



GREATER  
SYDNEY  
PARKLANDS

# Leasing & Licensing Policy

<b>Policy Name</b> Leasing and Licensing Policy	<b>CM10 Record Number</b> DOC24/730417
<b>Prepared By</b> Director Property Services	<b>Endorsed By</b> Executive Leasing Committee
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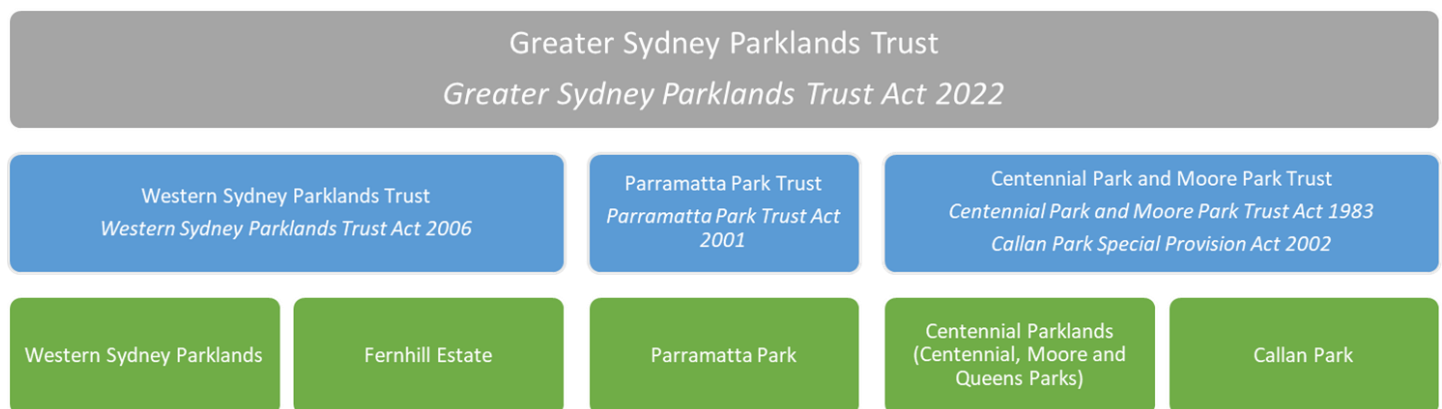
## 1.0 General

### 1.1 The Greater Sydney Parklands (GSP)

Greater Sydney Parklands (**GSP**) brings together some of Sydney's most iconic urban parks: Callan Park, Centennial Parklands (Centennial, Moore and Queens parks), Fernhill Estate, Parramatta Park (including Wistaria Gardens) and Western Sydney Parklands. Each parkland has its own Plan of Management (Callan Park to be published in 2025) and heritage considerations. These are overseen by a consolidated board (GSPT Board) and managed by GSP's experienced and dedicated staff.

GSP was established under the *Greater Sydney Parklands Trust Act 2022* (GSPT Act). Under the GSPT Act, GSP oversees each of the individual park trusts:

- Centennial Park and Moore Park Trust – shared Gadigal and Dharawal Country;
  - Callan Park – Wangal Country;
- Parramatta Park Trust (including Wistaria Gardens) – Burramatta Country;
- Western Sydney Parklands Trust – shared Darug and Gandangara Country; and
  - Fernhill Estate – Boorooberongal Country.



### 1.2 GSP commitment

GSP is committed to awarding leases and licences through a process that:

- (a) complies with the GSPT Act and legislation of the associated Trusts;
- (b) is fair, ethical and transparent;
- (c) maximises the benefits to the people of NSW whilst achieving appropriate market rent; and
- (d) ensures all proposed uses are consistent with GSPs strategic objectives, which are outlined in:
  - (i) objects of the GSPT Act and associated Trusts legislation;
  - (ii) the relevant and applicable parkland's Leasing Strategy; and
  - (iii) the relevant strategic documents for the Parkland (this may include, but is not limited to, Plans of Management, Master Plans and/or Landscape Structure Plans).

This Policy refers to the objectives outlined in (a) – (d) above as the **Leasing Objectives**.

