

MORRISON BAY PARK Plan of Management

Addendum 1



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ADDENDUM TO MORRISON BAY PARK PLAN OF MANAGEMENT

NOTE: This Addendum is to be read and replace Section 5.8 of the Morrison Bay Park Plan of Management (PoM), adopted by Council on 1 December 2009.

5.8 Leases, Licences and Other Estates

Morrison Bay Park consists of both Community Land and Crown Land. Leases, licences and other estates for Community Land are governed by the *Local Government Act 1993* and Crown Land is governed by the *Crown Lands Act 1989*. The requirements for granting leases, licences or other estates over these two types of land vary. This Section provides guidance on these requirements.

This PoM encourages innovation and new ways to activate and utilise Community land. Due to the complexities associated with the approval process of leases, licences and other estates over Community Land and Crown Land, proponents should refer to the applicable Act and/or seek independent advice to ensure their proposal meets all legislative and policy requirements such as the *Environmental Planning and Assessment Act 1979*, *Food and Beverage Outlets on Crown Reserve (Department of Lands)* or the *Food Act 2003*. Should a proponent identify a proposal outside the provisions of this PoM, they should contact the City.

This PoM does not permit subleasing of any leased or licenced area without relevant consent.

5.8.1 Community Land

The *Local Government Act 1993* requires that any lease, licence or other estate of Community Land be expressly authorised by a Plan of Management and that the purpose for the lease, licence or other estate be consistent with the land categorisation (Section 3.3.1) and zoning (Section 3.7.2) of that land. The City may grant leases, licences and other estates over Community land for a maximum of 21 years. The City can apply for the Minister's consent to enter into a lease, licence or other estate for a longer term.

This PoM expressly authorises existing lease and licence arrangements until the end of their current term. These leases and licences may be renewed, extended or changed in the future subject to relevant legislative requirements and the leased/licenced areas may be reconfigured to reflect the evolving community needs.

This PoM expressly authorises the granting of leases, licences and other estates for the purposes identified in Table 5.1 and Table 5.2 or that are considered consistent/compatible with those purposes.

5.8.2 Crown Land

Trust licensing/leasing will be in accordance with the objectives and principles for leasing Crown land, and with relevant Council policies.

All tenures over part or all of a Crown reserve made between the Reserve Trust and the licensee/leasee, are subject to the provisions of the *Crown Lands Act 1989*. Licence/Lease agreements shall be modelled on the standard Crown conditions applying to the leasing of Crown land under Section 34 of the *Crown Lands Act 1989*.

A licence/lease over a Crown reserve must be consistent with the purpose of the land's reservation or dedication. As such, any licence granted over Crown land in Morrison Bay Park must be consistent with the definition of Public Recreation, and guidelines for use of Crown reserves. Otherwise, the Minister cannot

approve any licence/lease granted by the Reserve Trust.

The Trust can grant a temporary licence for the purposes prescribed under Clause 31 of the *Crown Lands Regulation 2006*, which includes activities such as access through a reserve, advertising, camping, catering, emergency occupation, entertainment, equestrian events, exhibitions, filming, functions, grazing, hiring of equipment, holiday accommodation, markets, meetings, military exercises, mooring of boats to wharves or other structures, sales, shows, sporting and organised recreational activities, stabling of horses, and storage. A temporary licence does not require the Minister's consent, but can only be granted for a maximum period of one year. Temporary licences could include mobile food and beverage vendors catering for specific events with the consent of Council.

The Reserve Trust has the power to license uses within a Park. Licenses/Lease can be established for public or private purposes, providing they are consistent with the major objectives of this Plan of Management, and that the residential and environmental amenity of these areas is maintained. Any licence must be in accordance with the gazetted purpose, a licensee/leasee must not provide any facilities that create barriers or adversely impact on other facilities within the Park.

