).
2. The Kadaltilla / Adelaide Park Lands Authority (Kadaltilla) identified the review of leasing and licensing policies as a priority in its Strategic Plan (2020-2025).
3. On 25 November 2021, Administration presented to Kadaltilla the findings of a review of the current Adelaide Park Lands Lease and Licence Policy and Operating Guidelines, along with information on the current status of Park Lands leases and licences and an overview of local government leasing and licensing practises across Australia. Key findings included:
 - 3.1. It is common practice for local government managing community land to:
 - 3.1.1. use an Expression of Interest (EOI) process to select lessees and licensees
 - 3.1.2. provide five-year agreements with a maximum typically of 21 years
 - 3.1.3. apply the same due diligence in assessing a sub-lessee as would occur for a head lessee
 - 3.1.4. undertake facility inspections at least annually
 - 3.1.5. benchmark community fees and provide financial incentives to achieve desired behaviours or outcomes
 - 3.1.6. set commercial lease fees through independent market assessments
 - 3.2. With respect to the existing Lease and Licence Policy and Guidelines:
 - 3.2.1. the policy position of longer tenure by exception is resulting in most organisations seeking longer tenure (ie greater than five years)
 - 3.2.2. the policy position of setting sub-leasing fees at no greater than 50% of all lessee and licensee costs associated with maintaining their leased and licensed areas, is too broad
 - 3.2.3. community lessees are automatically granted a fee discount on their lease fee (ie building rent) while there is no discount on their licence fees (ie fees for playing fields, sports courts, etc)
 - 3.2.4. while it incorporates a need to undertake an EOI, it is unclear how the exception can be applied
4. A copy of the presentation to Kadaltilla on 25 November 2021 is provided (Link 1 view [here](#)).
5. Kadaltilla agreed with the findings of the review and was particularly supportive of the recommendation to introduce an incentivised lease and licence fee model for community organisations to encourage broader community use, good governance and social inclusion.
6. On 10 May 2022, Council approved a draft policy for the purpose of undertaking community consultation.

Community Consultation

7. Community consultation on the draft policy occurred between 24 May and 14 June 2022. A summary of the changes from the existing policy to the draft policy was provided as part of the community consultation documentation. A copy of this document is provided (Link 2 view [here](#)).
8. In addition to placing information in all city community centres and libraries and posting information on Your Say Adelaide, direct emails were sent to the following organisations:
 - 8.1. Adelaide Park Lands Association
 - 8.2. Adelaide Park Lands lessees and licensees
 - 8.3. Business SA
 - 8.4. City South Association
 - 8.5. North Adelaide Society
 - 8.6. Parks and Leisure Australia (SA)
 - 8.7. South East Community Residents Association
 - 8.8. South West City Community Association
 - 8.9. Sport SA

- 8.10. West End Village Association
9. A copy of the verbatim responses to the community consultation are provided (Link 3 view [here](#)).
10. In response to community consultation findings, the following amendments to the draft policy were made:
- 10.1. Community lease fees to be calculated on building floor area as opposed to building footprint.
 - 10.2. A reference added to the Liquor Licence section, stating that Council Administration will consider the proximity of leased and licensed facilities to residents in granting approval to a lessee to submit a request for a liquor licence from the State Government. It should be noted that the Adelaide Park Lands are a designated dry area between 8:00pm and 11:00am the next day.
 - 10.3. Volunteers have been added as a category considered for requests for a vehicle permit from holders of an Australian Disability Parking permit.
 - 10.4. To increase transparency, Council Administration delegations now include presenting a 'status of Park Lands leases and licences' report to Kadaltilla annually.
 - 10.5. Definitions for mowing service, significant capital contribution, and standard tenure have been added.
 - 10.6. Commercial and community lease and licence fees have been separated in the policy as it was evident that these are being confused.
 - 10.7. Sub-letting and casual hire sections of the discounted fee structure have been combined, acknowledging that these practices result in broader community use.

Motion on Notice

11. On 14 June 2022, in response to a Motion on Notice, Council resolved the following:
- “That Council:*
- Asks the Administration to include in its current review of Park Lands Leasing and Licencing:*
1. *The competition posed, in the wake of Covid, to existing CBD and North Adelaide hospitality venues from sporting clubs leasing Park Lands and advertising meeting/event rooms for hire, licenced dining and entertainment and*
 2. *Whether restrictions should or could be imposed on existing leased premises and future leased premises to protect privately owned hospitality businesses not on the Park Lands.”*
12. Common areas/social spaces are essential to the successful and sustainable operation of not-for-profit community clubs and associations. Apart from the significant social capital benefits derived from activities that occur off the field, the ability to generate additional income enables reinvestment into community facilities, leading to improved services and reduced participation costs.
13. Research on emerging issues for sport participation undertaken by the Australian Sports Commission in 2021, found that:
- 13.1. not-for-profit sporting organisations and clubs are very dependent on membership income as a primary source of income
 - 13.2. a significant drop in paid membership due to household affordability pressures will have a devastating impact on community sport in Australia
 - 13.3. the flow-on effect of this will likely see a reduction in the sport and physical activity opportunities available to all Australians
14. A desktop analysis of the proximity of Park Lands community leased facilities in relation to hospitality establishments catering for larger group gatherings (ie city hotels), indicated that current sports buildings in the Park Lands were an average of 473m away, as shown (Link 4 view [here](#)).
15. The closest community sports building to a city-based hospitality venue is the Prince Alfred College Rowing Shed, which is 188m from the UniBar Adelaide.
16. Economic activity generated by community buildings in the Park Lands is hard to measure without specific and detailed analysis. It is plausible that nearby hotels would generate income from pre and post attendances at sport. Equally, it is plausible that patrons may prefer to connect and socialise within their clubroom and generate income for the clubs which is reinvested into community development and the Park Lands.
17. In response to Council's resolution, the draft policy incorporates increased detail around consideration of proposed commercial activities within community lease and licence settings, describing permitted activities and the frequency of these activities within the 'glossary' section.

