

Unnamed public road off Ward Court

Strategic Alignment - Our Economy

Public

Tuesday, 18 February 2025

Infrastructure and Public
Works Committee

Program Contact:

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Infrastructure

Approving Officer:

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EXECUTIVE SUMMARY

The Genworth Group is contracted to acquire (from the Lutheran Church of Australia and New Zealand) the land shown hatched on **Attachment A**. It would also like to acquire (from Council) the unnamed public road lettered 'A' on **Attachment A** in order to form a consolidated site that can be more readily developed (for housing).

Council may, if it chooses, transfer the road to the Genworth Group by undertaking a 'road process' under the *Roads (Opening & Closing) Act 1991 (SA)* (the Act). The 'road process' has various steps, including that Council must notify anyone 'affected' by the proposed transfer and give consideration to any objections or requests for easements over the road.

The first step under the Act is to commence the 'road process', which is the recommendation of this Report.

RECOMMENDATION

The following recommendation will be presented to Council on 25 February 2025 for consideration

THAT THE INFRASTRUCTURE AND PUBLIC WORKS COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Approves commencing a 'road process' pursuant to section 5 of the *Roads (Opening & Closing) Act 1991 (SA)* to close and transfer the unnamed public road lettered 'A' as contained in Attachment A to Item 7.3 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 18 February 2025 to the Genworth Group (or a subsidiary of) for 'market value'.
 2. Authorises the Chief Executive Officer to make a 'road process order' to close and transfer the public road lettered 'A' as contained in Attachment A to Item 7.3 on the Agenda for the meeting of the Infrastructure and Public Works Committee held on 18 February 2025 to the Genworth Group (or a subsidiary of), providing there are no objections or applications for easements in relation to the proposed closure and transfer.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment – Our Economy Transferring the unnamed public road to the Genworth Group will facilitate housing development.
Policy	The sale of the unnamed public road to the Genworth Group (for market value) is consistent with Council's ' <i>Acquisition and Disposal of Land and Assets Policy</i> '.
Consultation	The <i>Roads (Opening & Closing) Act 1991 (SA)</i> (the Act) requires Council to notify anyone that may be 'affected' by the proposed transfer of the unnamed public road to the Genworth Group – along with the public. Anyone is allowed to object to the proposed transfer or request an easement over the road. Council must give consideration to those objections and requests.
Resource	The transfer of the unnamed public road to the Genworth Group will have costs associated with it, including valuation, surveying and legal costs. These costs will be offset by a fee that all applicants must pay to Council, which is set (in Council's 'Schedule of Fees and Charges') at \$12,800.
Risk / Legal / Legislative	If Council transfers the unnamed public road, all risk associated with owning the land will be transferred to the Genworth Group. The proposed transfer of the unnamed public road to the Genworth Group can be achieved by utilising the provisions of the Act.
Opportunities	Transferring the unnamed public road to the Genworth Group will facilitate housing development.
24/25 Budget Allocation	Not as a result of this report
Proposed 25/26 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
24/25 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

Background

1. The Lutheran Church of Australia and New Zealand (LCANZ) owns all the land adjoining the unnamed public road lettered 'A' on **Attachment A** (the 'Road').
2. The LCANZ is contracted to sell the land that is shown hatched on **Attachment A** to the Genworth Group.
3. The Genworth Group would like to acquire the Road from the City of Adelaide to form a consolidated site that can be more efficiently developed for housing. The Road is 3.05 metres wide and 27.43 metres long (84 square metres).

Roads (Opening & Closing) Act 1991 (SA)

4. A council may sell a public road (or portion thereof) by closing and transferring it to an adjoining landowner by utilising the provisions of the *Roads (Opening & Closing) Act 1991 (SA)* (the Act).
5. Where a council is the 'relevant authority' under the Act (it isn't always), the closure and transfer of a road has the following key steps:
 - 5.1 The council must first decide if it agrees, in principle, to close and transfer the road. This is referred to as commencing a 'road process'.
 - 5.2 Where the road that is proposed to be closed and transferred to an adjoining landowner adjoins multiple parcels of land, the council must first invite offers from all owners of the adjoining land. If multiple offers are received, the council must determine which (if any) offer it wishes to progress.
 - 5.3 A plan and other information relating to the proposed closure and transfer must be lodged with the Surveyor-General.
 - 5.4 The council must give 'public notice' of the proposal and also notify anyone 'affected' by the proposal. Anyone is entitled to object to the proposal or request an easement over the road that is proposed to be closed and transferred.
 - 5.5 If an objection or application for easement is received, the council must meet to consider those objections and requests for easements. Parties that objected to the proposal or requested easements are entitled to attend the meeting and make submissions in support of their position. The council must then decide whether to make a 'road process order' to close and transfer the road (and what order should be made).

Acquisition and Disposal of Land and Assets Policy

6. In relation to paragraph 5.1, in deciding whether to commence a 'road process' to close and transfer the Road, Council is required to consider if the disposal of land against Council's '*Acquisition and Disposal of Land and Assets Policy*' (the 'Policy'). The Policy requires Council to consider a proposed disposal in terms of the following key criteria:
 - 6.1 Council's required ownership of the Land or Asset for essential civic purposes.
 - 6.2 Current and future alignment to Council's strategic directions.
 - 6.3 City shaping or public value add potential.
 - 6.4 Commercial and financial value of the Land or Asset.
 - 6.5 Community value of the Land or Asset.
7. In relation to paragraph 6.1, as can be seen in the image below (Image 1), the Road has been incorporated by LCANZ into a car parking area. This has been the case since at least 1997. LCANZ own all properties surrounding the Road, so the public have no need to access the Road. The LCANZ will continue to own the land to the north of the Road after the Road has been transferred to the Genworth Group, however they have indicated they will not require the Road to access their land and will not seek a Right of Way over the Road during the 'road process'.
8. In relation to paragraph 6.2, there is nothing in the City of Adelaide's 'Strategic Plan 2024/2028' that would preclude the Road being closed and transferred.
9. In relation to paragraphs 6.3 and 6.5, the dimensions of the road (3.05 metres wide) make it impractical to develop into a park and there are no other apparent 'public value' uses for it.
10. In relation to paragraph 6.4:

- 10.1 Section 3.7 of the Policy allows Council to dispose of land by direct negotiation.
- 10.2 Section 3.8 of the Policy requires that, if land disposal is not by open market, it should be sold for 'market value' (as determined by a Certified Practising Valuer). It is a recommendation of this Report that the Road be transferred for 'market value'.

Image 1



Next Steps

11. In relation to paragraph 5.2 (i.e. the requirement that Council must offer a road to all adjoining owners) LCA NZ will be the only other adjoining owner after the land hatched on **Attachment A** has been transferred to the Genworth Group. LCA NZ have confirmed they do not wish to acquire the Road.
12. Council may now, if it chooses, commence a 'road process' to close and transfer the unnamed public road lettered 'A' on **Attachment A** to the Genworth Group (the recommendation of this Report). If it does, the first step for the Administration will be to have a Certified Practising Valuer determine the 'market value' of the Road.
13. In relation to paragraph 5.5, it is a recommendation of this Report that Council authorises the Chief Executive Officer to finalise the transfer of the Road to the Genworth Group by making a 'road process order' on the condition that:
 - 13.1. no objections are received to the 'road process'; and
 - 13.2. no applications for easements over the Road are received.
14. If Council decides not to commence a 'road process', the Genworth Group will be notified.

ATTACHMENTS

Attachment A – Map showing the unnamed public road that is proposed to be closed and transferred

- END OF REPORT -