

Exemption from EOI Process – BBQ Buoy

Tuesday, 7 May 2024
City Community Services and
Culture Committee

Strategic Alignment - Our Community

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Public

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EXECUTIVE SUMMARY

A requirement under Section 13 of the Adelaide Park Lands Leasing and Licensing Policy 2016 (the Policy) is to undertake an Expression of Interest (EOI) process to select a new lessee over vacant land and/or buildings in the Park Lands unless there are exceptional circumstances, in which case a Council resolution is required. This report outlines for the City Community Services and Cultural Committee, the rationale to exempt BBQ Buoy Pty Ltd (BBQ Buoy) from the EOI process.

BBQ Buoy has held a Park Lands Commercial Licence Agreement with the City of Adelaide since 2016 and undertook an EOI process in 2018 to secure a five-year agreement.

The existing agreement for BBQ Buoy, which facilitates public hire of recreational boats on the River Torrens / Karrawirra Pari from Tarntanya Wama (Park 26), will expire on 30 June 2024. Administration has identified exceptional circumstances that apply and warrant consideration for an exemption. The exceptional circumstances are the uniqueness and ownership of the equipment as vessels on the River Torrens / Karrawirra Pari and that operation of the service does not preclude the community or other organisations from accessing the Park Lands.

Activities pertaining to BBQ Buoy are consistent with the Adelaide Park Lands Management Strategy and the Tarntanya Wama (Park 26) Adelaide Park Lands Community Land Management Plan (CLMP).

BBQ Buoy offers a unique dining experience. The business has established itself as a popular destination for locals and tourists alike, with its distinctive combination of outdoor dining and leisurely boat cruising along the River Torrens / Karrawirra Pari.

An exemption from the EOI process will allow BBQ Buoy to continue providing this unique experience while contributing positively to the local economy and tourism industry. Given their proven track record and popularity, BBQ Buoy has demonstrated that they are an appropriate Park Lands licensee.

Granting an exemption does not alter any other legislative provisions and process related to the granting of leases and licenses within the Park Lands. Exemption from the Policy's requirement to undertake an EOI process will enable licence negotiations for a new five-year Park Lands Commercial Licence Agreement with BBQ Buoy to progress at the expiration of their current agreement with the City of Adelaide, in June 2024.

Negotiation of a Park Lands Commercial Licence Agreement will include parking and vehicle placement, waste management, safety management and sustainability to ensure best practice and alignment with City of Adelaide plans and policies.

Kadaltilla / Adelaide Park Lands Authority (Kadaltilla) considered this matter on 18 April 2024. Kadaltilla supported granting an exemption to the EOI process to the BBQ Buoy, subject to minimising car parking by the licensee on the Park Lands by the licensee and ongoing management of refuse in line with City of Adelaide policies and procedures.

RECOMMENDATION

The following recommendation will be presented to Council on Tuesday 14 May 2024 for consideration

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

1. Approves an exemption to the Expression of Interest process under section 13.1 of the Adelaide Park Lands Leasing and Licencing Policy to BBQ Buoys Pty Ltd, existing Licensee of Tarntanya Wama (Park 26) and the River Torrens / Karrawirra Pari.
 2. Authorises the Acting Chief Executive Officer (or delegate) to enter into licence negotiations with the existing Licensee BBQ Buoys Pty Ltd, for a new five-year Park Lands Commercial Licence Agreement in Tarntanya Wama (Park 26) and the River Torrens / Karrawirra Pari.
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IMPLICATIONS AND FINANCIALS

