

ITEM 4

PROPOSED ROAD CLOSURE OF PATHWAY BETWEEN ADINA AVENUE AND COREEN AVENUE, WEST WOLLONGONG

This report is submitted to Council to approve the closure and sale of the public pathway which runs between Adina Avenue and Coreen Avenue, West Wollongong to adjoining property owners of Lot 91 DP 31112 (No 2 Adina Avenue, West Wollongong) and Lot 93 DP 28779 (No 8 Coreen Avenue, West Wollongong).

RECOMMENDATION

- 1 Council close the public pathway that runs between Adina Avenue and Coreen Avenue, West Wollongong and sell the closed portions, as divided between the adjoining property owners, being Lot 91 DP 31112 (No 2 Adina Avenue, West Wollongong) and Lot 93 DP 28779 (No 8 Coreen Avenue, West Wollongong).
- 2 The closure of the road be subject to the creation of easements in favour of Wollongong City Council (in respect to the drainage assets installed within the subject land) and in favour of Endeavour Energy (in respect of the overhead power lines). The subject easements will be 3.5 metres wide and variable and subject to final survey and associated Section 88B Instrument.
- 3 Upon closure of the pathway, the land vest to Council as Operational land.
- 4 Council approve the sale price of \$8,800 (GST inclusive) to each of the adjoining property owners of Lot 91 DP 31112 (No 2 Adina Avenue, West Wollongong) and Lot 93 DP 28779 (No 8 Coreen Avenue, West Wollongong) for the section of closed pathway that immediately adjoins their properties and, the owners be responsible for all costs associated with the road closure and sale.
- 5 Council grant authority for the use of the Common Seal of Council on all documents relevant to this matter, should it be required to give effect to this resolution.

REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation (Acting)

Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Business Paper Map of Public Pathway Proposed to be Closed
- 2 Photos showing pathway between Adina Avenue to Coreen Avenue

BACKGROUND

In May 2017 Council received applications from two landowners to purchase the adjoining public pathway which runs between Adina Avenue and Coreen Avenue, West Wollongong (ie from No 2 Adina Avenue and No 8 Coreen Avenue, West Wollongong). The property owners indicated in their application that they currently maintain the path themselves and have done so for many years. The area of public pathway proposed to be closed comprises an area of approximately 317m² and is zoned R2 Low Density Residential pursuant to Council's Wollongong LEP 2009.

A status search of the pathway established it was dedicated to the public at the time of subdivision in the 1960's when Euroka Street, Iraga Avenue and Adina Avenue were dedicated as public roads. Council has expended funds on the parcel with regards to periodic mowing. Other expenditure was found to relate to maintenance of infrastructure drainage assets installed within the subject land.

The applicants have highlighted in their request to purchase the pathway that they believe there is a public liability risk to Council at present with the slope of the lane and the lack of path, steps or other improvements for pedestrian safety (refer Attachment 2).

Correspondence has also been received from the property owners of No 1 Adina Avenue and No 6 Coreen Avenue, who also adjoin the pathway, indicating no objections to its closure and confirming no interest in purchasing a portion of the laneway.

Agreement has been reached with the owners of Lot 91 DP 31112 (No 2 Adina Avenue, West Wollongong) and Lot 93 DP 28779 (No 8 Coreen Avenue, West Wollongong) to purchase the portions of pathway adjoining their properties, as the individual lots will not be of sufficient area to be developed individually. The respective property owners have agreed to pay Council each the sum of \$8,800 (GST inclusive) for their respective portion of the pathway once closed. This will equate to a total amount of \$17,600 (GST inclusive) for the whole of the sections to be closed and sold. These negotiated amounts were based on market valuation advice received from Registered Valuers, Walsh & Monaghan Pty Ltd.

On closure, a plan of subdivision for first title issue and road closing will be required depending on NSW Land Registry Services guidelines. This will create the separate lots to be sold and transferred to the adjoining landowners. All costs associated with this will be borne by the applicants.

PROPOSAL

It is proposed Council close the subject public pathway between Adina Avenue and Coreen Avenue West Wollongong (refer Attachment 1).

Upon closure, Council authorise the sale of portions of the pathway to adjoining property owners, Lot 91 DP 31112 (No 2 Adina Avenue, West Wollongong) and Lot 93 DP 28779 (No 8 Coreen Avenue, West Wollongong), for the total sum of \$17,600 (GST inclusive).

