

Encroachment of infrastructure Halifax Street

Tuesday, 3 October 2023
City Planning, Development and Business Affairs

Strategic Alignment - Thriving Communities

Public

Program Contact:

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Approving Officer:

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EXECUTIVE SUMMARY

This report provides notification to Council of the Administration's intended removal of an encroachment on Council's reserve that is classified as Community Land at 8 Catherine Helen Spence Street.

The encroachment is an enclosed structure, built from galvanised sheeting for storage purposes for The Greek on Halifax restaurant located at 75-79 Halifax Street, Adelaide.

The current Community Land Management Plan (CLMP) for the reserve does not make provision for a commercial use.

Alternatively, Council can resolve to support 'in principle' the commercial use of community land for storage. If this is the decision of Council, then this will be subject to public consultation of an amended CLMP, with the results of the public consultation presented to Council at a future date. Following this, a lease over this portion of the land can be negotiated with the commercial operator.

RECOMMENDATION

The following recommendation will be presented to Council on Tuesday, 10 October 2023 for consideration

THAT THE CITY PLANNING, DEVELOPMENT AND BUSINESS AFFAIRS COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Notes that the Administration will take steps to remove the encroachment under Section 200 of the *Local Government Act 1999 (SA)* that is located on a portion of the Community Land parcel Allotment 21 in Deposited Plan 55398 in Certificate of Title Volume 5861 Folio 864.

IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Thriving Communities Thriving Communities by increasing community use of and access to the Adelaide Park Lands and other community open space areas.
Policy	Community Consultation Policy prescribes public consultation for the amendment to a Community Land Management Plan under Section 197 of the <i>Local Government Act 1999 (SA)</i> .
Consultation	Administration must consult with the public on the Draft Community Land Management Plan.
Resource	This activity can be managed within existing resources.
Risk / Legal / Legislative	The <i>Local Government Act 1999 (SA)</i> governs the way this matter should be managed under Sections 197(1)(a)-197(1)(b) and 197(3).
Opportunities	Not as a result of this report.
23/24 Budget Allocation	Not as a result of this report.
Proposed 24/25 Budget Allocation	Not as a result of this report.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
23/24 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

DISCUSSION

1. The community land parcel is identified as Allotment 21 in Deposited Plan 55398, Certificate of Title Volume 5861 Folio 864 owned by the Corporation of the City of Adelaide and is classified as Community Land at 8 Catherine Helen Spence Street.
2. A Council must prepare and adopt a management plan for all its Community Land (Section 196 of the *Local Government Act 1999 (SA)*). All local government land (except roads) that is owned by a Council or under care, control and management is classified as Community Land. A Council can resolve to exclude land from Community Land classification.
3. The current adopted Community Land Management Plan (CLMP) can be seen in at Link 1 view [here](#).

Structure on Community Land parcel

4. The Greek on Halifax at 75-79 Halifax Street storage structure encroaches on the adjacent Community Land parcel referred to above.
5. Council inspected the encroachment during 2020. Please see Link 2 view [here](#).
6. COVID-19 shutdowns followed, and restaurants were struggling to remain open within the City. No enforcement action was taken during COVID-19 shutdowns.
7. The structure was built during 2015 with galvanised sheeting. The dimension of the structure is approximately 9.4 metres long and 2.2 metres wide and is utilised as a storeroom storing bins and surplus furniture.
8. Council currently does not allow permanent third-party structures on Community Land (non-Parklands). The only commercial activity allowed is outdoor dining.
9. The Administration is not in support of the encroachment on the Community Land.
10. The Administration will commence the encroachment removal process pursuant to Section 200 of the *Local Government Act 1999 (SA)* by contacting the owners and issue a Formal Notice to remove the infrastructure within six months.

Alternative direction

11. If Council supports in principle the commercial use of the Community Land for storage, the Administration will then proceed with the following actions:
 - 11.1 Amend the CLMP to include the commercial (storage) use on portion of Allotment 21.
 - 11.2 Conduct public consultation on the amendment to the CLMP.
 - 11.3 The Public Consultation results will be presented to Council with a request to adopt the amended plan if appropriate.
 - 11.4 The parties will enter into a commercial lease agreement to facilitate the exclusive use of the area for storage if the amendment of the CLMP is supported by Council for a term less than 5 years.

Amendments to Community Land Management Plans

12. The *Local Government Act (1999) SA*, Section 198(1) allows Council to amend or revoke the management plan by adopting a proposal for its amendment or revocation.
13. However, any amendments of a CLMP that has “significant impact” on the interests of the community require public consultation (Section 198(3) of the *Local Government Act 1999 (SA)*).
14. Minor amendments to the draft CLMP will not require public consultation if the amendment has no impact or no significant impact on the interests of the community.

DATA AND SUPPORTING INFORMATION

Link 1 - Adopted Community Land Management Plan (ACC2010/161935)

Link 2 - Encroachment (ACC2023/95598)

ATTACHMENTS

Nil

END OF REPORT