

**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.

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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

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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:

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- (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.

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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

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