

Unnamed public road between Young Street and Eliza Street

Tuesday, 19 May 2026
Infrastructure and Public Works Committee

Strategic Alignment - Our Places

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Public

Approving Officer:
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EXECUTIVE SUMMARY

On 12 April 2022 Council resolved to authorise the Chief Executive Officer to enter into a Deed with the owners of land adjoining an unnamed private road (with a deceased owner) running between Eliza Street and Young Street, with the intent of the Deed being to transfer the road to one of those owners.

The Deed stated that the road would be transferred to one of the adjoining owners as a result of Council undertaking the following process:

- Declaring the private road to be a public road, pursuant to section 210 of the *Local Government Act 1999* (SA).
- Closing and transferring the (by then) public road to an adjoining owner by utilising the provisions of the *Roads (Opening & Closing) Act 1991* (SA).

The road was offered to the owners of all land adjoining the road, however only one owner, Young Gun Collective Pty Ltd, was interested in acquiring the road.

The Deed was negotiated and executed in accordance with Council's resolution. It sets out the terms under which the road will be transferred to Young Gun Collective Pty Ltd.

On 25 June 2024 Council resolved to declare the road a public road and, subsequently, commence a 'road process' under the *Roads (Opening & Closing) Act 1991* (SA) to close and transfer the road to Young Gun Collective Pty Ltd.

The Administration has undertaken the 'road process', including by notifying anyone 'affected' by the proposed closure and transfer. All adjoining owners of the road have requested easements over the road. SA Water has also requested an easement.

The *Roads (Opening & Closing) Act 1991* (SA) now requires Council to decide whether it wishes to:

- Make a 'Road Process Order' to close and transfer the road; and
- Grant the easements that have been requested.

The recommendation of this report is that Council consider and approve both actions above.

RECOMMENDATION

The following recommendation will be presented to Council on 26 May 2026 for consideration

