

Park Lands Lease and Licence Policy

Strategic Alignment - Our Community

Public

Tuesday, 2 April 2024

City Community Services and
Culture Committee

Program Contact:

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EXECUTIVE SUMMARY

The purpose of this report is to seek approval to re-consult on the Draft Park Lands Lease and Licence Policy ('Draft Policy').

The City of Adelaide leases buildings and land for community and commercial uses on the Adelaide Park Lands. The leasing and licensing of community land in the Adelaide Park Lands, is managed through the Adelaide Park Lands Leasing and Licensing Policy (2016), and this policy is consistent with the *Adelaide Park Lands Act (2005)* and *Local Government Act SA (1999)*. Permitted uses are consistent with the Adelaide Park Lands Management Strategy (APLMS) and relevant Community Land Management Plans.

Leases are generally related to exclusive use (for example, of a building) and licences are generally related to a right of use that is not exclusive (for example, a sports field). Community leases and licences include community organisations, sporting clubs and organisations, and educational institutions, that provide services to meet community needs.

The City of Adelaide currently has 68 leases and licences that are for 12 months or more in the Adelaide Park Lands. One third of these leases and licences are held by sporting clubs and associations.

The management arrangements differ between community and commercial organisations. Commercial organisations pay market rent and the City of Adelaide maintains those facilities. Community organisations pay reduced rent and they maintain their facilities. As a result of these arrangements, Council has not budgeted for leased infrastructure renewal.

City of Adelaide provides support to Community organisation lessees through fortnightly lawnmowing (approx. \$300,000 per annum).

The Draft Policy presented in this report incorporates Council's most recent feedback provided at the 3 October 2023 City Community Services and Culture Committee and is summarised in paragraph 20 of this report.

Given that these amendments constitute material changes to the Draft Policy that was previously consulted on in 2022, this report recommends a second round of public consultation occur to obtain feedback on the revised Draft Park Lands Lease and Licence Policy.

Subject to Council's approval, community and stakeholder consultation, consistent with the City of Adelaide's Community Consultation Policy will be undertaken for a four-week period from 30 April to 27 May 2024.

RECOMMENDATION

The following recommendation will be presented to Council on 9 April 2024 for consideration

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

1. Notes the feedback of Council Members and comparative wording of the current Adelaide Park Lands Leasing and Licensing Policy (2016), the Draft Park Lands Lease and Licence Policy (presented in October 2023) and the revised Draft Park Lands Lease and Licence Policy (presented at this meeting) as

shown in Attachment A to Item 7.1 on the Agenda for the meeting of the City Community Services and Culture Committee held on 2 April 2024.

- 2. Notes the extent of amendments to the Draft Park Lands Lease and Licence Policy since public consultation was undertaken in May and June 2022, as shown in Attachment B to Item 7.1 on the Agenda for the meeting of the City Community Services and Culture Committee held on 2 April 2024.
 - 3. Approves the Draft Park Lands Lease and Licence Policy, in Attachment C to Item 7.1 on the Agenda for the City Community Services and Culture Committee held on 2 April 2024, for public consultation, commencing from 9:00 am 30 April to 5:00 pm 27 May 2024.
 - 4. Authorises the Acting Chief Executive Officer or delegate to make minor, typographical or syntactical updates to Attachment C to Item 7.1 on the Agenda for the City Community Services and Culture Committee held on 2 April 2024, for the purposes of finalising the document for public consultation.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment – Our Community
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 Park Lands Lease and Licence Policy (Draft Policy) previously occurred between 24 May and 14 June 2022. Given the substantial changes that have been made to the Draft Policy since it was consulted on, it is recommended that a second round of community consultation occur between 30 April and 27 May 2024.
Resource	Community consultation will be undertaken within 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 SA (1999)</i> . An internal audit undertaken in 2020 identified the 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 Draft Policy presents opportunities to implement improved practices for managing community land.
23/24 Budget Allocation	Not as a result of this report
Proposed 24/25 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	The next review of this Draft Policy will be due in five years (2029).
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	The Draft 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

BACKGROUND

Adelaide Park Lands Leasing and Licensing Policy (2016)