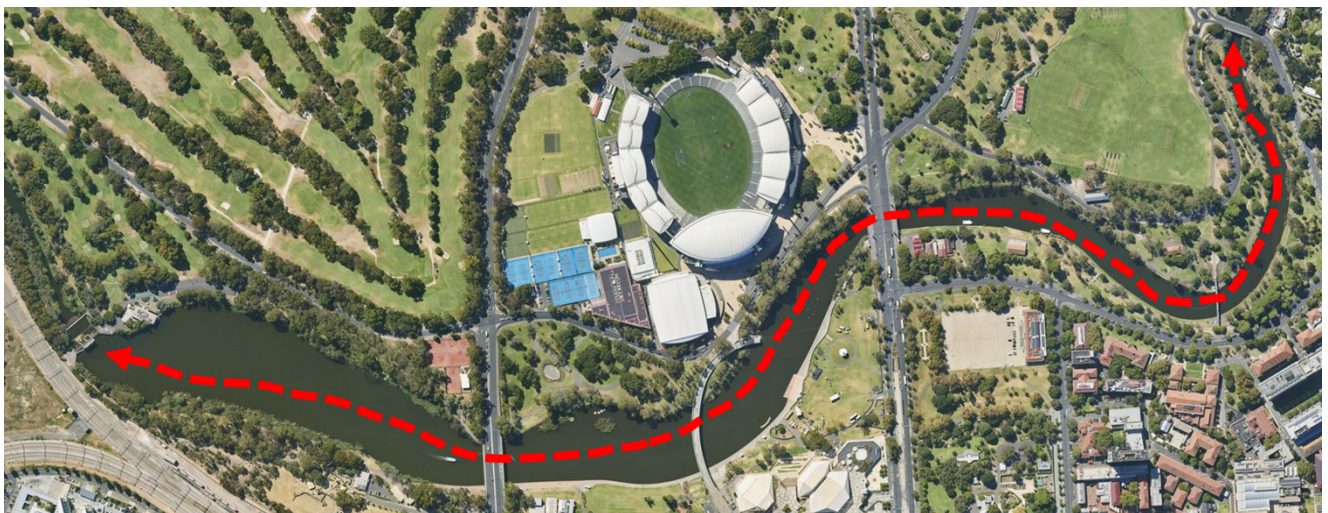
City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment – Our Community Enable community-led services which increase wellbeing, social connections and participation in active lifestyles, leisure, recreation and sport.
Policy	<u>Adelaide Park Lands Leasing and Licensing Policy (Policy)</u> A new Park Lands Commercial Licence Agreement will be negotiated in accordance with the Policy. <u>Adelaide Park Lands Community Land Management Plan (CLMP)</u> The CLMP states that the purpose of land held within the River Torrens / Karrawirra Pari is to provide 'a resource for aquatic-based, boating recreation'.
Consultation	Not as a result of this report
Resource	The negotiation of a Park Lands Commercial Licence Agreement will be undertaken within current resources.
Risk / Legal / Legislative	The Policy allows Council to make exemptions to the Policy where exceptional circumstances exist. The test is subjective and dependent on the individual circumstances. The primary risk relates to public perception of preferential treatment given to organisations being exempted from the requirement to submit an EOI. This report details reasons for the applying an exemption.
Opportunities	Partnering with a commercial entity to support community use and enjoyment of the city's river environment.
23/24 Budget Allocation	Not as a result of this report
Proposed 24/25 Budget Allocation	Licence fees for the five years will be informed by an independent market assessment.
Life of Project, Service, Initiative or (Expectancy of) Asset	Five-year licence agreement
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Maintenance of the licensed assets will be undertaken by the Licensee.
Other Funding Sources	Not as a result of this report

DISCUSSION

1. The current Policy was endorsed by Council in January 2016. A requirement of the Policy (Section 13) is to select a new lessee of vacant land and/or building through an EOI process unless there are exceptional circumstances, in which case a Council resolution is required.
2. The Policy does not prescribe what constitutes exceptional circumstances, as such it falls at Council's discretion to consider the individual circumstances and determine if they are exceptional in nature such that they warrant an exemption from the EOI process.
3. Following a review of Park Lands leases and licences due to expire in the coming months, one instance has been identified whereby exceptional circumstances are considered to apply that would warrant consideration for an exemption to the EOI process, being BBQ Buoys.
4. Exempting the need to undertake the EOI process does not alter any other requirements of the Policy, *Local Government Act 1999 (SA)* and the *Adelaide Park Lands Act 2005*.