The Trust Manager has a responsibility to notify Crown Lands Office of any licences, under Section 108 of the *Crown Lands Act 1989*. Consent must be obtained from the Minister for Lands before any licence on Crown land is granted. Licence agreements of less than 1 year (temporary licences) do not require the consent of the Minister and may be approved and issued by the Trust.

Other licences may be considered during the life of this Plan and will be assessed against the reserve purpose, other legislation and planning documents, The Land and Property Management Authority Food and Beverage Policy and other applicable policies and this Plan. Any proposed use of the Reserve that requires consent from Council will be subject to a Development Application. Approval may be required in the case of an "activity" under Part V of the *Environment Planning and Assessment Act 1979*.

5.8.3 Long Term Leases, Licences and Other Estates of Community Land

Table 5.1 Long Term Leases, Licences

All proposals will be assessed having consideration to the community benefit, compatibility with this PoM and the capacity of the area to support that activity subject to relevant statutory requirements and approvals. Refer to Section 5.8.5.

TYPE OF AUTHORISED ARRANGEMENT	LAND AND FACILITIES COVERED	PURPOSES FOR WHICH A LONG TERM LEASE/LICENCE WILL BE AUTHORISED
Lease	General Community Use	Sympathetic, compatible uses include; <ul style="list-style-type: none"> - Childcare including vacation care, - Health and medical practitioners ancillary to the primary facility such as physiotherapy or nutrition, - Education such as libraries, classes or workshops, - Cultural purposes such as concerts, theatre, galleries, - Recreational and leisure pursuits such as sporting clubs, fitness and dancing classes, games, - Structured and non-structured sporting activities such as ball sports, - Sporting uses developed/operated by a private operator, - Low intensity café/kiosk/restaurants including internal/external seating and tables, - Management of facilities, - Public utilities and/or works associated with or ancillary to, pursuant to relevant legislation such as <i>Telecommunications Act 1997 (Cth)</i>, and - Associated ancillary facilities such as sale/hire of sports goods.
	Park, Sportsground	Sympathetic, compatible uses include; <ul style="list-style-type: none"> - Low intensity café/kiosk/restaurants including internal/external seating and tables, - Management of facilities, - Public utilities and/or works associated with or ancillary to, pursuant to relevant legislation such as <i>Telecommunications Act 1997 (Cth)</i>, and - Ancillary associated facilities such as sale/hire of sports goods.
Licence	General Community Use	Sympathetic, compatible uses include; <ul style="list-style-type: none"> - Social purposes, - Childcare including vacation care, - Education such as libraries, classes or workshops, - Recreational and leisure pursuits such as sporting clubs, fitness, dancing classes and games, - Structured and non-structured sporting activities such as ball sports, - Low intensity café/kiosk/restaurants including internal/external seating and tables, - Management of facilities, - Public utilities and/or works associated with or ancillary to, pursuant to relevant legislation such as <i>Telecommunications Act 1997 (Cth)</i>, and - Associated ancillary facilities such as sale/hire of sports goods.
	Park, Sportsground	Sympathetic, compatible uses include; <ul style="list-style-type: none"> - Low intensity café/kiosk/restaurants including internal/external seating and tables, - Recreational and leisure pursuits such as sporting clubs, fitness and dancing classes, games, - Structured and non-structured sporting activities such as ball sports, - Management of facilities, - Public utilities and/or works associated with or ancillary to, pursuant to relevant legislation such as <i>Telecommunications Act 1997 (Cth)</i>, and - Associated ancillary facilities such as sale/hire of sports goods.

5.8.4 Short Term Leases, Licences

Table 5.2 Short Term Casual Uses

These arrangements are for short durations ranging from a few hours to a few days. Fees charged for short term uses will be in accordance with Council's adopted fees and charges. All proposals will be assessed having consideration to the community benefit, compatibility with this PoM and the capacity of the area to support the proposed use subject to relevant statutory requirements and approvals. Refer to Section 5.8.5.