1. The City of Adelaide leases buildings and land for community and commercial uses on the Adelaide Park Lands. The leasing and licensing of community land in the Adelaide Park Lands, is managed through the Adelaide Park Lands Leasing and Licensing Policy (2016), and this policy is consistent with the *Adelaide Park Lands Act (2005)* and *Local Government Act SA (1999)*. Permitted uses are consistent with the Adelaide Park Lands Management Strategy (APLMS) and relevant Community Land Management Plans.
2. Leases are generally related to exclusive use (for example, of a building) and licences are generally related to a right of use that is not exclusive (for example, a sports field). Community leases and licences include community organisations, sporting clubs and organisations, and educational institutions, that provide services to meet community needs.

Current Status

3. City of Adelaide currently has 68 leases and licences that are for 12 months or more in the Adelaide Park Lands. One third of leases and licences are held by sporting clubs and associations. Another two facilities are currently vacant.
4. The 68 leases and licences vary in tenure length. Government agencies have the longest average tenure (49 years) and educational institutions have the next longest average tenure (21 years).
5. Lease and licence fees for 2023/24 were \$946,562, comprised of 16 commercial, 16 community (education institutions), 23 community (other) organisations and 13 individuals (horse depasturing licences).
6. A condition of each lease is that our approval of a sub-lease agreement is required, however the City of Adelaide seeks greater transparency of lessee's financials and sub-leasing arrangements.
7. The responsibility of all maintenance and capital investment is placed on the lessee. The management arrangement differs between community and commercial organisations. Commercial organisations pay market rent and the City of Adelaide maintains those facilities. Whereas community organisations pay reduced rent and they maintain the facilities. As a result of these arrangements, Council has not budgeted for leased infrastructure renewal.
8. With respect to capital upgrade and renewal, this leads to community organisations seeking support through fundraising and grant applications for infrastructure in order to support community need with fit-for-purpose facilities that are of a standard desired for the Adelaide Park Lands. The physical condition of the buildings within the Park Lands has been deteriorating for a number of years, leading to decreasing asset values, increasing risk and liability issues and a deficit in the provision of fit for purpose spaces. These factors impact the formulation of a lease regime aligned to the quality of the building and noting the cost of operation and renewal impacts that sit, in particular with Community organisations. Council is also currently progressing its Draft Community Buildings Policy.
9. City of Adelaide provides support of community lessees through fortnightly lawnmowing (approx. \$300,000 per annum).
10. The current Policy supports revenue activities at venues including cafes/kiosks, club related events and sports clinics run by private and public organisations, and liquor licences. Community lessees need opportunities to fundraise to maintain their buildings, grounds, and associated infrastructure and to be able to undertake capital repairs and improvements as required.
11. Under the current Policy (2016) there are multiple fee models operating, and there is no incentive for lessees to facilitate broader community use of their facilities. There is no current method to measure or demonstrate the total benefit that the Adelaide Park Lands leases provide (for example, community benefits through activation).
12. Administration oversees the end-to-end lease management process, in particular the facilitation, negotiation and generation of lease agreements. Administration is responsible for land tenure services and other land legislative requirements associated with Council's dealings with commercial and community land holdings. From an ongoing perspective, Administration also provides a single point into City of Adelaide for any associated issues a Lessee may have, including advice on development approvals and asset maintenance.

Review History 2021-2024

13. On 25 November 2021 a review of the Adelaide Park Lands Lease and Licence Policy and Operating Guidelines adopted by Council in January 2016, along with findings from benchmarking of local government leasing and licensing practises across Australia, was presented to the Kadaltilla / Adelaide Park Lands Authority (Kadaltilla). 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.

