

## Jonathon Bull (Contempo Collection)

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**From:** Glen Willert <glen@porttopub.com.au>  
**Sent:** Thursday, 7 September 2017 4:07 PM  
**To:** Jonathon Bull (Contempo Collection); Tania Willert  
**Subject:** Fwd: ROW - Florence St, Cottesloe

**From:** "Nickchen-Long, Ben" <[Ben.Nickchen-Long@planning.wa.gov.au](mailto:Ben.Nickchen-Long@planning.wa.gov.au)>  
**Date:** 7 September 2017 at 5:59:54 pm AEST  
**To:** "[glen@porttopub.com.au](mailto:glen@porttopub.com.au)" <[glen@porttopub.com.au](mailto:glen@porttopub.com.au)>  
**Subject:** ROW - Florence St, Cottesloe

Hi Glen

Further to our telephone conversation today regarding your query to the Western Australian Planning Commission (WAPC) requesting signature for the petition to have the Right of Way sealed.

I confirm the WAPC is the registered proprietor of 82, 84 and 86 Eric Street, Cottesloe with all lots abutting the subject ROW.

As advised, as the petition is to be presented to the Town of Cottesloe, as a professional courtesy to the Town and given the WAPC is a state government authority it is not in a position to sign the petition. I confirm, however, the WAPC has no objection to the proposal.

I trust the above is of assistance however if you have any questions please ask.

Kind regards

**Ben Nickchen-Long** | Land Acquisition Officer | Business and Corporate Support  
140 William Street, Perth WA 6000  
(08) 6551 9184  
[Ben.Nickchen-Long@planning.wa.gov.au](mailto:Ben.Nickchen-Long@planning.wa.gov.au) | [www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)



**Department of Planning,  
Lands and Heritage**

*The departments of Planning, Lands, State Heritage Office  
and the Aboriginal heritage and land functions of the  
Department of Aboriginal Affairs have been amalgamated  
to form the Department of Planning, Lands and Heritage.*

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

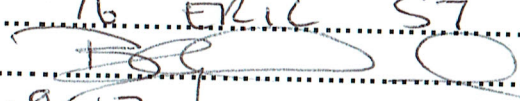
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Upgrading this ROW will:

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5. Reduce nesting areas of vermin (rats)

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I/We request that our laneway (Lane 21) be placed on the Laneway Program for drainage and sealing upgrades and the current restriction be lifted.

Home Owner Name/s:.....BRAD GIRDWOOD.....  
Address:.....76 ERIC ST.....  
Signature:..........  
Date:.....10.9.17.....

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

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I/We request that our laneway (Lane 21) be placed on the Laneway Program for drainage and sealing upgrades and the current restriction be lifted.

Home Owner Name/s: Ms SHIRLEY McPHERSON  
Address: 19 FLORENCE STREET  
Signature: Shirley McPHERSON  
Date: 9th September 2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

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Home Owner Name/s: A.B. Jenkins L.J. Jenkins  
Address: 56 Eric St, Cottesloe  
Signature: [Signature] [Signature]  
Date: 4/9/2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: G Wood GREG WOOD  
Address: 23 FLORENCE STREET COTTESLOE  
Signature: G Wood  
Date: 4/09/2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

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I/We request that our laneway (Lane 21) be placed on the Laneway Program for drainage and sealing upgrades and the current restriction be lifted.

Home Owner Name/s: Denise MALLIS  
Address: 253 CURTIN AVE COTTESLOE  
Signature: D Mallis  
Date: 9-9-17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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I/We request that our laneway (Lane 21) be placed on the Laneway Program for drainage and sealing upgrades and the current restriction be lifted.

Home Owner Name/s:.....FERGUS THOMAS.....  
Address:.....80 ERIC ST COTTESLOE.....  
Signature:.....Fergus Thomas.....  
Date:.....9/9/17.....

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: ROBERT CARBALESTIER  
Address: 60 ERIC STREET  
Signature:   
Date: 28.08.2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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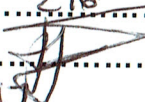
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Home Owner Name/s:..... Karen Slabbert  
Address:..... 276 Marmion Street, Cottesloe  
Signature:.....   
Date:..... 28.8.17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

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Home Owner Name/s: P. J. + MK Andell  
Address: 278 MARMION ST COTTESLOE 6011  
Signature: P. J. Andell M. Andell  
Date: 28/8/2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

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I/We request that our laneway (Lane 21) be placed on the Laneway Program for drainage and sealing upgrades and the current restriction be lifted.

