

PARK LANDS LEASE AND LICENCE POLICY

Date this document was adopted

non-legislative

PURPOSE

This policy outlines the City of Adelaide's approach to managing its leasing and licensing arrangements on Community Land under its care and control within the Adelaide Park Lands for the benefit of the community.

STATEMENT

1. Eligibility

Only businesses, educational institutions and community organisations will be granted a lease or licence over the Park Lands for a period of greater than 12 months. Individuals will be granted a lease or licence for a period not exceeding 12 months.

2. Permitted Activities

Core activities of commercial and community lessees and licensees must:

- be consistent with the Adelaide Park Lands Management Strategy and/or Adelaide Park Lands Community Land Management Plan
and
- provide community benefit
and
- support the outdoor recreational use of the Park Lands

Secondary activities of community lessees and licensees may be permitted where it involves:

- general community development activities
- use by other not for profit community organisations
- limited scale food and beverage service in connection with their primary activity(s)

The occupation of a leased building by a paid staff member or volunteer for administrative purposes will not be supported, except where it is integral to the daily operations of the business or activity as prescribed in the lease agreement, and/or will result in increased community use of the facility (eg tennis coaching).

Caretakers are not permitted to occupy any part of a leased or licensed area.

3. Tenure

A lease or licence agreement will be granted to organisations for a tenure period of five years, and for a maximum period of 12 months to individuals.

Where a significant capital contribution is proposed, a lease or licence may be granted to an organisation for a period up to 21 years, including any right of renewal.

The City of Adelaide acknowledges the Kaurna people as the Traditional Owners of the Country where the city of Adelaide is situated, and pays its respect to Elders past, present and emerging.

Noting the preference of granting tenure up to five years, leases or licences with State or Federal Ministers (or their agencies) may be granted for a period up to 42 years, including any right of renewal.

Options for a right of renewal will be incorporated into leases and licences that are ten years or longer (eg 5 years + 5 years, 10 years + 10 years).

4. Community Engagement

As per the *Local Government Act (SA) 1999* and Council's Community Consultation Policy, community engagement will be undertaken for a minimum of three weeks (21 days) on a draft lease or licence, where:

- it proposes a tenure period of greater than five years, including any right of renewal
or
- it is not consistent with the Adelaide Park Lands Community Land Management Plan, irrespective of the proposed tenure period

5. Parliamentary Process

As per the *Adelaide Park Lands Act (SA) 2005*, before Council Administration can execute a lease or licence with a proposed tenure period of ten years or greater, including any right of renewal, the lease or licence must be laid before both Houses of Parliament and follow a prescribed legislated process.

This process will only occur after the lease or licence has been considered by Kadaltilla / Adelaide Park Lands Authority and Council, and at the completion of community engagement.

6. Selection of Lessee/Licensee

The selection of a lessee or licensee will be through an Expression of Interest (EOI) process.

Council Administration may deal directly with an organisation without calling an EOI when:

- the lease or licence being granted is for a tenure period of two years or less
or
- the lease or licence will be with a State or Federal Minister (or their agencies)
or
- the facility to be leased or licensed has been planned or designed in conjunction with the City of Adelaide to support a specific use or user
or
- in the case of an existing facility or service, there is likely to be an absence of competition to lease or licence the facility or service
- and
- the preferred organisation can demonstrate satisfactory past performance of managing a leased or licensed facility, where tenure is proposed to be greater than two years

Council may consider granting a new five year (or less) lease or licence (including any right of renewal) without undertaking an EOI process, if the existing lessee/licensee has previously obtained a five year lease or licence through an EOI process for the same area and the organisation can demonstrate satisfactory past performance. This exemption to the EOI process will require a Council Decision.

An EOI will be promoted to the public and will be open for a minimum of four weeks (28 days).

EOI submissions will be assessed by a Council Administration panel against a pre-determined selection criteria that will be publicly available. The findings of the panel will be presented to Kadaltilla / Adelaide Park Lands Authority and Council annually.

