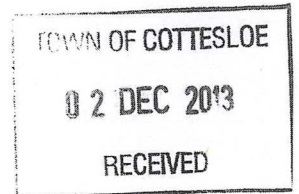


Andrew Peirce
21b Mengler Ave
CLAREMONT WA 6010



29 November 2013

The CEO
The Manager of Planning
The Manager of Engineering Services
Town of Cottesloe
109 Broome Street
COTTESLOE WA 6011

Dear Messrs

RE: 218 Broome Street – Cottesloe

My wife and I purchased one half of a subdivided lot at the above address in May 2013. We have always wanted to live in Cottesloe and a small 325m2 block became available at a price that was affordable to us. We lodged a planning application with the Town of Cottesloe in July 2013 and were granted Planning Approval shortly thereafter. (Copy attached).

In early November we lodged our application for a Building Permit with the Town of Cottesloe and subsequently received a phone call from a lady at Council advising that we would be required to pay approx. \$20,000 towards the cost of upgrading the Right of Way "ROW" at the rear of our property.

On subsequent visit to the Council to query the cost I was advised by the Manager of Engineering Services that I would be paying for the cost of upgrading the ROW to several neighbouring houses as well as my own. My wife and I have counted 12 properties with rear access garages that will be benefitting from the upgrade without bearing any of the cost associated with that upgrade.

When we received Planning Approval our architect advised us, based on discussions with a Planning officer at the Town of Cottesloe that we would just bear the cost of upgrading the section of ROW immediately behind our property.

Our submission:

After extensive reading of the Town of Cottesloe's website regarding the laneway policy we wish to appeal the imposition of a \$20,000 contribution to upgrading the ROW. Our appeal is on the basis that we have been singled out to pay all of the costs associated with upgrading the ROW while the sub-divider of the land, our immediate neighbour to the south and other neighbours accessing the right of way are either bearing none of the cost or in the case of our immediate

neighbour to the south just that portion that relates to the immediate rear of their lot.

As we are the first of the two subdivided lots to lodge our Planning Application and Building Permit we have been singled out to pay the entire ROW upgrade costs. It is our contention that the subdivider of the lot should have been required to contribute to the upgrade costs as per Council policy. Likewise our neighbour to the south who will also be garaging their cars at the rear should bear some of the cost of upgrading the ROW.

The upgrading of the ROW is of benefit to every house backing on to it, whether for motor vehicle, bicycle or pedestrian access and there is no equity in having one resident pay the cost and provide a benefit for all. It would be far more equitable for the council to apportion the costs equally to each resident backing onto the ROW if it was determined by council that an upgrade was required.

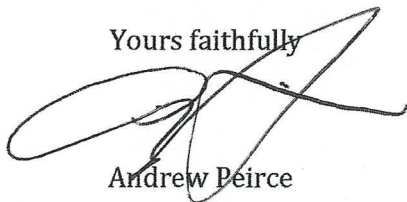
Council recognizes that aesthetic improvement to a streetscape results from garaging cars at the rear of properties and our particular block is only 7.8m wide. It would not be possible to have a double garage at the front of our lot. If both our neighbour's and we had crossovers at the front of our narrow lots it would be to the detriment of the overall streetscape.

Summary:

We are not adverse to contributing to the cost of upgrading the ROW at the rear of our lot or paying a bond to Council to organize that work as part of a more extensive upgrade. However we strongly object to paying the entire cost of upgrading a large section of the ROW, which will provide clear benefit to many others.

We believe that Council Policy in this instance is being applied in a most inequitable fashion and seek immediate reconsideration of this matter.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Andrew Peirce', written over a printed name.

Andrew Peirce

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

TOWN OF COTTESLOE POLICY

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

3. When a ROW or Laneway is required for primary access to a new development the developer will upgrade by paving, kerbing and drainage, the ROW or Laneway from the nearest built gazetted road or existing built laneway to the furthestmost lot boundary, to the satisfaction of the Manager Engineering Services.
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. When a ROW is required for primary or secondary access from an existing property redevelopment, it is conditional (Town Planning) upon the developer to contribute an amount equivalent to 50% of the costs to construct a portion of standard ROW 4m x 20m in area.
 - (a) Where a charge has been applied, as condition of development for the upgrade of a ROW, the money is to be placed in a Reserve Account established under Section 6.11 of the *Local Government Act*, for the specific purpose of ROW upgrade.
7. 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.
8. 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*.
9. 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

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
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 will 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 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

TOWN OF COTTESLOE POLICY

RESOLUTION NO: 11.1.3
ADOPTION: 28 February 2011
REVIEW: December, 2017