Home Owner Name/s: Glen & Tania Willett  
Address: 17 Florence St, Cottesloe  
Signature: [Signature]  
Date: 13/8/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: RAY + JO COCKERILL  
Address: 21 FLORENCE ST COTTESLOE  
Signature: [Signature]  
Date: 1/9/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: Belinda and Graham Prentice  
Address: 25 Florence Street  
Signature: B Prentice  
Date: 21/8/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: Hakan Yaman  
Address: 27 Florence St, Cottesloe  
Signature: [Signature]  
Date: 20/8/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s:.....DANIELLA SHIGROV.....

Address:.....29 FLORENCE ST, FLO. COTTESLOE.....

Signature:..........

Date: 21/8/17.....

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: Luron Enterprises Pty Ltd (Aaron Caratti – Director)

Address: 33 Florence Street, Cottesloe

Signature:



Aaron Caratti

Date: 31/07/2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: JONATHAN BILL  
Address: 55 FLORENCE ST, COTTESLOE, WA, 6017  
Signature: [Signature]  
Date: 14/8/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: SUSAN GERRARD  
Address: 39 FLORENCE ST COTTESLOE  
Signature: S. Gerrard  
Date: 28/8/2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: Andrew + Sally Johnston  
Address: 41 Florence St Cottesloe 6011  
Signature: S Johnston  
Date: August 22 2017

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

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Home Owner Name/s:..... Nick & Cath Denvir  
Address:..... 45 Florence St  
Signature:..... [Signature]  
Date:..... 13/8/17.

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Home Owner Name/s: Ben & Erin Austin  
Address: 47 Florence Street  
Signature: [Signature]  
Date: 13/8/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s:.....PENNY MARCHANT  
Address:.....255 CURTIN AVE, COTT  
Signature:.....P. Marchant  
Date:.....23/8/17 -

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Home Owner Name/s: Marie Louise Cooper.

Address: 251 Curtin Ave, Cottesloe

Signature: M L Cooper

Date: 28/8/17.

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Home Owner Name/s:.....George Green.....  
Address:.....82 ERIC ST COTTESLOE.....  
Signature:.....[Signature].....  
Date:.....28/5/17.....

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s: GEORGE VENTOURAS  
Address: 76A ERIC ST COTTESLOE  
Signature: [Signature]  
Date: 28/8/19

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

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Home Owner Name/s:..... Robert and Anna Goodwin  
Address:..... 74 ERIC STREET  
Signature:..... R Goodwin  
Date:..... 28/8/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

This exemption is currently restricting the council to upgrade the laneway to allow for drainage and sealing of the right of way.

Upgrading this ROW will:

1. Stop soil erosion
2. Reduce the water and dirt that is currently flowing into the lower lying properties during rainy periods
3. Reduce the dust and dirt entering all our homes/garages during the dry spells.
4. Reduce the council's maintenance costs of the laneway.
5. Reduce nesting areas of vermin (rats)

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I/We request that our laneway (Lane 21) be placed on the Laneway Program for drainage and sealing upgrades and the current restriction be lifted.

Home Owner Name/s: CHRIS + FRANCES COURTNEY.  
Address: 82 ERIC ST. COTTESLOE.  
Signature: [Signature]  
Date: 30/8/17

Dear Residents of Eric Street, Florence Street and Curtin Avenue, Cottesloe.

We are asking residents that share Lane 21 to sign this request to remove the current exemption to not upgrade the laneway with drainage and sealing of the laneway (11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING - SUB/261 - 28 November 2011)

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Home Owner Name/s:.....

Address:.....

Signature:.....

Date:.....

MAURICE & MICHELE LIZÉE  
64 ERIC ST.  
28/08/17

**RIGHTS OF WAY / LANEWAYS**

**(1) OBJECTIVES:**

1. To provide a safe environment and trafficable surface for residents to access their properties while managing risk to the public and the Town of Cottesloe.
2. To establish a procedure for the progressive upgrading of all public Rights of Way and Laneways, by paving and drainage, using all available sources of funding.
3. To establish a procedure for private developments and subdivisions to contribute to the upgrading of public Rights of Way and Laneways, where those developments impact on those routes.
4. To establish a procedure for sections of private laneways to become Crown land, including land held by Council as private property and used by the public as access.