The closure of the road be subject to the creation of easements in favour of Wollongong City Council (in respect to the drainage assets installed within the subject land) and in favour of Endeavour Energy (in respect to the overhead power lines). The subject easements will be 3.5 metres wide and variable and subject to final survey and associated Section 88B Instrument.

CONSULTATION AND COMMUNICATION

With the introduction of changes to the Roads Act 1993 which came into effect on 1 July 2018, Council was required to renotify the proposed closure of this pathway. This was initially undertaken on 20 September 2017 and further notified on 25 February 2019. Notice of the proposed closure was placed in the Advertiser Newspaper and letters were sent to surrounding residents and to notifiable statutory authorities.

Internal consultation was also undertaken and comments summarised below. Comments received were either in support of the closure or had no objections to the proposal.

Summary of Internal Comments	
Land Use Planning	The pathway is part of the pathway network Figtree/West Wollongong, but Council would have to expend money to put in steps to encourage its use, which would be a costly solution.
Traffic and Transport	No objection to the closure and sale and indicated it was not a priority in the Pedestrian Plan.
Parks and Open Space	This pathway is a safety hazard for our teams to maintain due to the steep gradient and operating machinery in this space, for the same reason it is our belief this site is a risk to the public for pedestrian access.
Civil Design and Civil Assets	Given this pathway is not essential, they support its closure and advise that Council would not be investing in capital improvement involving the construction of stairs to achieve relevant BCA standards. The closure of the pathway to public access is preferred over ongoing

Summary of Internal Comments	
	<p>maintenance or capital work.</p> <p>Council has drainage assets within the subject pathway and that should the closure and sale be approved, a drainage easement would need to be granted over the width and length of the pathway 3.5 metres wide in favour of Council to enable the ongoing right to drain water and to enable future access to Council's infrastructure for replacement and maintenance purposes. No vegetation plantings or structures will be permitted within the easement area to ensure overland flow is maintained.</p>
City Works, Geotechnical Services, Environment and Floodplain and Stormwater	No objections.

Five submissions were also received from members of the public, three were in support of closure and two were objecting to the proposal. 10 submissions were also received from notifiable statutory authorities, nine of which had no objections and one submission received from Endeavour Energy formally objected to the proposal.

The objection received from Endeavour Energy was based on Endeavour Energy assets located within the pathway. Endeavour Energy has indicated that it will withdraw the objection subject to an easement being created in its favour should the closure proceed. The easement to be granted would need to be over the overhead power lines the width of the pathway and 4.5 metres past the pole into the pathway and subject to final survey and Section 88B instrument being prepared and registered at Land Registry Service. It is also conditional that no vegetation or structures are permitted near the pole to enable Endeavour Energy ground maintenance workers access for inspections. As part of this process, pole inspection trenching works are required near to the pole to check if the pole is still in good condition. The Endeavour Energy workers must be able to walk from Adina Avenue to the pole and 24/7 access to the easement area is required.

The two public submissions opposing the closure were primarily concerned about the lack of footpaths and poorly maintained footpaths in the West Wollongong area.

One submission advised "that some members regularly used the accessway to attend church and that they indicated an historical aspect as one of their members used to own the property prior to subdivision, as well as teenage students who attend also use the path".

Council responded to the two public submissions advising that as this pathway is unconstructed and due to its steepness, not likely to be constructed. There are also safer and more attractive options available nearby. The adjacent walkway to the west between Yuruga Avenue and the laneway off Coreen Avenue is a much more appropriate pedestrian route option.

Consultation with Crown Lands (Road Closure Team) confirmed no objections to the proposal and vesting of the land in Council upon its closure.

Walsh & Monaghan Property Valuers were consulted in relation to the market value of the land if closed and sold.

The adjoining owners of Nos 1 and 2 Adina Avenue and Nos 6 and 8 Coreen Avenue, West Wollongong were also consulted in relation to the proposed closure and sale.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 Goal "We are a connected and engaged community".

It specifically delivers on core business activities as detailed in objective 4.3 "Our council is accountable, financially sustainable and has the trust of the community. 4.3.2 Resources (finances, technology, assets

and people) are managed effectively to ensure long term financial sustainability. Its specifically delivers on core business activities as detailed in the Property Services Service Plan 2019-20 "Manage Council's property portfolio including purchase, sale, leasing, easements and other encumbrances on Council lands."

