

## RIGHT OF WAY

### 1. Objective

The Town of Cottesloe recognises the importance of providing a consistent approach towards managing the identified key issues associated with Rights of Ways (ROWs), having regard to legislative requirements and other existing Council policies, strategies and guidelines.

The objectives of this policy are to provide:

- A safe environment and a trafficable surface for residents to access their properties while managing risk to the public and the Town of Cottesloe.
- An upgrade and maintenance approach for all Town of Cottesloe public Rights of Way including Laneways.
- An administrative process to obtain public Rights of Way and Laneway upgrade contributions from private developments and subdivisions, where developments impact on these streets.
- A future direction for the transfer of private laneway sections including land held by Council as private property and used by the public as access to the Crown.

### 2. Principles

The ROW network is of benefit to the whole community and the use of these routes as de-facto streets or using laneways as shortcuts should be discouraged.

There are opportunities for street frontages aesthetical improvements when properties have approved accesses through these locations. Financial contributions from developers and sub-dividers combined with the Town of Cottesloe capital budget allocations are important funding source toward the upgrade of these ROWs.

### 3. Issues

- Road surfaces are in a poor to unsealed condition
- Privately owned laneways being maintained by Council
- A lack in long term planning and conditions placed on approved developments have resulted in pavements being built in sections with no requirement to integrate with adjacent built areas or connecting streets.
- Access disruptions when service authorities and Council maintain infrastructure.
- Varying quality standards and pavement designs within a laneway constructed by different developers have resulted in costly maintenance for Council.
- Property encroachments

### 4. Policy

There are 78 ROWs within the Town of Cottesloe's 3.9km<sup>2</sup> boundary with either full or partial sections owned by the Council, Crown and private third parties. The Town recognises the functions of these corridors, where they are used by the general public rather than for a specific restricted property access function.

This policy applies to all ROWs reflected in the Right of Way Report that are owned by the Crown and vested in the Town of Cottesloe. ROW 14 has been exempted from this policy.

Elected Members, employees, residents, property owners, consultants, contractors, developers and event organisers are all expected to comply with the policy.

## **5. Intent**

All ROW or Laneway used by the general public should be Crown land vested in Council for the purpose of public access. This is constructed and maintained by Council through the allocated budget combined with developer contributions and schedule within annual road preservation programs.

The intent of this policy is to:

- Administer ownership, naming rights and property encroachments onto ROWs
- Manage co-contributions for ROW upgrades
- Provide consistency in the general design, construction and maintenance of ROWs

## **6. Administration of Right of Ways**

### **6.1 Right of Ways Ownership**

All ROWs sections owned by the Town of Cottesloe will be surrendered to the Crown through provisions within the *Local Government Act 1995*.

### **6.2 Property Encroachments onto Right of Ways**

As a general rule it is Council policy to keep ROWs open, even if un-constructed. All properties encroachments would be required to relocate fencing to the lot's Landgate cadastral boundary at the cost of the land owner. All abutting fences shall be constructed and maintained in accordance with Council's fencing Local Laws.

Owners may opt to close that section through the purchase of the encroached land area. Applications for this closure are to be considered by Council and administered through the provisions within the *Land Administration Act 1997*.

### **6.3 Naming of Right of Ways**

On request Council will consider the naming of ROWs/laneways under the care, control and management of the Town of Cottesloe on the understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular ROW/laneway or services to same.

## **7. Right of Way Upgrade Financial Contributions**

### **7.1 Development Contributions**

Where a ROW upgrade forms part of a Development Approval, the applicant (ratepayer or developer) will make a financial contribution for the full road pavement length and width of the property.

An approved development with ROW vehicle access will contribute a sum equal to the cost of sealing and draining the width and length of the property frontage. These funds combined with Council's budget will be used to reconstruct any unsealed pavement sections of that ROW. The contribution will be allocated to the Town's ROW upgrade program should that section be already sealed and drained.

The Town's estimate for the required works must be paid in full before a Building Licence is issued for the developer's construction. Fees and charges for contribution to works, supervision and inspection will be determined annually by Council in accordance with the provisions of Section 6.16 of the *Local Government Act 1995*.

The Town at its discretion may reduce this contribution in situations when the ROW section has shared access by an existing property.

In the event where financial contribution is not required, a construction bond equivalent to the right of way contribution shall be provided by the developer as securities for any pavement damages.

## **7.2 Adjacent Land Owner Contribution**

Adjacent land owners may opt to make a contribution to upgrade a laneway. The application shall contain confirmation by landowners of their request and the amount each is willing to contribute. A minimum of 50 percent of the total cost of the work, estimated by the Manager Engineering Services will be required at the time of application.

If the ROW/Laneway or section thereof already includes work previously required to be done in the preceding five years, the planned expenditure will be the Council's 50 percent co-contribution. Work will not commence until the full amount of the contribution has been received and will be subject to the availability within Council's annual budget to meet the co-contribution.

The Council will be responsible for developing and approving all designs. Developers and land owners will bear the full cost difference between their approved proposals and the Council's design.

## **8. Construction and Maintenance**

The design of the ROW and construction programming will be at the sole discretion of the Council. All upgrading works shall be done by the Council or contractors nominated by the Town of Cottesloe. All objections to any proposed ROW upgrades shall be determined by Council.

### **8.1 Design**

The design of the ROW/Laneway will recognise the need to minimize vehicle speeds and maximize safety and security. The road widths, truncations on 90° bends, 'Tee' junctions and gazetted road intersections and set back requirements have been addressed in other Council documents.

**8.2 Construction**

A construction program of ROW's will be prioritise by Council on the basis of vehicle and pedestrian usage, existing surface condition, drainage problems and condition of private fencing.

**8.3 Maintenance**

The Council will be responsible for the preservation of ROW in accordance with the maintenance management plan. Developers and land owners may be responsible for maintaining their prepared Council approved design.

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