**(2) PRINCIPLES:**

1. To recognise that the Rights of Way (ROW)/Laneway network provides valuable access to residential and commercial properties.
2. To recognise that aesthetic improvements occur in street frontages when garages and carports are accessed from ROW's and Laneways.
3. To ensure that the costs of improvements to ROW's/Laneways are funded by developers and subdividers, if such improvements are required to service such developments.
4. To recognise that the ROW/Laneway network is of benefit to the whole community and that the Town of Cottesloe should contribute towards upgrading, if landowners wish to contribute towards ROW or Laneway upgrading.
5. To recognise that any ROW or Laneway used by the general public should be Crown land vested in Council for the purpose of public access, maintained by Council through the normal annual budgeted maintenance programs.
6. To discourage motorists from using laneways as de-facto streets or using laneways as shortcuts.

**(3) ISSUES:**

1. When compared with similar Local Government Authorities in the metropolitan area, the Town of Cottesloe has a high proportion of its ROW's and Laneways in a poor to undeveloped condition.

## TOWN OF COTTESLOE POLICY

2. A large proportion of ROW's and Laneways in the Town of Cottesloe are privately owned by the Town, with the remaining sections being either Crown land or privately owned by various individuals or companies.
3. ROW's and Laneways are being progressively built, piecemeal, due to conditions placed on developments and subdivisions, with no long term air of this construction. Such construction has not included a requirement to connect the built section to a built street or existing built Laneway or ROW.
4. ROW's and Laneways often contain Service Authorities infrastructure eg; deep sewers, water supply pipes, as well as Council installed drainage systems. Machine access is required at all times to maintain and service this infrastructure, regardless of ownership.
5. The mixture of Crown control, private ownership and Council ownership of ROW's and Laneways has created confusion in the past for staff trying to maintain these accesses while trying not to expend Council funds on privately owned sections.
6. The amount of privately owned laneway sections (by Council and individuals) requires a lot of control regarding actions, filing, knowledge of ownership etc, which could be greatly simplified by their surrender to the Crown.
7. Past completion of various short sections of ROW and Laneway construction by various contractors organised by various developers to meet development conditions have left Council with varying levels, construction standards and quality standards of these sections throughout the Town area. This will inevitably result in a variety of maintenance problems as ROW and Laneway use grows.
8. Many of the past approved laneway constructed sections have been to a 100mm thick, un-reinforced concrete standard. With vehicle weights increasing and the use of heavy machinery by Service Authorities to service their infrastructure in laneways, it is also inevitable that Council will be involved in expensive repairs to cracked and damaged concrete laneway sections. Therefore laneway surfacing should be based on flexible rather than inflexible pavements.

### **(4) POLICY:**

1. Council's attitude towards the status of ROW's/Laneways is that all such accesses should be Crown land, where they are used by the general public rather than for a specific restricted property access function.
2. Any sections of ROW's/Laneways owned by the Town of Cottesloe will be surrendered to the Crown under processes included in the *Local Government Act*. Any such sections owned by ratepayers of the Town

of Cottesloe, which become available to Council for little or no cost, will also be surrendered to the Crown for Crown land.

3. Where a Right of Way/Laneway upgrade forms part of a Development Application, the ratepayer/developer whose Development Application it is will pay for the upgrade of the Right of Way/Laneway for the full length of their property and the full width of the Right of Way/Laneway.

Where a Development Application includes the intention to use a Right of Way/Laneway for vehicle access, the ratepayer/developer whose Development Application it is will contribute a sum equal to the cost of sealing and draining the width and length of their property frontage to that laneway. If that Right of Way/Laneway is undeveloped then that contribution will be spent on the improvement of that section. If the Right of Way/Laneway is already sealed and drained then that contribution will support and will be additional to the Town's laneway upgrade program.