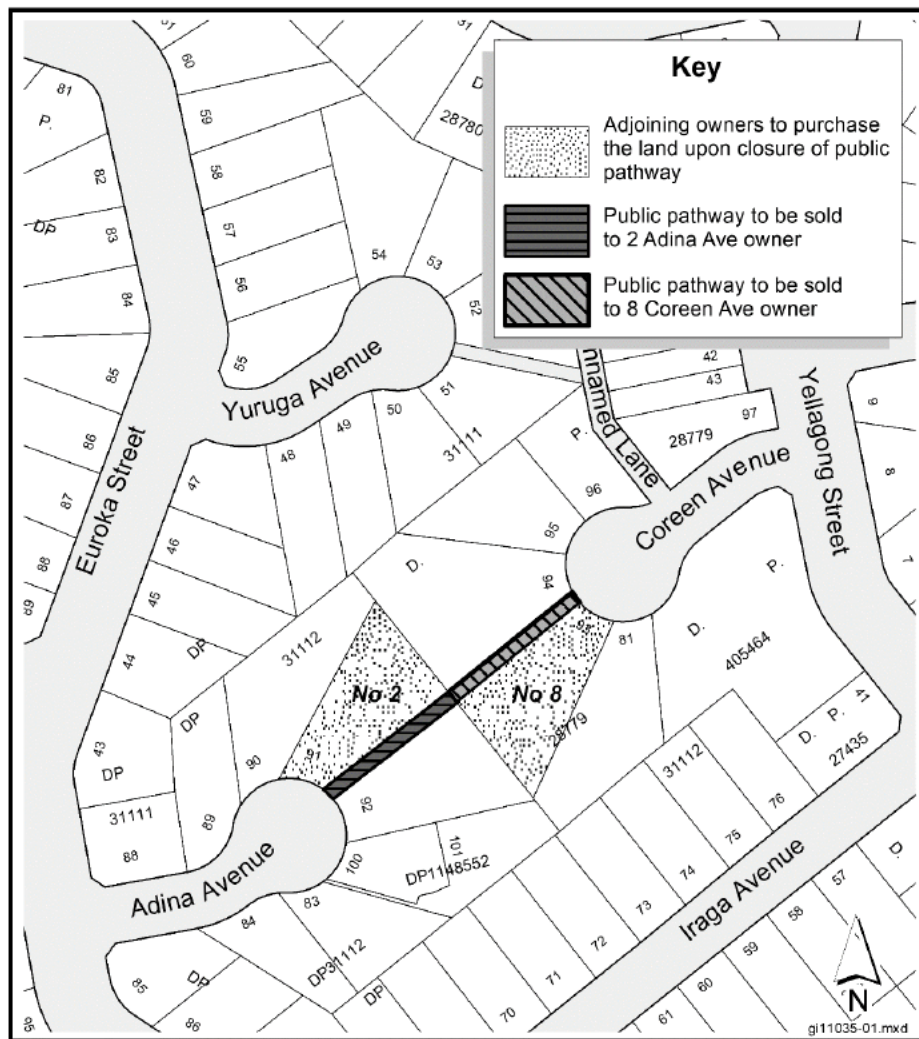
FINANCIAL IMPLICATIONS

Council will receive income of a total of \$17,600 (GST inclusive) ie \$8,800 (GST inclusive) from each of the property owners (No 2 Adina Avenue and No 8 Coreen Avenue, West Wollongong) should the road closure and sale proceed.

The applicants will be responsible for all costs associated with the road closure and sale.

CONCLUSION

Due to the steep slope of this pathway and unconstructed nature as Council would need to expend funds to improve its safety and connectivity which would be a costly solution, it is recommended the road closure and sale of this public pathway proceed. There are also better and nearby alternate pedestrian routes available. Council will also receive income from the road closure and sale.



Attachment 2 – Photo's of Pathway between Adina Avenue and Coreen Avenue West Wollongong



View of Pathway from Adina Avenue (lower end) adjoining residents No. 1 & 2 Adina Avenue



View of Pathway from Coreen Avenue (top end)
adjoining residents 6 & 8 Coreen Avenue