18. The draft policy requires all proposed commercially run activities by casual hirers or sub-tenants within community lease settings to be approved by Administration. To be approved, Administration must be sure that the commercial activities are subservient to the activities of the community lessee and consistent with the intent of the lease agreement.
19. These changes will apply to all new lease agreements and existing agreements where permitted (ie the lease is not inconsistent with these changes).
20. Secondary activities of community lessees that are for purpose rather than profit and are of a modest nature, continue to be supported in the draft policy for the following reasons:
 - 20.1. Fundraising by not-for-profit organisations (ie sports clubs and associations) is imperative for financial sustainability and to ensure participation is affordable to everyone. This is particularly pertinent for Park Lands lessees and licensees, who are responsible for all costs associated with their leased and licensed facilities.
 - 20.2. An analysis of income and expenditure of 29 Park Lands community lessees, relating directly to the management of their leased facilities in the Park Lands, revealed that for the last three financial years, the average annual income was \$154,939 and average annual expenditure was \$164,919. The analysis showed that revenue generated by lessees, including fundraising income, is reinvested back into the Park Lands through expenditure on maintenance and improvements to their leased and licensed facilities.
 - 20.3. Off-field activities bring community members together, providing opportunities for social interaction, networking and building social capital.
21. The Adelaide Park Lands Management Strategy notes that commercial operations associated with community sport, supports community use and participation in sport and recreation.

Administration Review

22. Additional amendments to the draft policy are proposed after further review by Administration:

Policy Area	Amendment
Break Clause	The term 'break clause' has been removed with the more appropriate term 'right of renewal' retained.
Selection of Lessee/Licensee	The Expression of Interest (EOI) exemption has been refined to remove potential ambiguity.
Delegations	To improve the turnaround time of commencing an EOI through to executing a lease or licence agreement, delegation is proposed to be granted to Administration for selecting the preferred proponent following an EOI process. Any subsequent request for a lease or licence longer than five years will be presented to Kadaltilla and Council. Flowcharts showing the existing and revised lease approval process is shown (Link 5 view here). As part of presenting annually to Kadaltilla on Park Lands leases, details pertaining to EOIs will be included.
Signage	A statement about scoreboards under signage has been included as requests for these, particularly for electronic scoreboards, are increasing.
Car Parking	Noting the ongoing tension between the need to get reasonable access to leased and licensed facilities and minimising vehicles on the Park Lands, a reference has been added in the policy to prioritise adjacent designated parking spaces for lessees and licensees wherever possible.
Individual Lease and Licence Holders	The scope of the policy has been expanded to incorporate the existing practice of granting licence agreements to individuals for up to 12 months for activities such as personal training and horse depasturing.
Community Lease and Licence Fees	A reference has been added that periodical benchmarking will be undertaken to inform community lease and licence fees (in addition to sub-letting fees).
Administration Delegation	A previously proposed Administration delegation has been removed to ensure compliance with Council's Communication Policy.
Permitted Activity	A definition of permitted activities has been added to the policy glossary to provide greater guidance on core and secondary activities.

23. These proposed combined amendments are marked in the revised Draft Park Lands Lease and Licence Policy shown in **Attachment A**.

Kadaltilla / Adelaide Park Lands Authority

24. The revised Draft Park Lands Lease and Licence Policy was considered and supported by Kadaltilla on 27 April 2023.

Next Steps

25. Subject to adoption, Administration will undertake the following actions:

Action	Timing
Distribute the policy to Park Lands lease and licence holders	November 2023
Update lease and licence templates and sub-letting forms	November to February 2024
Develop documents and guidelines to inform implementation of the policy including: <ul style="list-style-type: none">• lease, licence, sub-letting, and casual hire fee guide• assessment guideline of the incentivised fee discounts• requirements of the annual lessee/licensee report• fact sheets (eg signage)	November to February 2024
Hold a Park Lands lease and licence forum to explain policy changes and implications of existing and future agreements	February 2024
Implement new incentivised lease and licence fees as part of Council's 2024/25 fees and charges	July 2024

26. This policy will have an immediate effect on the negotiation of new lease agreements going forward, including the assessment of eight EOs that have just concluded. The policy will inform the management of existing lease agreements, excluding agreed lengths of tenure, lease fees and any conditions unique to a particular agreement.

DATA AND SUPPORTING INFORMATION

Link 1 - Workshop – Lease and Licence Policy Review

Link 2 - Summary of Changes from Existing Policy to Draft Policy

Link 3 - Community Consultation Responses

Link 4 – Proximity of Park Lands Community Lessees to City Hotels

Link 5 - Lease Approval Process – Existing and Revised

ATTACHMENTS

Attachment A – Draft Park Lands Lease and Licence Policy

- END OF REPORT -