

Draft Park Lands Lease and Licence Policy

Tuesday, 10 May 2022
Council

Strategic Alignment - Thriving Communities

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EXECUTIVE SUMMARY

The purpose of this report is to seek Council's approval to undertake community consultation on a draft Park Lands Lease and Licence Policy.

This Policy, if adopted, will supersede the Adelaide Park Lands Lease and Licence Policy and Operating Guidelines adopted by Council in January 2016.

A review of the current policy along with findings from benchmarking against other councils across Australia, was presented to the Kadaltilla/Park Lands Authority on 25 November 2021.

The draft Park Lands Lease and Licence Policy addresses a number of areas and incorporates several best practices including the introduction of an incentivised community lease and licence fee structure.

The draft Policy was considered by the Kadaltilla/Park Lands Authority on 28 April 2022.

RECOMMENDATION

THAT COUNCIL

1. Approves the draft Park Lands Lease and Licence Policy as shown at Attachment A to Item 10.3 on the Agenda for the meeting of the Council held on 10 May 2022, for the purpose of undertaking community consultation.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Thriving Communities The Park Lands Lease and Licence Policy provides a framework for organisations to deliver Park Lands experiences that contribute to the health and wellbeing of our community.
Policy	If adopted, this draft Park Lands Lease and Licence Policy will supersede the Adelaide Park Lands Lease and Licence Policy and Operating Guidelines adopted by Council in January 2016.
Consultation	Subject to the approval of Council, community consultation on the draft Park Lands Lease and Licence Policy will be undertaken for 21 days across May and June 2022.
Resource	Community engagement 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 Park Lands Lease and Licence Policy includes multiple actions to address this.
Opportunities	This draft Policy presents the opportunity to clarify the position of the Council in relation to lease and licence matters and implement best practices for managing community land.
21/22 Budget Allocation	Existing operating budgets will resource community engagement costs.
Proposed 22/23 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Once adopted, the next review will be due in five years
21/22 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
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 Guidelines. The Policy and Guidelines were developed to guide lease and licence negotiations consistent with the Adelaide Park Lands Management Strategy.
2. The Policy and Guidelines were scheduled for review two years after being adopted with the intention of identifying opportunities for improvement following implementation of a new policy. The Kadaltilla/Park Lands Authority identified the review of leasing and licensing policies as a priority in its Strategic Plan.
3. On 25 November 2021, we presented to the Kadaltilla/Park Lands Authority the findings of our review of the current Adelaide Park Lands Lease and Licence Policy, 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. A copy of the presentation is provided at Link 1 view [here](#).
4. The Kadaltilla/Park Lands Authority agreed with the findings of our 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.
5. A draft Park Lands Lease and Licence Policy was presented to the Kadaltilla/Park Lands Authority on 28 April 2022.
6. The draft Policy is now being presented to Council (see **Attachment A**). Key changes to the Policy are listed below. A more detailed summary is provided [here](#).

Policy Area	Change/Amendment
Commercial activity within community leases and licences	Quite unique to the Adelaide Park Lands, community lessees and licensees are responsible for all costs associated with their facilities (including asset renewals). Appropriate commercial activities help to meet these costs and enable organisations to sustain important health and wellbeing services. The draft Policy clarifies our position on commercial activities in community lease and licence settings, providing the proposed activities are appropriate and subservient to the activities of the lessee/licensee.
Tenure	Across local government, a typical community land tenure is around five years with the upper limit at 21 years. The draft Policy reflects this.
Break clause	It is good practice to have break clauses, as it prompts a major review by both the lessee and lessor after an extended period. The draft Policy includes this requirement for any lease or licence over ten years.
Selection of lessee/licensee	The current policy requires lessees and licensees to be selected by an expression of interest (EOI) process. It also provides for EOI exemptions but does not cite reasons to apply an exemption, which creates ambiguity. The draft Policy details situations when an exemption could apply.
Community lease and licence fees	The current policy sets the community lease fee along with a predetermined fee discount, while licence fees are adopted annually by Council. The draft Policy recommends all community fees be adopted annually. Across local government, typical community lease and licence fees are nominal. However, it is good practice to incentivise the lessee/licensee to achieve desired outcomes by offering discounts linked to these outcomes. The draft Policy proposes an incentivised fee model.
Sub-letting and casual hire	The current policy states that a sub-lessee can be charged up to 50% of total operating costs, which creates inconsistency across the Park Lands. The draft Policy proposes that Council Administration set sub-letting and casual hire fees based on industry benchmarking. The draft Policy seeks greater transparency of sub-letting and casual hire arrangements through increased reporting responsibilities of lessees and licensees.
Council's responsibilities	The draft Policy identifies the services that Council provides (eg lawn mowing) and introduces an annual forum to improve communication between all parties including sub-lessees.

Temporary signage	The draft Policy supports temporary signage to support broad community participation in leased and licensed facilities.
Vehicle permits	The draft Policy clarifies Council's position on parking permits in order to minimise lessee and licensee vehicles on the Park Lands.
Gaming machines	The draft Policy states that gaming machines in Park Lands facilities are not supported.
Events	The draft Policy mirrors Council's recently adopted Events Guidelines, reinforcing our desire to minimise the impact of events on existing lessees and licensees and seek out cooperative opportunities.
Delegations	The draft Policy lists under what circumstances lease and licence issues are presented to the Kadaltilla/Park Lands Authority and Council and when a matter is dealt with by Administration.

7. Subject to the approval of Council, our intention is to:
 - 7.1. Undertake community consultation on the draft Park Lands Lease and Licence Policy.
 - 7.2. Present the findings of the consultation along with any policy revisions to the Kadaltilla/Park Lands Authority in July 2022.
 - 7.3. Seek Council's adoption of the Policy in August 2022, prior to caretaker provisions on 6 September 2022.
 - 7.4. Review our community lease and licence fees to inform the 2023/24 Fees and Charges Schedule.
 - 7.5. Make any necessary updates to lease and licence templates and establish forms and guidelines required to support implementation of the new Policy.
8. If adopted, this Policy will replace the current Adelaide Park Lands Lease and Licence Policy and Guidelines.

DATA AND SUPPORTING INFORMATION

Link 1 – Review of the Adelaide Park Lands Lease and Licence Policy

Link 2 – Proposed changes to Park Lands Lease and Licence Policy

ATTACHMENTS

Attachment A – Draft Park Lands Lease and Licence Policy

- END OF REPORT -