4. The developer may elect to have the Laneway upgrading works done by the Town of Cottesloe or by a Contractor.
  - (a) If the Town is to undertake the works, payment of the full estimated value of the works must be received by the Town before works commence.
  - (b) If the developer employs contractors, a supervision and inspection fee is to be charged, in accord with Section 6.16 of the *Local Government Act, 1995*.
5. The design of the ROW or Laneway must recognise the need to minimize vehicle speeds and maximize safety and security.
6. Notwithstanding averaging requirements for developments under the residential codes for rear setbacks and fencing specifications in Council's fencing local laws, there shall be a minimum building setback for carports and garages, to allow a minimum turning circle of six (6) metres, measured from the far side laneway boundary to the closest part of the structure, for each car bay, carport and garage designed at 90° to the laneway or ROW.
7. 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*.
8. In situations where new developments or redevelopments are not factors in laneway upgrading and the condition of particular laneways has created concern regarding unsafe conditions for drivers and pedestrians, an increased public liability risk and ongoing maintenance requirements, the following shall apply regarding upgrading:

## TOWN OF COTTESLOE POLICY

- (a) A construction program of ROW's and Laneways will be determined by priority on the basis of vehicle and pedestrian usage, existing surface condition, drainage problems and condition of private fencing.
- (b) The design of the ROW/Laneway will recognise the need to minimize vehicle speeds and maximize safety and security.
- (c) All fences abutting ROW's and Laneways shall be constructed and maintained in accordance with Council's fencing Local Laws.
- (d) The funds available for ROW/Laneway upgrading per budget year shall be total of:
  - (i) The equivalent of the total of minimum rates levied on privately owned ROW/Laneway sections per financial year; plus
  - (ii) Contributions received through the development process as covered under point #6, ie the contents of the Reserve Account for this purpose; plus
  - (iii) An amount determined by Council in each budget document, to be made available from Council funds for ROW/Laneway upgrading and construction.
- (e) Where adjacent landowners wish to contribute to the cost of construction of a ROW/Laneway or section thereof, the project will be given priority over all other such works, subject to the following:
  - (i) The application shall contain confirmation by landowners of their request for the upgrading and the amount each is willing to contribute.
  - (ii) It will be the responsibility of the applicants to collect the contributions and deliver all monies to the Council.
  - (iii) A minimum of 50% of the total cost of the work, estimated by the Council's Manager Engineering Services will be required prior to acceptance of any application. If the ROW/Laneway or section thereof already includes work previously required to be done in the preceding five years then expenditure involved will be treated as contributions, in order to assess priorities and make up the minimum of 50%.
  - (iv) Work will not commence until the full amount of the contribution has been received by the Council.
  - (v) The programming and design of the work will be at the sole discretion of the Council.
  - (vi) Applications will be approved in the order in which the full amount of the contribution is received by the Council and will be subject to the availability of funds to meet the Council's contribution through budget allocations each year.

## TOWN OF COTTESLOE POLICY

9. The higher the percentage of cost of laneway upgrading to be provided by private property owner contribution, the higher the priority of project acceptance from Council, apart from the need to allow for funding to remove public liability risks and unsafe conditions on any other ROW or Laneway.
10. As a general rule it is Council policy to keep Laneways open, even if un-constructed. Applications for closure are to be considered by Council.
11. The widths of ROW's/Laneways, the need for truncations on 90° bends, 'Tee' junctions and outlets of laneways onto gazetted roads, and set back requirements from laneways are issues dealt with in other Council documents.
12. On request Council will consider the naming of right-of-ways/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 right-of-way/laneway or services to same.
13. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW/Laneway to allow rear vehicle access, and the developer believes there is a substantial negative attitude from other affected landowners for such ROW/Laneway improvements, it is up to the developer to demonstrate to Council that attitude.
14. Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of #16 to present Council will the case to prevent such sealing and drainage.
15. The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least two thirds of all landowners affected by the proposal supporting the 'no sealing and drainage' case and accepting that any future request to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of two thirds of those owners for a differential rating payment system for those properties to fund such improvement works.