14. Following this feedback, a revised Draft Policy was considered and supported by Kadaltilla on 28 April 2022. The revised Draft Policy was to supersede the 2016 policy. It incorporated several best practices including the introduction of an incentivised community lease and licence fee structure, and improvements in the visibility of sub-leasing arrangements in the Park Lands which was highlighted as an area for improvement in a 2020 internal audit.
 15. On 10 May 2022 a Draft Policy was supported by Council for the purpose of undertaking community consultation. Community consultation occurred between 24 May and 14 June 2022.
 16. On 14 June 2022, Council resolved:
*“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.”*
 17. A number of amendments were made to the Draft Policy following community consultation and in response to the Council Decision on 14 June 2022, in particular, increased detail around consideration of proposed commercial activities within community lease and licence settings, including the impact to adjacent commercial operations.
 18. The 2022 election caretaker period occurred from 6 September 2022 to 12 November 2022.
 19. On 27 April 2023, the revised draft Park Lands Lease and Licence Policy summary of the results of community consultation was presented to Kadaltilla for consideration. Kadaltilla supported the draft Policy, and this advice was noted by Council at its meeting on 9 May 2023.
 20. The revised Draft Policy and summary of the results of community consultation was presented to the City Community Services and Culture Committee on 3 October 2023. The Committee deferred the consideration of the policy to the City Community Services and Culture Committee on 7 November 2023. Further, the Committee asked Administration to consider the following feedback from the meeting of the City Community Services and Culture Committee held on 3 October 2023:
 - 20.1. Review of the discounts currently contained within the draft Park Lands Lease and Licence Policy, which includes sub-letting arrangements
 - 20.2. Remove delegation arrangements to Administration for leases and licences less than 5 years
 - 20.3. Liquor licence agreements
 - 20.4. Parking arrangements regarding permanent car spaces being granted per lease agreement
 - 20.5. Advertising and sponsorship arrangements
 - 20.6. Impact of sporting clubs making payments to their players
 - 20.7. Unlocking the Park Lands and the impact this has on use for other members of the community
 - 20.8. Footprint of buildings on the Park Lands
 - 20.9. Commercial use of the Park Lands
 - 20.10. What are the financial implications of a new Policy being adopted
 - 20.11. Impact of a new lease or licence arrangement being entered into.
 21. The Administration has incorporated Council’s feedback provided at the 3 October 2023 City Community Services and Culture Committee, which is summarised in paragraph 12 of this report.
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DISCUSSION

22. 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).
23. On 25 November 2021, Administration presented to Kadaltilla / Adelaide Park Lands Authority (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:
 - 23.1. It is common practice for local government managing community land to:
 - 23.1.1. use an Expression of Interest (EOI) process to select lessees and licensees
 - 23.1.2. provide five-year agreements with a maximum typically of 21 years
 - 23.1.3. apply the same due diligence in assessing a sub-lessee as would occur for a head lessee
 - 23.1.4. undertake facility inspections at least annually
 - 23.1.5. benchmark community fees and provide financial incentives to achieve desired behaviours or outcomes
 - 23.1.6. set commercial lease fees through independent market assessments.
 - 23.2. With respect to the existing Lease and Licence Policy and Guidelines:
 - 23.2.1. the policy position of longer tenure by exception is resulting in most organisations seeking longer tenure (ie greater than five years)
 - 23.2.2. 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
 - 23.2.3. 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)
 - 23.2.4. while it incorporates a need to undertake an EOI, it is unclear how the exception can be applied.
24. 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.
25. At its meeting, Kadaltilla discussed:
 - 25.1. Exploring alternative infrastructure funding models to enable community organisations to support community need with fit for purpose facilities
 - 25.2. Community fundraising - broaden reach of facilities and purpose they play in the community aligned with CLMP consider more commercial type activities (Fringe event or activity not currently related)
 - 25.3. Policy distinction between peak sporting groups vs community sporting groups
 - 25.4. Rising expectations for facilities
 - 25.5. Expression of Interest processes
 - 25.6. Transparency - current process to understand who a sub-licensee is and whether fees exceed 50% or not
 - 25.7. Increasing expectation on head lease to support smaller community groups and reinforce accessibility to the Park Lands
 - 25.8. Tenure periods
 - 25.9. Incentivised fee structure
 - 25.10. Asset Management Plans for community buildings under leases & building equity considerations (depreciation) in setting lease fees
 - 25.11. Monitoring how much of the Park Lands is under lease vs freely available area.
26. On 28 April 2022, Kadaltilla supported the Draft Policy for the purpose of undertaking community consultation.

