

ENCL NO

## DARWIN CITY COUNCIL

Date: 13/09/08

### REPORT

<b>TO:</b>	CORPORATE & ECONOMIC DEVELOPMENT COMMITTEE/OPEN	<b>APPROVED:</b>	FC
<b>FROM:</b>	DIRECTOR CORPORATE SERVICES	<b>APPROVED:</b>	LC
<b>REPORT NO:</b>	08A0172	<b>APPROVED:</b>	AB
<b>COMMON NO:</b>	1097737		
<b>SUBJECT:</b>	CLOSURE AND SALE OF WALKWAY NO 142 GREENWOOD CRESCENT TO LEE POINT ROAD, MOIL		

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#### ITEM NO:

#### SYNOPSIS:

The report recommends the permanent closure of walkway no 142.

In March this year Council resolved to close and sell walkway no 142 from Greenwood Crescent to Lee Point in Moil.

The sale of the walkway has been delayed due to the review of the Local Government Act.

In accordance with the 2008 Local Government Act and Part 7 19 (4) of the 2008 Local Government (Administrative) Regulations Council is required to consider all objections before making it's submission for permanent closure to the Minister.

This report provides details of two objections received by Council following a letter box drop to 150 local residents advising of Council decision to permanently close the walkway.

Council officers are of the opinion that two objections both of which are from the same household does not constitute sufficient opposition for Council to reconsider its position to close the walkway.

However Council officers are of the opinion that Council should reconsider the sale of the walkway pending the planned review of it's walkway policy.

**GENERAL:**

In 2003, a request was received from Mr Peter Patricks to close the walkway adjoining his property at 46 Greenwood Crescent, Lot 3512 Town of Nightcliff. At that stage Council had only a draft walkway policy and Mr Patricks was advised in 2004 that his request would receive further consideration when the policy was implemented.

A petition requesting the closure of the walkway from Greenwood Crescent to Lee Point Road, Moil was tabled at the 1<sup>st</sup> Ordinary Committee meeting held on 12 February 2008, at which Council approved that the petition be referred to the Corporate and Economic Development Committee.

Following a report to Council in March 2008 Council resolved as follows

The walkway in this report is Walkway No 142, Category B. On 25 March 2008, Council resolved to close and sell the walkway:

**8. Closure of Walkway, Greenwood Crescent to Lee Point Road, Moil**

Report No.08A0041 (08/02/08) Common No.1097737

(Ald Moir/Fox)

- A. THAT Report Number 08A0041 entitled Closure of Walkway, Greenwood Crescent to Lee Point Road, Moil be received and noted.
- B. THAT the Darwin City Council, pursuant to Section 144 (1) of the Local Government Act 1993 hereby delegates to the Director of Corporate Services, for the time being, the power to utilise discretionary powers to negotiate the sale of the Greenwood Crescent to Lee Point Road Walkway in Moil.
- C. THAT documentation associated with the sale of the Greenwood Crescent to Lee Point Road Walkway in Moil, be executed under the Council's Common Seal and signed by the Lord Mayor and Chief Executive Officer.
- D. THAT when purchasers are confirmed, the Greenwood Crescent to Lee Point Road Walkway in Moil, Walkway No 142 be closed under the Local Government (Road Opening & Closing) Regulations, and sold to adjoining owner(s).

DECISION NO.19\5902 (25/03/08)

Carried: General Consent

ACTION: DCORP  
ACTION: CA SEC (DELEGATION)  
NOTE: CEO PA

Following Council's decision in March 2008, an advertisement was placed in the NT News and a letterbox drop to 150 local residents conducted both inviting comments by 30 June 2008. Two objections were received, both of whom reside in the same household. Please find copies of the objections attached.



## LEGAL REQUIREMENTS:

Council's legal requirements in relation to the permanent closure of this walkway under the new Local Government Act are as follows

### Section 187 – Local Government Act 2008

#### Closing of roads

- (1) A council may temporarily or permanently close a road, or part of a road, under its care, control and management.
- (2) However, a road or part of a road is not to be permanently closed under subsection (1) without the Minister's consent.
- (3) If a road vested in the Territory, but situated within the area of a council, is

permanently closed, the land comprising the road vests in the council in fee simple.

## **Part 7 Sections 19 - Local Government (Administration) Regulations 2008**

### **Permanent closure of road**

- (1) Before a council submits for the Minister's consent a proposal to close a road in its area on a permanent basis, it must give public notice of the proposal.
- (2) The proposal (which must include a plan delineating the road to be closed with reasonable accuracy and detail) must be accessible on the council's website.
- (3) The notice must include an invitation to any person who may object to the proposal to lodge a written objection to the proposal within a reasonable period (at least 28 days) stated in the notice.
- (4) The council must consider any objections lodged in accordance with the invitation.
- (5) If, after publishing a notice under this regulation, the council substantially modifies its proposal (either as a result of objections or for some other reason), the council must publish a fresh notice under this regulation of the modified proposal.
- (6) When the council submits a proposal for permanent road closure to the Minister for consent, the proposal must be accompanied by:
  - (a) a report setting out the steps taken by the council to comply with this regulation; and
  - (b) copies of written objections (if any) received by the council to its proposal.

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## **RECOMMENDATIONS:**

That it be recommended to Council:-

- A. THAT report number 08A0172, entitled Closure of Walkway, Greenwood Crescent to Lee Point Road, Moil be received and noted.
- B. THAT Council confirm its previous decision 19/5902 of the 25<sup>th</sup> March 2008 and proceed to permanently close walkway 142, from Greenwood Crescent to Lee Point but that the walkway not be sold for the time being pending the proposed review of Councils walkway policy.

**LIAM CARROLL**  
**MANAGER BUSINESS SERVICES**

**FRANK CRAWLEY**  
**DIRECTOR CORPORATE SERVICES**

Any queries on this report may be directed to Liam Carroll on 5559.

## **DECISION**

9. **Closure and Sale of Walkway No 142 Greenwood Crescent to Lee Point Road, Moil**  
Report No. 08A0172 (13/09/08) Common No. 1097737

(Moir/Lesley)

- A. THAT Report Number 08A0172, entitled Closure of Walkway, Greenwood Crescent to Lee Point Road, Moil, be received and noted.
- B. THAT Council confirm its previous decision 19/5902 of the 25<sup>th</sup> March 2008 and proceed to permanently close Walkway Number 142, from Greenwood Crescent to Lee Point but that the walkway not be sold for the time being pending the proposed review of Councils walkway policy.

DECISION NO.20\0765 (30/09/08)

Carried

ACTION: DCORP