**(5) TABLE OF ROW / LANEWAYS FOR WHICH COUNCIL HAS GRANTED EXEMPTION FROM UPGRADING PURSUANT TO CLAUSES 14-16 OF THIS POLICY:**

ROW/ Laneway	Date of Council Decision
ROW 14	28 February 2011
ROW 21 (existing non sealed east-west aligned sections only)	28 November 2011

## **TOWN OF COTTESLOE POLICY**

**ADOPTION:** May, 2014  
**REVIEW:** December, 2017

**11.2.7 REQUEST FOR ROW 21 COTTESLOE TO BE EXEMPT FROM FUTURE UPGRADING**

**File No:** SUB/261  
**Attachments:** [Copy of Survey Sheets](#)  
[Plan of ROW21](#)  
[Policy Right of Way / Laneways](#)  
[Item 11.1.3 of Council Minutes 28 February 2011](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Geoff Trigg  
Manager Engineering Services  
**Proposed Meeting Date:** 22 November 2011  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The results of a survey detailing comments on the possible exclusion of ROW 21 from any future sealing works, has been received. The survey comments only cover property owners affected by the laneway. The purpose for exclusion from future sealing works is to protect bobtail lizards.

The recommendation is that Council:

1. In relation to its Rights of Way / Laneways policy, exempts the existing non sealed east-west aligned sections of ROW 21 from the need for sealing or drainage improvement, and lists that exemption in the table attached to the policy.
2. Advise in writing the landowners adjacent to ROW 21 that Council has granted the exemption.
3. Modify the 5 year Laneway Upgrading Program by removing all mention of ROW 21.

**BACKGROUND**

ROW 21 runs from Marmion Street east then turns at the east end to connect into Florence Street. Mid way along its length there is a second unsealed connection to Florence Street. The eastern end connection to Florence Street is sealed. The majority of the east / west length is unsealed.

The laneway width is 5.0 meters from Marmion Street to the central Florence Street connection and 3.0 meters for the eastern section.

The majority of the east / west section is unsealed. A sewer main runs down the laneway.

There have been no requests for sealing in recent years. ROW 21 is on the 5 year program for damage improvements and sealing for 2013/2014 and 2014/2015.

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Council currently owns this laneway in ~~fee simple~~

### **STRATEGIC IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Council's Right of Way / Laneways policy applies.

### **STATUTORY ENVIRONMENT**

There are no statutory requirements for Council to either seal or not seal its laneways.

### **FINANCIAL IMPLICATIONS**

Council's 5 year upgrading program includes this laneway for damage and sealing, over 2 financial years, for a total of \$100,000. These funds could be re-directed if the work is cancelled.

### **SUSTAINABILITY IMPLICATIONS**

The reason given in the survey for the rejection of laneway upgrading is ~~that~~ this would protect our bobtails who live and commute from house to house. To protect our Flora and Fauna for our children's future.

### **CONSULTATION**

All affected properties appear to have been contacted and asked to fill out the survey form. The received signatures agreeing with the proposal cover the vast majority of owners / residents.

### **STAFF COMMENT**

In regards to the inclusion of this laneway in the 5 year program for laneway upgrading, the laneway can easily be removed from ~~the list~~ in the program. This change can be reflected in February 2012 when all updated 5 year programs are presented to Council.

When considering the application of Council's Rights of Way / Laneways policy to this proposal, clauses 15&16 apply as well as Table 5:

15. Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of #16 to present Council with the case to prevent such sealing and drainage.
16. The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least two thirds of all landowners affected by the proposal supporting the ~~no~~ sealing and drainage case and accepting that any future requests to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of two thirds of those owners for

a differential rating payment system for those properties to fund such improvement works.

**(5) TABLE OF ROW / LANEWAYS FOR WHICH COUNCIL HAS GRANTED EXEMPTION FROM UPGRADING PURSUANT TO CLAUSES 14-16 OF THIS POLICY:**

<b>ROW / Laneway</b>	<b>Date of Council Decision</b>
ROW 14	28 February 2011

Of the 39 affected properties support survey forms have been provided from 28 properties for the proposal. Each signed survey form includes the words:

*We the landowners adjoining Right of Way 21 accept that any future requests to Council from any affected landowners to seal and drain the ROW must include an acceptance from at least two thirds of the landowners who support this sealing / draining, for a differential rating payment system to fund works.*

The requirements of clauses 15 and 16 are therefore met by the signed forms received.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Rowell, seconded Cr Strzina**

**THAT Council:**

- 1. In relation to its Rights of Way / Laneways policy, exempts the existing non sealed east-west aligned sections of ROW 21 from the need for sealing or drainage improvement, and lists that exemption in the table attached to the policy.**
- 2. Advise in writing the landowners adjacent to ROW 21 that Council has granted the exemption.**
- 3. Modify the 5 year Laneway Upgrading Program by removing all mention of ROW 21.**

**Carried 9/0**