For community leases and licences, the EOI selection criteria will give priority weighting to:

- community sport and recreation organisations
- educational institutions that are city based
- educational institutions that partner with community sport and recreation organisations

7. Commercial Leases and Licences – Fees

Commercial lease and licence fees will be informed by an independent market assessment and reviewed at each renewal period (where applicable).

8. Community Leases and Licences – Fees

Community lease fees will be applied as follows:

- Educational Institutions = \$17.04 per sqm
- Community Clubs and Associations = \$11.36 per sqm

Community licence fees will be adopted annually as part of Council's fees and charges. The calculation of fees will take into account:

- the level of accessibility to the outdoor facilities when not in use by the lessee or licensee (eg fenced v unfenced)
- if it is an educational institution or community club / association

Community licence fees will be informed by benchmarking undertaken every two years with other councils, related facilities and services, taking into account the level of support provided by the lessor and level of responsibility placed on the lessee.

Sub-letting and casual hire fees of community facilities will be determined by Council Administration and based on benchmarking undertaken every two years with other councils, related facilities, and services.

9. Hardship

Council may consider a request from lessees or licensees for a reduction or deferment of its fees if lessees or licensees are experiencing financial hardship. A reduction in fees because of hardship will require a formal Council Decision.

10. Sub-letting and Casual Hire

The sub-letting and casual hire of community leased and licensed areas is encouraged for the purpose of supporting not for profit community sports and recreation activities and other community development initiatives.

Community lessees/licensees will not be permitted to sub-let or hire out their leased/licensed area to a commercial organisation.

Community lessees and licensees must use reasonable endeavours to make their facilities available to community groups and organisations when not in use by the lessee or licensee. The lessee or licensee must provide a contact person for managing enquiries for use of their facilities and not charge or impose more onerous obligations on the use of their facilities than Council would charge or impose.

If Council Administration is of the view that the lessee or licensee has not made their facilities sufficiently available, Council Administration will require the lessee or licensee to submit a plan to increase the level of community access.

Where a commercial lessee/licensee is considering sub-letting to another commercial organisation, the relationship must be captured within a sub-letting agreement and submitted to Council Administration for approval. A commercial sub-letting agreement for a proposed period of more than two years will require a formal Council Decision.

All sub-letting agreements must be approved by Council Administration and comply with the conditions of the (head) lease or licence agreement.

The tenure period for all sub-letting agreements will not exceed five years, or the remaining tenure period of the (head) lease or licence if less than five years.

A sub-letting agreement with a proposed tenure period of more than five years will require a formal Council Decision.

11. Maintenance, Inspections and Insurance

Commercial lessees and licensees (with tenure greater than two years) will:

- be responsible for the maintenance and upkeep of its facilities including buildings and associated outdoor infrastructure
- be liable for all costs associated with operating and maintaining their facilities including appropriate levels of insurance
- report any safety or risk concerns to Council Administration immediately
- retain records of their maintenance for the duration of their lease or licence
- submit sub-letting agreements to Council Administration for approval via an on-line portal (where appropriate)
- submit an annual report to Council Administration detailing:
 - customer/participant numbers
 - sub-letting and casual hires and related income received

Community lessees and licensees (with tenure greater than two years) will:

- be responsible for the maintenance and upkeep of its facilities including buildings, associated outdoor infrastructure and playing surfaces (where applicable)

- be liable for all costs associated with operating and maintaining their facilities including appropriate levels of insurance
- ensure all playing surfaces are safe and fit for purpose including conducting match day inspections (where applicable)
- retain records of their maintenance and inspections for up to five years
- report any safety or risk concerns to Council Administration immediately
- submit sub-letting agreements to Council Administration for approval via an on-line portal
- submit an annual report to Council Administration detailing:
 - membership and participation numbers
 - sub-letting and casual hires and related income received

Council Administration will:

- provide a mowing service to community lessees/licensees (where applicable)
- conduct an annual inspection of leased and licensed facilities to ensure facilities are maintained to an acceptable standard
- conduct an annual Park Lands lease and licence forum including sub-lessees

12. Ownership of Improvements

All fixed improvements proposed upon a leased or licensed area will require the approval of Council and be vested in Council at the expiry of the lease or licence agreement, if not agreed otherwise.

