

Kadaltilla

Revised Park Lands Lease and Licence Policy

Thursday, 27 April 2023
Board Meeting

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Public

Purpose

A key action of the Board's Strategic Plan (2020-2025) is to review Park Lands policies relating to leasing and licensing.

The purpose of this report is for the Board to consider the revised draft Park Lands Lease and Licence Policy.

The revised Policy provides clarity and 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 Kadaltilla / Park Lands Authority and 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, and further review of the document by Council Administration.

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

There are presently 61 Park Lands leases and licences in place. This revised Policy will have an immediate effect on the negotiation of new lease agreements going forward. Most elements of the revised Policy will inform the management of existing lease agreements, excluding agreed lengths of tenure, lease fees and any conditions unique to a particular agreement.

Recommendation

THAT THE ADELAIDE PARK LANDS AUTHORITY ADVISES COUNCIL:

That the Kadaltilla / Park Lands Authority:

1. Supports the draft Park Lands Lease and Licence Policy as per Attachment A to Item 6.1 on the Agenda for the meeting of the Board of the Adelaide Park Lands Authority held on 27 April 2023.
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Implications

<p>Adelaide Park Lands Management Strategy 2015-2025</p>	<p>Adelaide Park Lands Management Strategy 2015-2025 This Policy addresses the following action under Strategy 1.6: Ensure that leasing and licensing of sporting and recreation areas in the Park Lands is undertaken in a transparent and equitable manner.</p>
<p>2020-2025 Strategic Plan</p>	<p>Adelaide Park Lands Authority 2020-2025 Strategic Plan Strategic Plan Alignment – Advice 4.3 Review leasing and licensing and event management policies together with other relevant Park Lands use policies</p>
<p>Policy</p>	<p>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.</p>
<p>Consultation</p>	<p>Community consultation on the revised draft Park Lands Lease and Licence 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 revised Policy along with written communications.</p>
<p>Resource</p>	<p>Implementation of the revised Policy will be undertaken with existing resources.</p>
<p>Risk / Legal / Legislative</p>	<p>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.</p>
<p>Opportunities</p>	<p>This revised Policy presents the opportunity to clarify the position of the Board in relation to lease and licence matters and implement best practices for managing community land.</p>
<p>City of Adelaide Budget Allocation</p>	<p>Not as a result of this report</p>
<p>Life of Project, Service, Initiative or (Expectancy of) Asset</p>	<p>The next review of this Policy will be due in five years, once adopted.</p>
<p>Ongoing Costs (eg maintenance cost)</p>	<p>Not as a result of this report</p>
<p>Other Funding Sources</p>	<p>Not as a result of this report</p>

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 / 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. With respect to community land, it is common practice in local government 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 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 Policy and Guidelines:
 - 3.2.1. the policy position of longer tenure by exception is resulting in organisations seeking longer tenure
 - 3.2.2. the policy position of setting sub-leasing fees at no greater than 50% of total costs 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 [here](#).
5. Kadaltilla agreed with the findings of the review and the Board 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. A draft Park Lands Lease and Licence Policy (Draft Policy) was presented to Kadaltilla on 28 April 2022. A summary of the changes from the existing Policy is provided [here](#).
7. On 10 May 2022, Council approved the Draft Policy for the purpose of undertaking community consultation.

Community Consultation

8. Community consultation on the Draft Policy occurred between 24 May and 14 June 2022. Verbatim responses are provided [here](#).
9. In response to community consultation findings, the following amendments to the Draft Policy are proposed:
 - 9.1. Community lease fees to be calculated on building floor area as opposed to building footprint.
 - 9.2. A reference has been added to the Liquor Licence section, that consent by Council Administration will consider the proximity of leased and licensed facilities to residents.
 - 9.3. Volunteers have been added as a category considered for requests of a vehicle permit from holders of an Australian Disability Parking permit.
 - 9.4. In order to increase transparency, Council Administration delegations now include presenting a 'status of Park Lands leases and licences' report to Kadaltilla annually.
 - 9.5. Definitions for mowing service, significant capital contribution, and standard tenure have been added.
 - 9.6. Commercial and community lease and licence fees have been separated in the Policy as it was evident that these are being confused.
 - 9.7. Sub-letting and casual hire sections of the discounted fee structure have been combined, acknowledging that either practice results in broader community use.

Motion on Notice

10. 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.”*
11. In response to Council’s resolution, the Draft Policy incorporates increased detail around consideration of proposed commercial activities within community lease and licence settings, including the impact to adjacent commercial operations.
12. This is in addition to the Draft Policy requiring all proposed commercially run activities by casual hirers or sub-tenants to be approved by Administration.
13. This approach of assessing each situation individually is preferred to imposing blanket restrictions. Fundraising by not-for-profit organisations (ie sports clubs and associations) is an imperative for financial sustainability and to ensure participation is affordable to everyone, are for purpose rather than profit and are of a modest nature.
14. This is particularly pertinent for Park Lands lessees and licensees, who are responsible for all costs associated with their leased and licensed facilities.

Administration Review

15. 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. 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.

16. These proposed combined amendments are marked in the revised Park Lands Lease and Licence Policy shown in **Attachment A**.
17. The advice of Kadaltilla is now sought to finalise the Policy and present it to Council for adoption.

Current Status of Leases and Licences

18. There are 61 existing lease and licence agreements across the Park Lands under the care and control of the City of Adelaide. Two properties are currently vacant, with EOIs completed and draft agreements to be presented to Kadaltilla in the coming months.
19. Eight EOIs are scheduled for 2023 where leases have either expired (holding over) or are due to expire.

Next Steps

20. The finalised Park Lands Lease and Licence Policy will be presented to Council in June 2023 for adoption.
21. Subject to adoption, Administration will undertake the following actions:

Action	Timing
Distribute the Policy to Park Lands lease and licence holders	July 2023
Update lease and licence templates and sub-letting forms	September 2023
Develop documents to inform: <ul style="list-style-type: none">Lease, licence, sub-letting, and casual hire feesAssessment of the incentivised fee structureRequirements of the annual lessee/licensee reportFact sheets (eg signage)	September 2023
Hold a Park Lands lease and licence forum to explain policy changes and implications of existing and future agreements	October 2023
Implement new incentivised lease and licence fees as part of Council's 2024/25 fees and charges	July 2024

22. This revised Policy will have an immediate effect on the negotiation of new lease agreements going forward. Most elements of the revised Policy will inform the management of existing lease agreements, excluding agreed lengths of tenure, lease fees and any conditions unique to a particular agreement.

Attachments

Attachment A – Draft Park Lands Lease and Licence Policy