THAT THE INFRASTRUCTURE AND PUBLIC WORKS COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Approves, pursuant to section 15 of the *Roads (Opening & Closing) Act 1991 (SA)*, making a 'Road Process Order' to:
 - 1.1 Close the public road lettered 'A' on Preliminary Plan 25/0004 as contained in Attachment A to Item 7.1 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 19 May 2026.
 - 1.2 Transfer the closed road to Young Gun Collective Pty Ltd, with the closed road to exist on its own certificate of title.
 2. Approves, pursuant to section 18 of the *Roads (Opening & Closing) Act 1991 (SA)* granting the following easements over the land lettered 'A' on Preliminary Plan 25/0004 as contained in Attachment A to Item 7.1 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 19 May 2026:
 - 2.1. An easement in favour of the South Australian Water Corporation for sewerage purposes (as described in Schedule 6 of the *Real Property Act 1886 (SA)*).
 - 2.2. The easement shown as Annexure 2 in the Deed relating to this matter (dated 21 May 2024) in favour of the following parties (noting that Annexure 2 to the Deed is shown as contained in Attachment B to Item 7.1 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 19 May 2026):
 - 2.2.1. The registered proprietor of the land contained within Certificate of Title Volume 5221 Folio 221 (Allotment 1 in Filed Plan 25139), with the easement being annexed to that land.
 - 2.2.2. The registered proprietor of the land contained within Certificate of Title Volume 6257 Folio 634 (Unit 1 in Strata Corporation No. 7865 Inc.), with the easement being annexed to that land.
 - 2.2.3. The registered proprietor of the land contained within Certificate of Title Volume 6257 Folio 635 (Unit 2 in Strata Corporation No. 7865 Inc.), with the easement being annexed to that land.
 - 2.2.4. The registered proprietor of the land contained within Certificate of Title Volume 6257 Folio 636 (Unit 3 in Strata Corporation No. 7865 Inc.), with the easement being annexed to that land.
 - 2.2.5. The registered proprietor of the land contained within Certificate of Title Volume 6257 Folio 634 (Common Property in Strata Corporation No. 7865 Inc.), with the easement being annexed to that land.
 - 2.3. The easement shown as Annexure 3 in the Deed relating to this matter (dated 21 May 2024) in favour of the Corporation of the City of Adelaide, noting that Annexure 3 to the Deed is shown as Attachment C to Item 7.1 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 19 May 2026.
 3. Approves, pursuant to section 18 of the *Roads (Opening & Closing) Act 1991 (SA)* granting an easement in favour of Australian Gas Networks (SA) Limited for gas supply purposes (as described in Schedule 6 of the *Real Property Act 1886 (SA)*) over the land bordered in red (indicatively) as contained in Attachment D to Item 7.1 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 19 May 2026.
 4. Authorises the Lord Mayor and Chief Executive Officer to sign and affix Council's Common Seal to a 'Road Process Order', Agreement for Transfer, or any other documents to give effect to Council's decision.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment – Our Places Support businesses to operate safely
Policy	The proposed disposal of the road to Young Gun Collective Pty Ltd was assessed by Council against its ' <i>Acquisition and Disposal of Land and Assets Policy</i> ' on 12 April 2022 when it resolved to authorise the CEO to enter into a Deed with the owners of land adjoining the road (that would facilitate the transfer of the road to one of them).
Consultation	Public notice was given of Council's intent to declare the road a public road (as is required under section 210(2)(b) of the <i>Local Government Act 1999 (SA)</i>). The <i>Roads (Opening & Closing) Act 1991 (SA)</i> required Council to notify anyone 'affected' by the proposed closure and transfer of the road to Young Gun Collective Pty Ltd.
Resource	Various costs have (and will be) incurred to transfer the road to Young Gun Collective Pty Ltd. The Deed requires Young Gun Collective Pty Ltd to pay a one-off fee to cover those costs. This process is cost neutral for Council.
Risk / Legal / Legislative	The road will be closed and transferred to Young Gun Collective Pty Ltd under the <i>Roads (Opening & Closing) Act 1991 (SA)</i> . Once the road has been transferred to Young Gun Collective Pty Ltd all risk associated with the road will also transfer to Young Gun Collective Pty Ltd.
Opportunities	Transferring the road from a long-deceased owner to a living owner (Young Gun Collective Pty Ltd) will ensure that it is managed and maintained appropriately.
25/26 Budget Allocation	Not as a result of this report
Proposed 26/27 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
25/26 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Young Gun Collective Pty Ltd will be responsible for maintaining the road once it has been transferred to them.
Other Funding Sources	Not as a result of this report

DISCUSSION

Background

1. The land labelled 'A' on Preliminary Plan 25/0004 (**Attachment A**) is a private road with a deceased owner (the 'Road').
2. In September 2021 the owner of the property adjoining the northern boundary of the Road, Young Gun Collective Pty Ltd, approached the City of Adelaide expressing an interest in acquiring the Road.
3. The acquisition of the Road can be achieved by Council undertaking a two-stage process, requiring Council to:
 - 3.1. Declare the Road a public road pursuant to section 210 of the *Local Government Act 1999* (SA).
 - 3.2. Close and transfer the Road to Young Gun Collective Pty Ltd using the *Roads (Opening & Closing) Act 1991* (SA) (the 'Roads Act').
4. On 12 April 2022 Council committed to the process described in paragraph 3, resolving:

'That Council:

 1. *Authorises the Chief Executive Officer to, subject to having first invited (and given due consideration to) offers from all adjoining owners of the road lettered 'A' on Attachment A to Item 12.4 on the Agenda for the meeting of the Council held on 12 April 2022 pursuant to Council's obligations under section 12(3)(b) of the Roads (Opening & Closing) Act 1991 (SA), negotiate the terms of a Deed (or Deeds) with one or more adjoining owners of the road, the essential terms of which will require:*
 - 1.1 *Council to declare the private road lettered 'A' on Attachment A to Item 12.4 on the Agenda for the meeting of the Council held on 12 April 2022 to be a public road.*
 - 1.2 *Council to close and transfer the (by then) public road lettered 'A' on Attachment A to Item 12.4 on the Agenda for the meeting of the Council held on 12 April 2022 to one or more of the adjoining owners of the road pursuant to the Roads (Opening & Closing) Act 1991 (SA).*
 2. *Authorises the Chief Executive Officer and Lord Mayor to execute and affix the Common Seal to Deeds and any other documents to give effect to Council's resolution.'*
5. In accordance with Council's decision, the Road was offered to all adjoining owners. Young Gun Collective Pty Ltd was the only adjoining owner interested in acquiring it.
6. The Administration engaged lawyers to draft a Deed to facilitate the two-stage process outlined in paragraph 3. The Deed was executed on 21 May 2024.
7. As per the terms of the Deed, Council declared the Road a public road on 25 June 2024, resolving:

'That Council:

 1. *Approves, pursuant to section 210 of the Local Government Act 1999 (SA), declaring the private road lettered "A" as contained in Attachment A to Item 7.6 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 18 June 2024 to be a public road.*
 2. *Approves, subject to notice of Council's decision to declare the private road lettered "A" as contained in Attachment A to Item 7.6 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 18 June 2024 to be a public road being published in the SA Government Gazette, commencing a road process pursuant to section 5 of the Roads (Opening & Closing) Act 1991 (SA) to close and transfer the land lettered "A" on Attachment A to Young Gun Collective Pty Ltd.'*

Roads (Opening & Closing) Act 1991 (SA)

8. In accordance with Council's resolution made on 25 June 2024 (refer to resolution 2 in paragraph 7) the Administration ran a 'road process' under the Roads Act, including by notifying anyone 'affected' by the proposed closure and transfer of the Road.
9. Section 13 of the Roads Act provides that anyone could either:
 - 9.1 Object to the proposed closure and transfer of the Road; or
 - 9.2 Request an easement over the Road.
10. In relation to paragraph 9.1, only one objection was received – from APA Group (gas utility). It objected to the proposal because it had gas infrastructure in the Road. It has since withdrawn its objection and instead requested an easement over the land bordered in red in **Attachment D**.

11. Paragraph 9.2, easements were requested by all adjoining owners of the Road and also SA Water. Those easements are discussed in more detail in paragraphs 19 and 20.
12. Section 15 of the Roads Act requires Council to decide whether or not to make a 'Road Process Order' to close and transfer the Road to Young Gun Collective Pty Ltd.
13. Section 16 of the Roads Act requires that in determining whether to make a 'Road Process Order' and what order should be made, Council (as the 'relevant authority' under the Roads Act) must have regard to:
 - (a) *any objections made by any person pursuant to this Act; and*
 - (b) *the plans, principles, regulations and other matters to which regard must be had by assessment authorities for determining applications for development authorisation under the Planning, Development and Infrastructure Act 2016 in relation to developments in the area to which the proposed road process order relates; and*
 - (c) *whether the land subject to the road process is reasonably required as a road for public use in view of present and likely future needs in the area; and*
 - (d) *alternative uses of the land subject to the road process that would benefit the public or a section of the public; and*
 - (e) *any other matter that the authority considers relevant.*
14. The outcomes in relation to Section 16 (a) to (e) of the Roads Act are outlined below:
 - 14.1. One objection was received – from APA Group (gas utility). It objected to the proposal because it has gas infrastructure in the Road. APA has since withdrawn its objection and instead requested an easement over the land bordered in red (indicatively) on **Attachment D**.
 - 14.2. There is nothing in the *Planning, Development and Infrastructure Act 2016* (SA) that prevents Council from closing and transferring the Road.
 - 14.3. When Council resolved (on 12 April 2022) to authorise the CEO to enter into a Deed to close and transfer the Road to Young Gun Collective Pty Ltd it was provided with the option to declare the Road a public road and retain it (i.e. not to transfer it to Young Gun Collective Pty Ltd). Council considered that it was not necessary to retain the Road as a public road.
 - 14.4. Council previously considered this matter when it made its decision on 12 April 2022 (as shown in paragraph 4). The report on which the decision was made discussed the need for Council to assess the proposed disposal of the Road against its *Acquisition & Disposal of Land and Assets Policy* which, in turn, required Council to consider '*Council's required ownership of the Land or Asset for essential civic purposes*'.
 - 14.5. There are no other matters that are considered to be relevant.

