

Right of Way Policy

Council Policy: Pol/59	Right of Way		
Reference	<i>Strategic Community Plan 2013-2023</i> Priority Area: 5 Major Strategy: 5.2	<i>Corporate Business Plan 2020 - 2024</i> Priority Area: 5 Actions: 5.2	
Responsible Officer	Director Engineering Services		
Policy Area	Engineering Services		
Council Adoption Date	27 June 2023	Version Number	
Amendment Dates		Next Review Date	

This Policy replaces all previous policies related to this topic.

1. Policy Purpose

- 1.1. Establish guidelines towards managing the administration of Rights of Ways (ROWs), having regard to legislative requirements and other existing Council policies, strategies and guidelines.
- 1.2. The intent would be to provide an unobstructed, safe trafficable surface for property access and public thoroughfare.

2. Policy Scope

- 2.1. This policy applies to all employees, contractors and entities involved with any works associated with or affecting any ROW owned or controlled by the Town of Cottesloe.
- 2.2. The associated ROW Strategy provides an approach toward any upgrade done by the Town of Cottesloe or any adjacent future development.
- 2.3. It provides a future direction towards obtaining the required funding to finance upgrades that will be completed by the Town of Cottesloe and the administration of the previous ROW contribution as part of any property development.

- 2.4. This policy will provide a process for the transfer of land held by Council as private property and used by the public as access to the Crown.
- 2.5. All privately owned ROWs are exempted from this policy.

3. Policy Requirements

3.1. Ownership

All ROWs either owned or transferred under the ownership of the Town of Cottesloe shall be reclassified as Crown land and vested to the Council in accordance with the Land Administration Act (1997). All encroachments and unauthorised use must be removed before transferring such land to the Crown.

3.2. Encroachments and Unauthorised Use

The Town does not support encroachments into ROW's under its control. Encroaching landowners shall remove all unauthorised structures and obstructions from ROW's to which this policy applies. Where an encroaching landowner puts forward a proposal alternative to removal, the alternative proposals may be referred to Council for consideration, if the CEO is of the view that the circumstances of the case are extraordinary and that the alternative proposal may have merit.

3.3. Bonds

A bond shall be held for any building and construction works that occur adjacent to or along a ROW. This will be calculated by the Manager Parks and Operations and paid for by the property developer, builder, property owner or any other third party before a building licence or work zone permit is approved for the works.

Upon completion, the laneway shall be inspected by the Manager Parks and Operations and once this officer is satisfied with the condition of the laneway, the bond will be returned. Any damage identified will either be deducted from the bond paid or repaired by the applicant.

3.4. ROW Naming

All naming of ROW shall be approved by Council. Preliminary approval shall be obtained from Landgate for any proposed name(s). Residents and property owners along the unnamed ROW will then be consulted before the matter is brought to Council for consideration. Once this has been approved by Council and Landgate, a street sign shall be installed.

3.5. ROW Upgrade and Preservation

All resurfacing, upgrades and preservation of laneways shall be consistent with the ROW Strategy. Council will fund all resurfacing works by allocating a percentage of annual property rates to a ROW reserve. All rates received from privately owned laneways shall be deposited into this reserve.

All unsealed ROWs will then be prioritised accordingly and resurfaced over a ten year program. Any deviation from the design specified within the approved ROW Strategy and the long term program shall be at the discretion of the Director of Engineering Services. The ROW Strategy shall be updated upon the completion of any upgrade or resurfacing works undertaken for each laneway.

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, the developer shall be responsible for the cost and completion of such works.

3.6. Table of Exemptions from Upgrade

The Town shall maintain a table of any ROWs for which Council has granted exemption from upgrading.

Property owners of properties adjoining such ROW's shall be consulted and the results of such consultation reported to Council prior to any upgrading work being carried out.

Right of Way Number	Date of Council Decision
14A (Volume 1909 Folio 485 P2735)	23 June 2020

4. Definitions

4.1. There are no definitions relevant to this Policy.

5. Legislation

5.1. Local Government Act (1995)

5.2. Land Administration Act (1997)

6. Other Relevant Procedures/Key Documents

6.1. ROW Strategy June 2020 Version