The removal of any fixed improvements by a lessee or licensee at the expiry or sooner determination of the lease or licence will require the approval of Council Administration.

13. Compensation

Any new lessee or licensee will not be required to compensate the previous lessee or licensee, nor will Council compensate a lessee or licensee at the end of its tenure term despite an agreement not being renewed, or where an agreement is terminated early by the lessee, licensee or lessor.

14. Liquor Licence

A 'no alcohol' clause will be a standard inclusion in all lease and licence templates, whereby a lessee or licensee (including sub-lessees and casual use hirers) must not sell, serve or supply to persons, or allow persons to consume alcohol on or from their leased or licenced area without first obtaining the consent of Council and all required consents from any relevant Statutory Authorities as per the *Liquor Licensing Act (SA) 1997*.

Council will consider the proximity of leased and licensed areas to residents and city businesses in reviewing requests to apply for or significantly amend a liquor licence.

15. Signage

All permanent outdoor signage or displays on or around leased and licenced areas must be approved by Council Administration and 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.

Permanent outdoor signage upon lease and licence areas must be consistent with the City of Adelaide's signage suite and include public access details and not exceed 2m2.

Permanent manual and electronic scoreboards will be permitted, providing they do not 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.

Electronic scoreboards can only be activated during scheduled competition times.

Temporary signage may be supported where it is promoting specific events, activities or initiatives to be delivered by the lessee or licensee (including sub-lessees and casual use hirers) within their leased or licensed area, subject to it not exceeding 2m2 and not displayed more than one prior to an event/activity and one week after the event/activity concludes.

16. Vehicle Access

A community lessee or licensee will be granted one annual vehicle permit per leased or licensed area to temporarily access the Park Lands for the purpose of undertaking general maintenance, dropping off and/or picking up supplies, materials, equipment, etc. The permit will not enable vehicles to remain unattended on the Park Lands.

Where possible, Council Administration will prioritise adjacent designated parking spaces (ie on street) for lessees and licensees to reduce vehicle movements on the Park Lands.

Requests for a vehicle permit from holders of an Australian Disability Parking permit will be considered where they are a volunteer or committee/board member of a lessee or licensee and there is no viable alternative.

17. Naming Rights

All proposals to name a leased/licensed facility that are contrary to the naming of the related park require a formal Council Decision.

18. Gaming Machines

Gaming machines will not be permitted in leased or licenced facilities.

19. Park Lands Events

Council Administration and event organisers will foster cooperative business opportunities and minimise disruption to commercial and community lessees and licensees in the Park Lands.

20. Delegations

Kadaltilla / Adelaide Park Lands Authority will provide advice on, and Council will formally consider:

- a lease or licence that is not consistent with the Adelaide Park Lands Community Land Management Plan

- a lease or licence prior to and following community engagement
- an exemption to the EOI process as a result of a Lessee or Licensee previously being granted a lease or licence through an EOI process
- a community lease or licence that is for a tenure period of more than five years, including any rights of renewal
- a community sub-letting agreement that is for a period of more than five years
- a commercial lease or licence, or commercial sub-letting agreement, that is for a tenure period of more than two years, including any rights of renewal
- a proposal to name a leased or licensed facility that is contrary to the naming of the related park

In addition to the above, Council will formally consider:

- a request from a lessee or licensee for a reduction of its fees if it is experiencing financial hardship
- a request to apply for or significantly amend a liquor licence

Council Administration will:

- identify a preferred lease or licence proponent following an EOI process
- finalise a lease or licence in accordance with this policy where it is consistent with the Adelaide Park Lands Community Land Management Plan and is for a period of five years or less, or has been subject to community engagement and the findings have been considered by Kadaltilla and Council
- approve a community sub-letting agreement that is consistent with this policy and is for a period of five years or less
- approve a commercial sub-letting agreement that is consistent with this policy and is for a period of two years or less
- enter into a surrender, variation or assignment of an existing lease or licence where the agreement is consistent with this policy
- present a 'status of Park Lands leases and licences' report to Kadaltilla / Adelaide Park Lands Authority and Council annually including information on all EOI processes undertaken and the outcomes

21. Limitations of this Policy

This Policy does not apply to:

- Activities or works on public roads through the Park Lands (pursuant to sections 221 and 222 of the *Local Government Act 1999*)
- City Works permits
- Any clauses and/or special conditions contained in existing Park Lands lease or licence agreements that are inconsistent with this Policy
- Leases or licences outside of the Adelaide Park Lands or Park Lands areas not under the care and control of the City of Adelaide
- Park Lands Event licences
- Temporary works and compounds
- Tenants within the Adelaide Aquatic Centre and North Adelaide Golf Course as part of business operations
- A lease or licence granted to a Minister, that is provided for in legislation (eg *Adelaide Oval Redevelopment and Management Act 2011*)

OTHER USEFUL DOCUMENTS

Related documents

- Active City Strategy
- Adelaide Events Guidelines 2022
- Adelaide Park Lands Management Strategy
- Adelaide Park Lands Community Land Management Plan
- Planning and Design Code 2022

Relevant legislation

- *Adelaide Park Lands Act (SA) 2005*
- *Crown Land Management Act (SA) 2009*
- *Liquor Licensing Act (SA) 1997*
- *Local Government Act (SA) 1999*
- *Planning, Development and Infrastructure Act (SA) 2016*
- NOTE: The *Retail and Commercial Leases Act 1995* does not apply to the Adelaide Park Lands pursuant to an Order granted by the Minister for Business Services and Consumers on 28 December 2011.

GLOSSARY

Throughout this document, the below terms have been used and are defined as:

Adelaide Park Lands: Those areas of the Park Lands defined by the *Adelaide Park Lands Act 2005*, which have been Gazetted by Parliament and defined to be under care and control of the City of Adelaide.

Adelaide Park Lands Community Land Management Plan (APLCLMP): A document required under the *Local Government Act (SA) 1999*, that informs how community land under the care and control of the City of Adelaide will be managed in accordance with the Adelaide Park Lands Management Strategy, including the identification of leased and licensed areas.

Adelaide Park Lands Management Strategy (APLMS): A document required under the *Adelaide Park Lands Act (SA) 2005*, that sets the strategic framework for the overall planning and management of the Adelaide Park Lands.

Building Floor Area: The combined total of indoor building floor space measured to the inside wall lines.

Building Footprint: The ground level area of a building measured to the outside wall line, not including open hardstand areas.

Casual Hire: Relates to one off or irregular use of leased or licensed areas.

Commercial Lease/Licence: Where the lessee or licensee's core activity involves the selling of goods or services for profit.

Community Lease/Licence: Where the lessee or licensee provides services to the community and does not operate to make a profit for its members. Not for profit clubs and associations, peak sport and recreation bodies and educational institutions are considered community lessees and licensees. Any commercial activity undertaken by a community lessee/licensee is done so for the purpose of reinvesting back into the service for the benefit of its members and the community.

Community Engagement: A formal process where Council seeks community feedback.

Core Activity: The primary purpose for which a lease or licence is granted to an organisation.

Expression of Interest: A formal process where any eligible organisation is invited to submit an interest in leasing or licensing an identified area of the Park Lands.

Expression of Interest (Competitive/Non-Competitive): Where more than one eligible submission is received following an expression of interest process, it will be deemed to be a competitive expression of interest. Where only one eligible submission is received and it satisfies the selection criteria, it will be deemed to be a non-competitive expression of interest.