27. On 10 May 2022, Council approved the Draft Policy for the purpose of undertaking community consultation.

Community Consultation

28. Community consultation on the draft policy occurred between 24 May and 14 June 2022. In response to community consultation feedback, the following amendments to the Draft Policy were made:
- 28.1. Community lease fees to be calculated on building floor area as opposed to building footprint.
 - 28.2. 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.
 - 28.3. Volunteers have been added as a category considered for requests for a vehicle permit from holders of an Australian Disability Parking permit.
 - 28.4. To increase transparency, Council Administration delegations include presenting a 'status of Park Lands leases and licences' report to Kadaltilla annually.
 - 28.5. Definitions for mowing service, significant capital contribution, and standard tenure have been added.
 - 28.6. Commercial and community lease and licence fees have been separated in the policy as it was evident that the delineation between these items was unclear.
 - 28.7. Sub-letting and casual hire sections of the discounted fee structure have been combined, in acknowledgment that these practices result in broader community use.

Motion on Notice

29. 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."*

30. In response to Council's resolution, the Draft Policy was amended to include:

- 30.1. enhanced detail on the consideration of proposed commercial activities within community lease and licence settings, describing permitted activities and the frequency of these activities within the 'glossary' section.
- 30.2. a requirement that all proposed commercially run activities by casual hirers or sub-tenants within community lease settings, be approved by Administration. To be approved, Administration must verify that the commercial activities are subservient to the activities of the community lessee and consistent with the intent of the lease agreement.

31. Additional amendments were also made to the Draft Policy after further review by Administration, and subsequently a further revised Draft Policy was considered and supported by Kadaltilla on 27 April 2023.

32. On 3 October 2023, in considering the revised Draft Policy, the City Community Services and Culture Committee resolved the following:

"That the City Community Services and Culture Committee:

- 1. Defers consideration of 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 to the committee meeting in November 2023.*
- 2. Asks Administration to consider the following feedback from the meeting of the City Community Services and Culture Committee held on 3 October 2023:*
 - *Review of the discounts currently contained within the draft Park Lands Lease and Licence Policy, which includes sub-letting arrangements*
 - *Remove delegation arrangements to Administration for leases and licences less than 5 years*
 - *Liquor licence agreements*

- *Parking arrangements regarding permanent car spaces being granted per lease agreement*
- *Advertising and sponsorship arrangements*
- *Impact of sporting clubs making payments to their players*
- *Unlocking the Park Lands and the impact this has on use for other members of the community*
- *Footprint of buildings on the Park Lands*
- *Commercial use of the Park Lands*
- *What is the financial implications of a new Policy being adopted*
- *Impact of a new lease or licence arrangement being entered into”*

33. In response to this feedback from Council Members a detailed summary of the wording of the current Adelaide Park Lands Leasing and Licensing Policy (2016), the Draft Policy as presented to the City Community Services and Culture Committee in October 2023, and the revised Draft Policy (presented at this meeting) is shown in **Attachment A**. A high-level summary is provided in the table below.

Policy Area Feedback	Proposed Response / Action
<i>Review of the discounts currently contained within the Draft Policy, which includes sub-letting arrangements</i>	Draft Policy amended: Removed incentivised fee structure for community lease and licence fees and reintroduced fixed square metre rate for community lease fees. Retained existing process of community licence fees set annually by Council.
<i>Remove delegation arrangements to Administration for leases and licences less than five years</i>	Draft Policy amended: Requires Council resolution to grant a <u>commercial</u> lease or licence with a proposed tenure period of more than two years. Retains delegation to Administration to grant a <u>community</u> lease or licence with a proposed tenure period up to five years, subject to it being consistent with the Adelaide Park Lands Community Land Management Plan. This will enable a more efficient transition from lease expiry to lease renewal for well performing community lessees. Administration will report annually to Council (and Kadaltilla) on Park Lands leasing and licencing activity.
<i>Liquor licence agreements</i>	Draft Policy amended: Requires Council resolution to grant consent to a lessee or licensee seeking a liquor licence or making a significant amendment to an existing liquor licence. Added statement with regards to limitations of the policy, noting that the policy will not apply to any clauses and or special conditions contained in existing Park Lands lease or licence agreements that are inconsistent with the Draft Policy.
<i>Parking arrangements regarding permanent car spaces being granted per lease agreement</i>	Draft Policy amended: Reduced number of annual vehicle permits per leased/licensed area from two to one. This contributes to the objective to reduce car parking in the Park Lands. Added statement that vehicle permits do not grant approval for motor vehicles to remain (ie park) on the Park Lands.
<i>Advertising and sponsorship arrangements</i>	Draft Policy amended: Added statement that all permanent outdoor signage cannot display or depict any form of third party advertising, including but not limited to names, acronyms or logos relating to a business, company or product.