### 1.3 Policy purpose

The Leasing and Licensing Policy applies to the leasing and licensing of assets within GSPs Property Services portfolio (excluding residential leases and licenses).

The Policy has been developed to assist GSP achieve the Leasing Objectives when:

- (a) deciding on the right approach to lease or licence a premises to the most suitable tenant;
- (b) conducting the identified approach; and
- (c) approving and awarding the lease or licence.

The Policy does not apply to assets managed outside the Property Services portfolio, for example, in relation to licencing for major events within a Parkland.

The information in this Policy is for general guidance purposes only.

### 1.4 GSP Personnel responsible for applying the Policy

GSP employees, contractors and consultants (**GSP Personnel**) must adhere to the Policy when considering entering into a new lease or licence.

Contractors and consultants of GSP do not have the ability to make delegated decisions.

### 1.5 Document History

Date	Author	Modifications
July 2024	Director, Property Services	Created original document

### 1.6 Process for amending the Policy

Amendments to the Policy must be endorsed by GSP's Executive Leasing Committee (**ELC**) and approved in writing by the Chief Executive of GSP.

The Policy should be reviewed every three (3) years, or earlier if a substantive change is required.

## 2.0 Selecting the approach to award a lease or licence

### 2.1 Legislative requirement to go to open tender for leases and certain licences

The GSPT Act, and legislation of the associated Trusts, provides that GSP must not grant any lease, or a licence with a term of 10 years or more, over land within the GSP estate unless the granting of the lease or licence has been the subject of an open tender process.

Similar provisions are included in the associated Trusts legislation.

### 2.2 Approved leasing approaches

GSP may seek to award a lease or licence by a conducting a market testing process. This may include either:

- (a) a simple approach to market; or
- (b) a complex approach to market.

Subject to section 22 of the GSPT Act, and legislation of the associated Trusts, GSP retains full discretion to determine which of the above approaches is appropriate in the circumstances, based on its assessment of the factors considered below.

### 2.3 Simple approach to market

A “simple approach to market” consists of issuing a Tender Publish Notice on the NSW Government’s eTendering website which includes a link to the lease opportunity on the Trust’s and/or Leasing Agent’s website (if relevant).

GSP Personnel involved in the approach to market will establish the Probity Protocols, to be approved by the Director, Property Services. The Probity Protocols will govern the approach to market. An Evaluation Panel will be established to evaluate the responses received to the advertisement.

### 2.4 Complex approach to market

A “complex approach to market” involves the premises being offered for lease or licence through a staged tender process (Expression of Interest (**EOI**) / Request for Tender (**RFT**) / Request for Fee Proposal (**RFP**)) and must be undertaken via NSW Government’s eTendering website. The opportunity must also be advertised on the Trust’s and/or Leasing Agent’s website (if relevant).

GSP Personnel involved in the approach will establish the Probity Protocols that will govern the approach to market. An Evaluation Panel will be created to evaluate the responses received to the advertisement. For complex approaches, an independent probity adviser may be required to join the Evaluation Panel.

### 2.5 Where a licence may be granted

A licence is generally considered more appropriate where;

- exclusive possession is not required;
- premises are not enclosed by fencing or walls; and
- the tenure is short term

### 2.6 Lease/licence extension or renewals

There is no automatic right for any existing tenant to be offered a further lease or licence term.

### 3.0 Leasing security deposits

A leasing security deposit may be requested when a heads of agreement is contemplated. The leasing security deposit would cover any legal expenses incurred by the landlord if the proposed tenant withdraws from the transaction after landlord has incurred costs.

### 4.0 Essential lease/licence conditions

As part of the competitive tender process, GSP will provide a draft lease/licence, which will include GSPs essential lease/licence conditions.

GSP has essential lease/licence terms to protect its interests and to ensure GSP remains commercially competitive to attract and retain tenants in line with GSPs current Leasing Strategy (where relevant and applicable) for the premises.