Easements

15. In relation to paragraph 9.2, all adjoining owners to the Road applied for easements over the Road, being:
 - 15.1. The owners of FP Freehold Pty Ltd.
 - 15.2. The owner of Unit 1 in Strata Corporation No. 7865 Inc.
 - 15.3. The owner of Units 2 and 3 in Strata Corporation No. 7865 Inc.
 - 15.4. The Common Property in Strata Corporation No. 7865 Inc.
16. SA Water also applied for an easement over the Road in order to protect sewerage infrastructure that it has in the Road.
17. These applications for easement were anticipated prior to commencing the 'road process'. In order to get the best possible outcome for all adjoining owners to the Road (including Young Gun Collective Pty Ltd), the terms of the easements that each of the adjoining owners (and Council) intended to request were negotiated and included in the Deed (as Annexures 2 and 3 to the Deed). Amongst other things the easements required that Young Gun Collective Pty Ltd would:
 - 17.1. Maintain the Road in good repair.
 - 17.2. Not store waste on the Road; and
 - 17.3. Allow the City of Adelaide to install and enforce 'No Stopping' parking controls on the Road.

18. Section 18(1) of the Roads Act provides that *'where the relevant authority makes a road process order for a road closure, the relevant authority may, as part of that order, make an order for the granting of an easement over land subject to the road closure'*. Council must now decide which easements it will grant.
19. Section 18(2)(b) of the Roads Act requires that a council must grant easements requested by a 'prescribed public utility'. It is a recommendation of this report therefore that Council grant:
 - 19.1 'An easement for sewerage purposes' (as described in Schedule 6 of the *Real Property Act 1886* (SA)) in favour of SA Water.
 - 19.2 'An easement for gas supply purposes' (as described in Schedule 6 of the *Real Property Act 1886* (SA)) in favour of APA Group.
20. With regard to the easements that the adjoining owners requested over the Road (pursuant to the terms of the Deed), section 18(2)(d) of the Roads Act requires that Council may only grant an easement if it *'is satisfied that the person's use or enjoyment of that adjoining or nearby land would be substantially affected if the easement were not granted'*. The easements that have been requested by the adjoining owners satisfy that test. It is, therefore, a recommendation of this report that Council grant (in favour of the adjoining owner) the easement shown as **Attachment B**.
21. With regard to the easement that Council would apply for over the Road (pursuant to the terms of the Deed), section 18(2)(c) of the Roads Act states that *'where a council is the relevant authority, the council may make an order for the granting of an easement in its own favour without application having been made by the council pursuant to Division 1'*. It is a recommendation of this report that Council grant (in favour of the Corporation of the City of Adelaide) the easement shown as **Attachment C**.

Next Steps

22. Subject to Council's consideration and adoption, the recommendations of this Report, relevant documents will be lodged with the Surveyor-General for review.
23. If satisfied that Council has run the 'road process' in accordance with the Roads Act, the Surveyor-General will recommend to the relevant State Government Minister that he/she should 'confirm' Council's 'Road Process Order'.
24. The Road will be legally transferred to Young Gun Collective Pty Ltd when notice of the Minister's confirmation appears in the SA Government Gazette.

ATTACHMENTS

Attachment A – Preliminary Plan No. 25/0004

Attachment B – Grant of Easement in favour of various adjoining owners

Attachment C – Grant of Easement in favour of the Corporation of the City of Adelaide

Attachment D – Map showing land over which APA Group has requested an easement

- END OF REPORT -