

PARK LANDS LEASE & LICENCE POLICY

Consultation on the Draft Park Lands Lease and Licence Policy

Consultation closes **5:00pm, Tuesday 14 June 2022**

PROJECT INFORMATION

We are seeking your feedback 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 Guideline adopted by Council in January 2016.

Background

In January 2016, Council adopted an Adelaide Park Lands Lease and Licence Policy and Operating Guideline. The Policy and Guideline were developed to guide lease and licence negotiations consistent with the Adelaide Park Lands Management Strategy.

The Policy and Guideline 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.

We undertook a review of the current policy and researched best practices relating to leasing and licensing of community land under the care and control of local government in Australia.

In November 2021, Park Lands leasing and licensing matters were work shopped with the Kadaltilla/Park Lands Authority. Following a meeting in April 2022, Kadaltilla provided advice to Council that it supported community consultation on the draft Park Lands Lease and Licence Policy.

The draft Park Lands Lease and Licence Policy was approved by Council on 10 May 2022 for the purpose of community consultation.

The draft Park Lands Lease and Licence Policy reflects the requirements of the following legislations:

- Adelaide Park Lands Act (SA) 2005
- Crown Land Management Act (SA) 2009

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

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- Liquor Licensing Act (SA) 1997
- Local Government Act (SA) 1999
- Planning, Development and Infrastructure Act (SA) 2016

The Adelaide Park Lands Management Strategy and Community Land Management Plan provide the overall guidance on what can occur in the Adelaide Park Lands and where. The Park Lands Lease and Licence Policy informs the process for how we will grant a lease or licence in the Park Lands.

Timeline

Community consultation on this draft Policy opens Tuesday 24 May and closes 5pm Tuesday 14 June 2022.

Frequently Asked Questions

Who does this draft Policy apply to?

This draft Policy applies to any organisation that is currently leasing or licensing or considering leasing or licensing community land in the Adelaide Park Lands. This includes commercial (for profit) organisations, community (not for profit) organisations and educational institutions.

Individuals will not be considered for a lease or licence in the Park Lands.

How does this Policy fit with the Adelaide Park Lands Management Strategy and Community Land Management Plan?

The Adelaide Park Lands Management Strategy and Community Land Management Plan provide the overall guidance on what can occur in the Adelaide Park Lands and where. This Policy informs the process for how we will grant a lease or licence in the Park Lands.

Why do we need a leasing and licencing policy?

After a leased or licenced area has been identified in a Community Land Management Plan, this Policy is the document that informs what process to follow before commencing lease negotiations, by providing a starting point to commence lease negotiations and identifying the high-level terms and conditions (i.e. fees, permitted use, length of tenure, and other obligations relating to the building and or land).

What are the key differences to this draft Policy from the existing Policy?

The key areas of difference are:

- Commercial activity within community lease and licence settings
- Tenure and break clauses
- Selection of lessees/licensees
- Community lease and licence fees and sub-letting and casual hire fees
- Council's responsibilities
- Temporary signage
- Vehicle permits

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

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- Gaming machines
- Events
- Delegations

See the attached table for a detailed explanation of the proposed changes and rationale (**Appendix A**).

Why are these changes to the current Policy being proposed?

The existing Lease and Licence Policy and Guideline were scheduled for review two years after being adopted in 2016, with the intention of identifying opportunities for improvement following implementation of a new policy.

In 2021, we undertook a review of the current policy and researched best practices relating to leasing and licensing of community land under the care and control of local government in Australia.

The draft Policy incorporates best practice and addresses areas where there was some ambiguity in the interpretation of the existing Policy. It also includes some new information that the existing Policy is silent on.

Will this Policy affect existing agreements?

There are elements of the draft Policy that, if adopted, will result in changes to the way existing lease and licence areas are managed.

This includes:

- the way commercial activities are managed within community lease settings
- the setting of sub-letting and casual hire fees
- the discount applied to licence fees (lease fees will not change where they are captured in an existing agreement)
- vehicle permits
- where Council believes the lessee is not making their facilities sufficiently available to other organisations
- submitting all sub-letting agreements annually
- submitting an annual report to Council that includes information on customer/visitation/membership/participation numbers and sub-letting and casual hire details

What will the new lease and licence fees be and will leasing and licensing cost more?

Lease and licence fees for commercial organisations will continue to be informed by an independent market assessment.

Lease and licence fees for community organisations will be set annually as part of Council's annual adoption of fees and charges. A discount on these lease and licence fees may be applied, where a lessee or licensee is able to demonstrate that they have satisfactorily met the following objectives:

- Sound Governance

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

Your Say
Adelaide

- Environmental Sustainability
- Social Inclusion
- Optimal Utilisation

Evidence provided by the lessee/licensee will be based on the past 12 months performance.

