

Grant of Easement for public lighting at 211-217 Pirie Street

Tuesday, 20 June 2023
Infrastructure and Public Works Committee

Strategic Alignment - Enabling Priorities

Program Contact:
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Public

Approving Officer:
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EXECUTIVE SUMMARY

Next DC Limited are currently constructing a 6-level 'data centre' building at 211-217 Pirie Street (the Development Site). The Development Site adjoins Sudholz Place on its southern side.

Prior to the development commencing, public lighting in this portion of Sudholz Place was provided via a pole-mounted streetlight adjacent to the Development Site.

The new building being constructed on the Development Site requires vehicular access where the pole-mounted streetlight is located, therefore it needs to be removed and an alternative location found for it.

Having examined various options, it was determined that the best place for a new streetlight was to attach it to the new building within the Development Site.

Next DC Limited has agreed to grant an easement to the City of Adelaide (for public lighting purposes) over a portion of the Development Site in order to provide the City of Adelaide with long-term certainty in relation to its right to mount the streetlight (and associated public lighting infrastructure) on the Development Site.

This report recommends that Council accept the 'Grant of Easement', authorises the Chief Executive Officer to negotiate the terms of the Grant of Easement (including its extent) and authorises the Chief Executive Officer and Lord Mayor to affix the Common Seal to the Grant of Easement.

RECOMMENDATION

The following recommendation will be presented to Council on 27 June 2023 for consideration

THAT THE INFRASTRUCTURE AND PUBLIC WORKS COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Approves pursuant to section 190 of the *Local Government Act 1999 (SA)* and section 96 of the *Real Property Act 1886 (SA)*, accepting a Grant of Easement (for the purposes of installation and maintenance of public lighting infrastructure) over portions of the land located as 211-217 Pirie Street, including:
 - 1.1. (Indicatively) the land that is coloured green in Attachment A to Item 4.2 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 20 June 2023
 - 1.2. Portions of the building located on the land.
2. Authorises the Chief Executive Officer to negotiate the terms of the Grant of Easement, including its extent.
3. Authorises the Chief Executive Officer and the Lord Mayor to execute and affix the Common Seal of the Council to the Grant of Easement and any other documents to give effect to Council's resolution.

IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	<p>Strategic Alignment – Enabling Priorities</p> <p>If Council accepts the Grant of Easement, it will enable reinstatement of the streetlight (and associated public lighting infrastructure) that was removed in order to construct the new ‘data centre’ building at 211-217 Sudholz Place.</p>
Policy	Not as a result of this report
Consultation	Not as a result of this report
Resource	Internal staff resources to consider the proposal and legal costs to prepare and register the Grant of Easement.
Risk / Legal / Legislative	<p>Accepting the Grant of Easement will entail legal responsibility for assets within the easement and therefore the same risks associated with ownership of public lighting infrastructure on a public road.</p> <p>The easement plan will be prepared by a Licenced Surveyor representing Next DC Limited. The Grant of Easement will be prepared by lawyers representing the City of Adelaide. The easement plan and Grant of Easement are yet to be finalised.</p> <p>Council may accept the Grant of Easement pursuant to its powers under section 190 of the <i>Local Government Act 1999 (SA)</i> and pursuant to section 96 of the <i>Real Property Act 1886 (SA)</i>.</p>
Opportunities	If Council accepts the Grant of Easement, it will enable reinstatement of the streetlight (and associated public lighting infrastructure) that was removed in order to construct the new ‘data centre’ building at 211-217 Sudholz Place.
22/23 Budget Allocation	Not as a result of this report
Proposed 23/24 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	As per public lighting infrastructure located on public roads.
22/23 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	As per public lighting infrastructure located on public roads.
Other Funding Sources	Not as a result of this report

DISCUSSION

1. Next DC Limited are currently constructing a 6-level 'data centre' building (the Building) at 211-217 Pirie Street (the Development Site). The Development Site is coloured red on the map below.



2. The Development Site is contained within Certificate of Title Volume 5471 Folio 983, the registered proprietor (owner) being Next DC Limited.
3. The Building and surrounding civil works on the Development Site are expected to be completed by late 2024.
4. The Building can be seen in the image below from the development application.



- The image below is the Ground Floor plan from the development application. The orange dot on the image shows the location of an existing streetlight in Sudholz Place. This streetlight needs to be relocated as it would block vehicular access to the proposed Building if it were to remain. The streetlight has already been removed to facilitate construction.



- In discussions with Next DC Limited it was decided that the best way to reinstate the streetlight after the development is completed is to install a building-mounted streetlight in the location shown as a yellow dot on the image above ie. the streetlight would be located on the Development Site and mounted to the building rather than being pole-mounted.
- A conduit will run from Sudholz Place to the streetlight to supply electricity.

Easement for public lighting

- DC Limited has agreed to grant an easement to the City of Adelaide for the purpose of providing long-term certainty of its right to retain and maintain the public lighting infrastructure within Sudholz Place.
- The extent of the easement will be depicted on a survey plan that will be lodged with Lands Services SA. The easement will be sufficiently large to comfortably accommodate all of the lighting infrastructure, including the streetlight and associated conduits. The indicative extent of the proposed easement is shown in **Attachment A** (coloured green).
- The easement would be 'long-form', which allows City of Adelaide to tailor the terms of the easement so that it best meets our needs.
- Council may acquire land, including a legal interest in land (which includes easements), pursuant to Section 190 of the *Local Government Act 1999 (SA)*. Council may accept the grant of an easement pursuant to section 96 of the *Real Property Act 1886 (SA)*. These powers have not been delegated by Council.
- Accordingly, the purpose of this Report is to seek Council's approval to accept the granting of an easement (for the purpose of public lighting) over a portion of the Development Site. It also requests Council to authorise the Chief Executive Officer to negotiate the terms of the (long-form) grant of easement, including its extent. The terms of the long-form easement will provide the City of Adelaide with the power to install and maintain public lighting infrastructure on portions of the Development Site.

ATTACHMENTS

Attachment A – Indicative location of proposed easement

- END OF REPORT -