BBQ Buoys

5. Occupying a space in Pinky Flat (part of Tarntanya Wama (Park 26)) during operating hours and utilising the River Torrens / Karrawirra Pari (between the Weir and Frome Road) for recreational boating and storage, the City of Adelaide has provided a Park Lands Commercial Licence Agreement for the operation of BBQ Buoys since September 2016 (see site map below).



6. BBQ Buoys consists of four floating vessels and one recovery dingy (that forms part of their safety management system). The four vessels were originally purchased and imported from Germany.
7. In June 2021, the Park Lands Commercial Licence Agreement for BBQ Buoys was assigned to the operator of The Popeye and Captain Jolley's Paddleboats, which they continue to operate on the River Torrens / Karrawirra Pari.
8. Each BBQ Buoy vessel can carry up to ten people (one has a maximum of eight) and the hiring of vessels is typically limited to a two-hour period.
9. The current Licence Agreement enables BBQ Buoys to operate every day of the year from 9.00am to midnight. Peak usage occurs in the warmer months (October to April) and during daylight hours.
10. The vessels are self-driven (drivers licence required) and come with either a BBQ or central table. Food and drinks can be pre-purchased and consumed on the vessels.
11. The current Licence Agreement for BBQ Buoys expires on 30 June 2024.

Exemption Rationale

12. BBQ Buoys offer a unique experience by combining the enjoyment of outdoor dining with a leisurely cruise along the River Torrens / Karrawirra Pari. What sets BBQ Buoys apart is their floating BBQ experience, where patrons can barbecue while floating on the river, enjoying scenic views of the cityscape. These customer operated vessels add an element of adventure and independence to the journey. BBQ Buoys capitalise on the picturesque surroundings, offering views of the city skyline, parks, and wildlife. Overall, BBQ Buoys provide a unique blend of casual outdoor dining and leisurely boat cruising, appealing to both locals and tourists.
13. Noting that the existing BBQ Buoys Licensee is operating the business in accord with other river users (eg rowing clubs) and the Park Lands environment and is compliant with their existing Licence Agreement, an exemption from the EOI process is proposed due to:
 - 13.1. the uniqueness of the vessels, being:
 - 13.1.1. imported from overseas
 - 13.1.2. circular shaped with capacity for up to ten people
 - 13.1.3. centrally located barbecue
 - 13.1.4. no boating licence required to operate
 - 13.2. the existing Licensee owning all the equipment required to operate BBQ Buoys
 - 13.3. sound safety management system
 - 13.4. operation of BBQ Buoys not precluding the general public, community organisations or other commercial businesses from accessing Pinky Flat or the River Torrens / Karrawirra Pari.

Kadaltilla / Adelaide Park Lands Authority

14. On 18 April 2024, Kadaltilla considered this matter and resolved to advise Council:

'That the Kadaltilla / Adelaide Park Lands Authority:

 1. *Supports the granting of an exemption to the requirements of Section 13 of the Adelaide Park Lands Leasing and Licensing Policy to select a new tenant by way of an Expression of Interest, for BBQ Buoys in Tarntanya Wama (Park 26) and the River Torrens / Karrawirra Pari.*
 2. *Supports the approach for Council through the Acting Chief Executive Officer (or delegate) to enter into licence negotiations with the existing Licensee of BBQ Buoys for a new five-year Park Lands Commercial Licence Agreement in Tarntanya Wama (Park 26) and the River Torrens / Karrawirra Pari subject to:*
 - 2.1. *Minimising carparking by the operator on the Park Lands to operational purposes only and be time limited, and*
 - 2.2. *Ongoing management of refuse in line with Council policies and procedures.'*

Next Steps

15. Subject to Council's consent, the Acting Chief Executive Officer (or delegate) will be authorised to negotiate a new five-year Park Lands Commercial Licence Agreement with the existing Licensee for BBQ Buoys in Tarntanya Wama (Park 26) and the River Torrens / Karrawirra Pari.

ATTACHMENTS

Nil

- END OF REPORT -