Fees: Charges applied annually by Council to a lessee or licensee.

Improvements: Any fixture, fitting or structure constructed or installed on the leased or licensed area by the lessee/licensee or lessor.

Independent Market Assessment: Where Council seeks the services of an independent valuer to ascertain the appropriate fees to be charged to a commercial lessee or licensee based on similar market circumstances.

Lease: A lease confers an exclusive contractual right to a lessee to use the land, whereby the lessee facilitates access via an appropriate means (eg membership, sub-lease, casual booking, and entry ticket). A lease is generally provided for buildings that require a level of security of tenure. It may also apply to an outdoor sports facility or field that is fully fenced.

Lessee/Licensee: An organisation that has a direct legal relationship with Council via a lease or licence.

Licence: A licence confers a non-exclusive contractual right to first right of use of the licensed area, but allows public access when not in use by the licensee (and any sub-licensees). A licence is generally provided for open areas such as playing fields.

Maintenance and Upkeep: This relates to all direct and indirect costs and tasks associated with maintaining leased and licensed facilities to ensure they remain fit for purpose for the intended activity.

Mowing Service: The mowing of turfed sports fields by Council Administration in accordance with Council's Levels of Service.

Parliamentary Process: A formal process contained within the *Adelaide Park Lands Act (SA) 2005*, that requires Council to submit a draft lease or licence agreement, with a tenure period of ten years or more, to the South Australian Parliament.

Permitted Activity:

Commercial – Organisations and Individuals		
Activity	Example	Frequency
Core Activity – Selling of goods and services for profit and: <ul style="list-style-type: none"> • is consistent with the APLMS and/or APLCLMP • provides community benefit • supports the outdoor recreational use of the Park Lands 	Food and beverage/hospitality service, water craft hire, high ropes, guided tours, exercise classes, personal training, coaching clinics	Unlimited (within prescribed lease hours)
Secondary Activity – Other	Pop up event, entertainment	Considered on case by case basis
Community - Organisations		
Activity	Example	Frequency
Core Activity – Services provided to the community and: <ul style="list-style-type: none"> • is consistent with the APLMS and/or APLCLMP • provides community benefit • supports the outdoor recreational use of the Park Lands 	Community sport training and competition, outdoor recreation, physical education, community gardening	Unlimited (within prescribed lease hours)
Secondary Activity – Club Development	Committee meeting, team meeting, presentations, pre/post training / competition gathering, fund raising activities (involving club participants) including limited scale food and beverage service	Unlimited (within prescribed lease hours)
Secondary Activity – Community Development	Resident group meeting, art and craft session, parent group gathering, exercise class	Unlimited (within prescribed lease hours)
Other - Individuals		
Core Activity – Depasturing of horses in Lefevre Park/Nantu Wama (Park 6)		

Right of Renewal: Where a lease or licence contains a clause to continue occupancy at the end of a prescribed renewal tenure, but does not confer rights that exceed the agreed maximum tenure of the lease or licence.

Significant Capital Contribution: Where a lessee or licensee commits or agrees to commit its own funds towards a substantial improvement of Park Lands for community benefit, and the level of commitment is significant, proportionate to the financial capacity of the lessee or licensee.

Standard Tenure – Incorporated Businesses, Educational Institutions and Community Organisations: A maximum tenure period of five years, which includes any right of renewal.

Standard Tenure – Individuals: A maximum tenure period of 12 months, which includes any right of renewal.

Sub-letting: Where a lessee or licensee enters into an agreement with another organisation to utilise the leased or licensed facilities.

ADMINISTRATIVE

As part of Council’s commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every **five** years unless legislative or operational change occurs beforehand. The next review is required in **2029**.

Review history:

Trim Reference	Authorising Body	Date/ Decision ID	Description of Edits

Contact:

For further information contact the City Culture Program

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