Where it is a new lessee/licensee, they will need to provide evidence at the end of their first 12 months to receive a discount on their first and second year of fees.

A guideline will be developed to inform how we assess the objectives against the information that lessees and licensees provide.

Providing the objectives are satisfactorily met, it is our intention for the fees charged (after the full discount is applied) to be similar to existing lease and licence fees.

What are the proposed new casual hire and sub-letting fees?

Casual hire and sub-letting fees will be developed by Council staff and based on benchmarking with other councils and related facilities.

How do I provide my feedback?

There are a number of ways in which you can provide feedback:

Feedback Form (attached to this information pack)

Online

yoursay.cityofadelaide.com.au

Email your comments to yoursay@cityofadelaide.com.au.

Written Submissions

All written submissions must be received by 5.00pm on the date advertised and should be addressed to:

Community Consultation
Park Lands Lease and Licence Policy
GPO Box 2252, Adelaide SA 5001

What happens next?

We will acknowledge your feedback either by email or in writing. We will collate all feedback into a report that will be presented to the Kadaltilla/Park Lands Authority and Council as part of finalising the Policy.

For enquires please contact:

Ray Scheuboeck

Team Leader Community Lifestyle

T: 8203 7688

E: r.scheuboeck@cityofadelaide.com.au

Or visit yoursay.cityofadelaide.com.au

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Commercial Lease and Licence Fees

Q4. Do you agree with commercial fees being informed by an independent market assessment?

- ☐ Yes, agree
- ☐ No, don't agree
- ☐ Have no view

Please help us to understand your response by providing a comment:



Sub-letting and Casual Hire

Q6. Do you agree with the sub-letting and casual hire conditions detailed in the Draft Policy?

- Please help us to understand your response by providing a comment:

Other Feedback

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Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

Your Say
Adelaide

About You

Please tell us a bit about yourself

In providing your feedback, are you representing an existing lessee, licensee, sub-lessee or casual hirer in the Park Lands?

- ☐ Yes, a commercial lessee/licensee ☐ Yes, a community lessee/licensee
- ☐ Yes, a commercial sub-lessee/licensee ☐ Yes, a community sub-lessee/licensee
- ☐ Yes, a casual hirer of Park Lands facilities
- ☐ No, none of the above
- ☐ Other, please describe

Business/Organisation (if applicable)

Are you a City of Adelaide ratepayer? ☐ Yes ☐ No

What postcode do you live in?

What is your age? ☐ Under 25 ☐ 25 – 49 ☐ 50 – 64 ☐ 65+

Formal submissions, including names and addresses of respondents, may on occasion be made public through reports to Council. If you do not provide your full name and address your submission will be presented to Council anonymously.

Full Name (optional)

Residential Address (optional)

Email Address (optional)

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

Your Say
Adelaide

APPENDIX A - Proposed Changes to the Existing Park Lands Lease and Licence Policy

Policy Area	Policy Wording/Intent	Rationale
Commercial activity within community leases and licences	Core activities of community leases and licences will relate to outdoor recreational use of the Park Lands. Secondary activities may relate to services that provide general community benefit and where appropriate, include commercial activities, enabling wider community participation of leased and licensed facilities and supporting the financial sustainability of lessees and licensees. Where a community lessee or licensee is considering a commercial organisation to utilise its facilities, the relationship must be captured within a sub-letting agreement and submitted to Council Administration for approval to ensure the proposed commercial activities are appropriate and are subservient to the activities of the lessee/licensee.	Current policy recognises the value of social activities associated with community leases and licences and the benefits of fund-raising opportunities. This revision helps clarify the position around commercial activities in community settings, recognising that community lessees and licensees are responsible for all costs associated with their facilities and appropriate commercial activities help to meet these costs and enable community organisations to sustain important social services.
Tenure	A standard lease or licence agreement will be granted for a tenure period of five years. Where a significant capital contribution is proposed, a lease or licence may be granted for a period up to 21 years, including any right of renewal.	Current policy proposes a range of tenure from five years up to 42 years and organisations look to the latter as their starting point for negotiation. A review of local government found a typical community land tenure is around five-years with the upper limit at 21 years.
Break Clause	Break clauses will be incorporated into lease and licence agreements that are ten years or longer.	A review of local government found it is good practice to have break clauses, as it prompts a major review by both the lessee and lessor after an extended period.
Selection of Lessee/Licensee	Retained Expression of Interest (EOI) process for selection of lessees/licensees and clarified what could constitute an exemption to this process.	Current policy provides for EOI exemptions but does not cite reasoning to apply, creating ambiguity.

