

# Grant of Easement at Paxton's Walk

Strategic Alignment - Enabling Priorities

Public

Tuesday, 18 July 2023

Infrastructure and Public  
Works Committee

**Program Contact:**

Mark Goudge, Associate Director  
Infrastructure

**Approving Officer:**

Tom McCready, Director City  
Services

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## EXECUTIVE SUMMARY

The City of Adelaide recently completed an upgrade of Paxton's Walk.

A portion of the upgrade works have been constructed on a thin slither of adjoining land (Ayers House and gardens), which is owned by the Minister for Environment and Water. The Minister is willing to grant an easement to the City of Adelaide that will entitle the City of Adelaide to retain the encroaching upgrade works on the Minister's land and will also entitle the City of Adelaide and public to pass and repass (on foot only) over that portion of land.

This report recommends that Council accept the Grant of Easement from the Minister for Environment and Water.

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## RECOMMENDATION

The following recommendation will be presented to Council on 25 July 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 the Grant of Easement shown as Attachment A to Item 5.2 on the Agenda for the meeting of the Council held on 25 July 2023 (or a Grant of Easement substantially in accordance with that easement) the terms of which will entitle:
    - 1.1 The City of Adelaide and the public to pass and repass (on foot only) over the land lettered 'A' on Attachment B to Item 5.2 on the Agenda for the meeting of the Council held on 25 July 2023.
    - 1.2 The City of Adelaide to construct, install and replace 'ramp infrastructure' on the land lettered 'A' on Attachment B to Item 5.2 on the Agenda for the meeting of the Council held on 25 July 2023.
  2. Authorises the Chief Executive Officer to finalise the terms of the Grant of Easement (including its extent) if necessary.
  3. Authorises the Chief Executive Officer and Lord Mayor to execute and affix the Common Seal to a Grant of Easement and any other documents to give effect to Council's resolution.
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## IMPLICATIONS AND FINANCIALS

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| City of Adelaide<br>2020-2024<br>Strategic Plan                        | <b>Strategic Alignment – Enabling Priorities</b><br>If Council accepts the Grant of Easement, it will give long-term certainty to the City of Adelaide with respect to its right to retain the 'ramp infrastructure' on a small portion of the adjoining land and also the right to pass and repass (on foot only) over that land. |
| Policy   | Not as a result of this report   |
| Consultation   | Not as a result of this report   |
| Resource   | Internal staff resources and legal costs to prepare and register the Grant of Easement.  |
| Risk / Legal /<br>Legislative  | The Grant of Easement has been prepared by lawyers representing the City of Adelaide. Council may accept the granting of an easement pursuant to its powers under section 190 of the <i>Local Government Act 1999 (SA)</i> and section 96 of the <i>Real Property Act 1886 (SA)</i> .  |
| Opportunities  | If Council accepts the Grant of Easement, it will give long-term certainty to the City of Adelaide with respect to its right to retain the 'ramp infrastructure' on a small portion of the adjoining land and also the right to pass and repass (on foot only) over that land.   |
| 23/24 Budget<br>Allocation   | Not as a result of this report   |
| Proposed 24/25<br>Budget Allocation                                    | Not as a result of this report   |
| Life of Project,<br>Service, Initiative<br>or (Expectancy of)<br>Asset | The Grant of Easement is permanent and can only be extinguished with the consent of the grantor and grantee of the easement.   |
| 23/24 Budget<br>Reconsideration<br>(if applicable)                     | Not as a result of this report   |
| Ongoing Costs<br>(eg maintenance<br>cost)                              | The Grant of Easement will require CoA to maintain the 'ramp infrastructure' in good repair.   |
| Other Funding<br>Sources   | Not as a result of this report   |

## DISCUSSION

1. The land coloured purple on **Attachment B** is owned by Community Corporation No. 23945 Incorporated. The Palais Apartment building exists on this land.
2. The land coloured blue on **Attachment B** is owned by the Minister for Environment and Water. Ayers House and its gardens exist on this land.
3. The land coloured yellow on **Attachment B** is currently owned by Community Corporation No. 23945 Incorporated, but will be transferred to the City of Adelaide (CoA) within the next 3-6 months. The Paxton's Walk pedestrian link exists on this land.
4. CoA recently completed a significant upgrade of Paxton's Walk. The upgrade was funded almost entirely through the State Government's 'Planning and Development Fund' (to the value of \$2.2m). The upgrade can be seen in these images. (Link 1 view [here](#)). The upgrade works include a pedestrian ramp.
5. A small portion of the pedestrian ramp (the Encroachment) has been constructed on the adjacent Ayers House land. The portion of land on which the Encroachment exists is lettered 'A' on **Attachment B** and measures approximately 0.68 metres x 3.16 metres. The extent of the encroachment is bordered in red on the image below.



6. Whilst the Encroachment was not absolutely necessary in order to complete the upgrade works, it led to better design outcomes.
7. The Encroachment has been authorised by the Minister for Environment and Water by way of a draft Grant of Easement, which is shown as **Attachment A**. The Encroachment is referred to as 'Ramp Infrastructure' in the Grant of Easement.
8. This report recommends that Council accept the Grant of Easement in order to provide CoA with long-term certainty regarding its right to retain the Encroachment on the land owned by the Minister for Environment and Water.
9. The Grant of Easement also entitles CoA and the public to 'pass and repass' (on foot only) over the portion of land lettered 'A' on **Attachment B**. This entitlement is commonly referred to as a 'Right of Way'.
10. The terms of the Grant of Easement have already been negotiated. Notwithstanding this, it is a recommendation of this report that Council authorise the Chief Executive Officer to finalise the terms of the Grant of Easement should there be an unforeseen circumstance that requires minor amendments to it.
11. 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.

# DATA AND SUPPORTING INFORMATION

**Link 1** – Paxton's Walk Upgrade images

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## ATTACHMENTS

**Attachment A** – Grant of Easement

**Attachment B** – Site Map

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- END OF REPORT -