Policy Area Feedback	Proposed Response / Action
<i>Impact of sporting clubs making payments to their players</i>	No amendment. The decision for sporting clubs to pay players is their independent decision and sits outside the scope of this policy.
<i>Unlocking the Park Lands and the impact this has on use for other members of the community</i>	No amendment. Programming of facilities is covered in the Draft Policy. The provision of additional facilities to support broader community use is outside the scope of this policy. This should be addressed through the Adelaide Park Lands Management Strategy and Draft Park Lands Community Buildings (Sport and Recreation) Policy.
<i>Footprint of buildings on the Park Lands</i>	No amendment. This should be addressed through the Adelaide Park Lands Management Strategy and Draft Park Lands Community Buildings (Sport and Recreation) Policy.
<i>Commercial use of the Park Lands</i>	Draft Policy amended: Added statement that community lessees/licensees will not be permitted to sub-let or hire their leased/licensed areas to commercial organisations. Added statement that secondary activities of community lessees and licensees may be permitted where it involves: <ul style="list-style-type: none"> • use by other not for profit community organisations • general community development activities • limited scale food and beverage service in connection with their primary activity(s)

34. Responses are provided below in relation to the two additional items of feedback provided by Council Members.

Feedback	Response
<i>What are the financial implications of a new Policy being adopted</i>	As per Draft Policy wording: <ul style="list-style-type: none"> • there are no financial implications with respect to lease fees for <u>existing</u> commercial and community lease agreements • commercial <u>lease</u> fees will continue to be informed by independent market assessments • 3.25% increase in <u>lease</u> fees for new community lease agreements • <u>licence</u> fees will continue to be considered as part of the proposed schedule of Fees and Charges to be set by Council through the annual Business Plan and Budget, noting that these could increase or decrease as informed by industry benchmarking
<i>Impact of a new lease or licence arrangement being entered into under the Draft Policy?</i>	As per Draft Policy wording: <ul style="list-style-type: none"> • 3.25% increase in community lease fees • reduced capacity for community lessees to generate income (noting maintenance responsibilities remain with lessees) • sub-letting fees to be informed by Administration (rather than lessee) • potential for licence fees to be reduced (informed by benchmarking) as part of future Fees and Charges adopted by Council

35. The multiple amendments made to the Draft Policy since public consultation was undertaken in 2022 are shown in **Attachment B**. These amendments constitute a material change to the Draft Policy as it was presented to the public in 2022 for consultation.
36. It is therefore recommended that a second round of public consultation occur to obtain feedback on the revised Draft Policy as per **Attachment C**.

Next Steps

37. Subject to Council approval to proceed to consultation on the Draft Policy as per **Attachment C**, Administration will undertake public consultation, commencing from 9:00 am 30 April to 5:00 pm 27 May 2024.
38. Consultation findings and a revised Draft Policy will be presented to Kadaltilla / Adelaide Park Lands Authority in June 2024 and Council in July 2024 for adoption.
39. As part of considering the Draft Policy, Administration will present a benchmarking analysis of licence fees applied to community sport facilities by local government.

ATTACHMENTS

Attachment A – Summary of Council Member feedback and comparative policy wording

Attachment B – Draft Park Lands Lease and Licence Policy – Marked Up Amendments

Attachment C – Draft Park Lands Lease and Licence Policy

- END OF REPORT -