### 5.0 Specific requirements for retail leases

The *Retail Leases Act 1994* (NSW) (**RL Act**) provides specific requirements that apply to retail leases. The key requirements are set out below:

NO.	REQUIREMENTS FOR RETAIL LEASES
1	The landlord must provide the tenant with a copy of the Retail Tenancy Guide and the Fitout Guide during the negotiation period
2	A tenant cannot sign a lease until 7 days after a disclosure statement has been provided
3	If the term exceeds 3 years, the lease must be registered within 3 months
4	The landlord must provide the tenant with an executed copy of the lease within 3 months of the tenant's execution
5	If a tenant proposes to assign the lease, the landlord must grant or deny consent within 28 days or consent to assignment will be assumed.
6	Not less than 6 months, and not more than 12 months before the expiry of a lease, the landlord must by written notification to the tenant either: <ul style="list-style-type: none"><li>- offer a renewal or extension of the lease on terms specified in the notice; or</li><li>- inform the tenant that the landlord does not propose to offer a renewal or extension.</li></ul>

### 6.0 Length of tenure

The determination of the lease/licence term will be endorsed/approved by ELC and the relevant GSP delegate. Factors that may be considered include;

- the relevant and applicable Parkland Leasing Strategy;
- the relevant legislation;
- tenant's ability to fund, resource and manage the lease/licence over the proposed term;

- the proposed use;
- suitability, having regard to the relevant parkland Plan of Management;
- tenant fitout investment; and
- demonstrated public, social, economic and/or environmental benefit.

The initial term plus any option terms shall be regarded as the total term for the purpose of assessing the length of lease/licence to be offered.

## 7.0 Assessment and award of a lease or licence

### 7.1 Definition of Respondent

For the purposes of this Policy, Respondent means:

- for a company registered, the company itself and its directors;
- for an individual(s), the individual(s) themselves.

### 7.2 Lease/Licence Award Criteria

The below Lease/Licence Award Criteria is the minimum evaluation criteria to be included in the advertised RFP/RFT and GSP is to consider the below Lease/Licence Award Criteria when assessing whether to award a lease or licence to the Respondent:

NO.	LEASE/LICENCE AWARD CRITERIA
1	Degree to which the proposed use is in line with the current and approved Leasing Strategy (where relevant and applicable) for the premise to be leased/licenced
2	That GSP have undertaken all Due Diligence Checks on the Respondent
3	Degree to which the rent proposed meets or exceeds current industry benchmarks rents
4	Degree to which GSP is satisfied that a suitable business plan has been provided, which (at a minimum) includes business cash flow projections and, where significant tenant works are proposed, cost estimates from a suitably qualified Quantity Surveyor (QS)
5	The Respondent's proposed use of the premises is consistent with the current use, or the Respondent has clearly set-out a process for obtaining any planning, design, heritage or other required approvals
6	Any other matters that GSP considers relevant

## 7.3 Due diligence checks

As contemplated in the Lease/Licence Award Criteria, GSP must undertake due diligence on the Respondent. The due diligence checks should be included within the advertised RFT/RFP and all Respondents should have an opportunity to respond to each of the criteria.

NO.	DUE DILIGENCE CHECKS
1	Is the Respondent of good financial standing to perform its obligations under the lease or licence?
2	Has the Respondent been the subject of significant adverse publicity or any formal adverse finding by a court or other government authority that would cause a reasonable person to have concerns about reputational risk to GSP or the fitness or ability of the Respondent to perform its obligations under the lease or licence?
3	Is the Respondent of good repute?
4	Does the Respondent have experience in successfully carrying out a business of the kind permitted under the permitted use of the lease/licence?
5	Does the Respondent have a relationship (personal or financial) with any employee, contractor, agent or representative of GSP?
6	Is the Respondent foreign-owned?
7	Any other checks that GSP considers necessary

## 8.0 GSP approval of lease/licence

In accordance with the GSPT Act (and legislation of the associated Trusts) and relevant delegations, all leasing/licence proposals must be:

- endorsed by ELC;
- approved by the relevant GSP Delegate; and
- where required by the GSPT Act or legislation of the associated Trusts, approved by the Minister.

## 9.0 Records management & governance

All documentation relating to leases and licences, including all supporting information, expert advice, evidence, and businesses cases will be filed within the tenant's records in HPE Content Manager (CM10), the government records management software solution.

## 10.0 Contact/reference

For further information relating to this Policy, please email [property.services@gsp.nsw.gov.au](mailto:property.services@gsp.nsw.gov.au).