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

Your Say
Adelaide

Policy Area	Policy Wording/Intent	Rationale
Community Lease and Licence Fees	Community lease and licence fees will be adopted annually as part of Council's fees and charges and will be calculated on area (ie building footprint and extent of outdoor facilities). The calculation of fees will also take into account the level of accessibility to the outdoor facilities when not in use by the lessee or licensee (eg fenced v unfenced).	Current policy sets community lease fee. This change allows for all fees to be reviewed annually without a requirement to amend the policy and to align fees with the area that is occupied by leased and licensed facilities.
	Incentivised discounts on lease and licence fees linked to: • Sound Governance • Environmental Sustainability • Social Inclusion • Optimal Utilisation	A review of local government found 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.
Sub-Letting and Casual Hire	Sub-letting and casual hire fees will be determined by Council Administration and based on benchmarking with other councils and related facilities.	Current policy states that a sub-lessee can be charged up to 50% of total operating costs, which is too broad and creates inconsistency across the Park Lands.
	Lessees and licensees will be required to submit to Council Administration: • all sub-letting agreements for approval at least annually • an annual report that includes details on sub-letting and casual hire numbers and related income • a sub-letting agreement where a community lessee or licensee is considering a commercial organisation using its facilities	Internal audit identified need for improved transparency relating to sub-letting arrangements in the Park Lands.
	If Council is of the view that the lessee or licensee has not made their facilities sufficiently available, we will require the lessee or licensee to submit a plan to increase the level of community access.	Supports Strategic Plan objective to increase access to and use of the Park Lands.

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

Your Say
Adelaide

Policy Area	Policy Wording/Intent	Rationale
Council's Responsibilities	Council will: - provide a mowing service to all community lessees/licensees with a natural turf playing surface - conduct an annual inspection of leased and licensed facilities - conduct an annual Park Lands lease and licence forum including sub-lessees	Clarifies what services Council provides (eg lawn mowing) and introduces an annual forum to improve communication between all parties including sub-lessees.
Temporary Signage	Temporary signage will 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 and as per the Planning and Design Code (SA) 2022.	Clarifies Council's position on temporary signage to support broad community participation in leased and licensed facilities.
Vehicle Permits	A lessee or licensee will be granted one annual vehicle permit per leased or licensed area for the purpose of undertaking general maintenance of their facilities. Vehicles dropping off and/or picking up supplies, materials, equipment, etc are not permitted to park outside of designated parking areas when unattended. Requests for a vehicle permit from holders of an Australian Disability Parking permit will be considered where they are a committee/board member of a lessee or licensee and there is no viable alternative.	Clarifies Council's position on parking permits.
Gaming Machines	Gaming machines in leased or licenced facilities in the Park Lands will not be permitted.	Clarifies Council's position on gaming machines in the Park Lands.
Events	Council and event organisers will foster cooperative business opportunities and minimise disruption to commercial and community lessees and licensees in the Park Lands.	Confirms Council's desire to minimise the impact of events on existing lessees and licensees and seek out cooperative opportunities.

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

Your Say
Adelaide

Policy Area	Policy Wording/Intent	Rationale
Delegations	Kadaltilla/Park Lands Authority will provide advice on and Council will formally consider: - the appointment of a lessee or licensee following a competitive EOI process - a lease or licence that is for a tenure period of more than five years, including any rights of renewal - a lease or licence that is not consistent with the Park Lands Community Land Management Plan - a sub-letting agreement that is for a period of more than five years - a lease or licence where significant negative issues are raised through community engagement - 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 Council delegates to the Chief Executive Officer (CEO) the right to: - appoint a lessee or licensee following a non-competitive EOI process - negotiate a lease and licence in accordance with this policy where it is consistent with the Park Lands Community Land Management Plan and is for a period of five years or less - finalise a lease or licence agreement where it is for a period of greater than five years and/or is not consistent with the Community Land Management and has	Clarifies under what circumstances lease and licence issues are presented to Kadaltilla/Park Lands Authority and Council and when a matter is dealt with by Administration.

Park Lands Lease & Licence Policy

Consultation on the Draft Park Lands Lease and Licence Policy

Your Say
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	been subject to community engagement, providing no significant negative issues have been raised through the community engagement process • approve a sub-letting agreement that is consistent with this policy • enter into a surrender, variation or assignment of an existing lease or licence where the agreement is consistent with this policy (and does not have a Common Seal affixed)	
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