COMMUNITY LAND CATEGORY	PURPOSE FOR WHICH A SHORT TERM, CASUAL LICENCE MAY BE AUTHORISED
Park	<p>Sympathetic, compatible uses may include;</p> <ul style="list-style-type: none"> - Community events and festivals, - Picnics and private celebrations including weddings and family gatherings, - Filming and photography, including cinema and television, - Public performances, - Approved commercial or trade business, - Public address such as speeches, and - Fairs, markets and similar activities.
Sportsground	<p>Sympathetic, compatible uses may include;</p> <ul style="list-style-type: none"> - Community events and festivals, - Sporting fixtures and events, - Personal and group fitness training and classes, - Broadcasting of filming of sporting fixtures, - Uses associated with promotion of sporting groups such as gala days and club meetings, - School hiring for sporting and recreational purposes, - Picnics and private celebrations including weddings and family gatherings, - Filming and photography, including cinema and television, - Public performances, - Approved commercial or trade activities, - Public address such as speeches, and - Fairs, markets and similar activities.
General Community Use	<p>Sympathetic, compatible uses may include;</p> <ul style="list-style-type: none"> - Community events and festivals, - Sporting fixtures and events, - Personal and group fitness training and classes, - Broadcasting of filming of sporting fixtures, concerts or public speeches, - Uses associated with promotion of sporting groups such as gala days and club meetings, - School hiring for sporting and recreational purposes, - Picnics and private celebrations including weddings and family gatherings, - Filming and photography, including cinema and television, - Public performances, - Approved commercial or trade business, - Functions such as commemorative, book launches and similar activities, - Public address such as speeches, meetings, seminars and presentations, - Fairs, markets, auctions and similar activities, and - Associated trade or business dealings for delivery of the public events listed.
Natural Area and its sub categories	<p>Sympathetic, compatible uses may include;</p> <ul style="list-style-type: none"> - Environmentally focused community groups, and - Filming or photography, including cinema and television.

The uses conducted may vary significantly in scale and intensity of use dependant on location. This PoM expressly authorises short term agreements for the use of Community land subject to relevant Council policies and procedures. Council will review all applications to determine suitability of proposed use and location. This review will include assessment of potential damage to the park, accessibility for all of the community, potential of the event to affect adjoining land owners, and the responsibility of the organiser to ensure the site is returned to a suitable condition.

5.8.5 Other Estates

This PoM expressly authorises the creation of Other Estates as provided for under the relevant provisions of the Community Land section of the *Local Government Act 1993*.

5.8.5 Guidelines for Assessing Proposed Uses Under Licence

In considering whether to grant any licence in the Park, Council will take into account the consistency of the proposal with the values and objectives of this Plan of Management, particularly regarding:

- Whether the use/activity is in the public interest.
- Whether the use / activity is consistent with the public purpose of Crown land and / or the categorisation of community land.
- Whether the use/activity would not cause any significant detrimental impact on the reserve or on the local community.
- In the case of sporting uses, that equal access for both men and womens sporting groups is provided.
- The impact of the licence on the public/private space of the reserve.
- The impact on maintaining the reserve as one cohesive open space.
- Compatibility with zoning and other Council requirements.
- Provision of benefits and services or facilities for the users of the land.
- Responsibility of the licensee for ensuring the area is maintained to a standard which is acceptable to Council.
- The need to define the times the land or facility will be available for use by the lessee/licensee.
- Any fixed or temporary outdoor lighting of areas to be allowed only between the hours identified in the lease/licence.

Further considerations that may affect licences are:

- Fees can be charged as part of a licence and can be commercially based.
- The licensee must take out public risk insurance and produce notices of the policy as required on renewal.
- Use of the premises by the licensee is restricted to only those activities and times authorised in the licence.
- Any alteration, transfer or sub-letting etc. will not be permitted without Council's consent.
- Ownership of improvements should be dealt with in the licence.
- A lease (5 years or more) should be registered on the land title.
- A licence can be terminated by either party where specified by the licence.