



CITY OF VINCENT

POLICY NO. 2.2.8

LANEWAYS AND RIGHTS OF WAY

**(Last Adopted at the Ordinary Meeting of Council held
on 5 March 2019)**

POLICY NO: 2.2.8

LANEWAYS AND RIGHTS OF WAY

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LANEWAYS AND LANEWAY/RIGHTS OF WAY

OBJECTIVES

To:

- Establish a procedure for the City and property owners to contribute towards the cost of upgrading private Laneway/Rights of Way (Laneway/Rights of Way) in accordance with Section 3.1 of the Local Government Act; and
- Ensure that Laneway/Rights of Way are acquired, paved and drained in accordance with the Council's programme on the Acquisition and Upgrade of Laneway/Rights of Way.
- Define the City's attitude, requirements and conditions with regard to the closure, part closure and amalgamation of Laneway/Rights of Way (Laneway/Rights of Way) into adjoining land.
- Define the City's attitude, requirements and conditions with regard to the dedication of private Laneway/Laneway/Rights of Way (Laneway/Rights of Way) as Public Access Roads.
- Determine minimum standards of construction for private Laneway/Rights of Way (Laneway/Rights of Way) prior to their dedication as Public Access Roads.
- Define the City's attitude, requirements and conditions with regard to the installation of bollards within Laneway/Rights of Way (Laneway/Rights of Way).

Note: This policy should be read in conjunction with Planning Policy 3.2.6, Vehicular Access and Planning Policy 3.4.6, Vehicle Access to Dwellings via a Laneway/Rights of Way.

POLICY STATEMENT

1. Maintenance

- 1.1 All privately owned Laneways/Rights of Way shall be maintained by the land owner, or in the absence of the land owner, by the adjacent property owner/s who have a legal right of access over the Laneway/Rights of Way.
- 1.2 All Laneways/Rights of Way owned by, or under the care, control and management of the City, will be maintained by the City.

2. Development of Laneways/Rights of Way

A Developer, owner or group of owners may develop a Laneway/Rights of Way or section of a Laneway/Rights of Way adjacent to their property subject to:

- 2.1 Written Prior approval being granted by the City.
- 2.2 Conformity with City’s Laneways/Rights of Way Upgrading Specification.
- 2.3 All works to be undertaken under the City’s supervision and direction.
- 2.4 The Laneways/Rights of Way upgrade extending from the lot to the nearest dedicated road.

3. Acquisition and Upgrade Program

The City will acquire and upgrade a private Laneway/Rights of Way in accordance with its adopted Laneways/Rights of Way Acquisition and Upgrade Program whereby each private Laneway/Rights of Way has been assessed, given a score and prioritized for acquisition and upgrade in accordance with the following Assessment Table approved by the Council at its Ordinary Meeting held on 27 February 2001, namely;

| Usage | Condition | Surface | Drainage | Floods | Retaining required | Fences |
|----------|---------------|----------------|-------------|--------|--------------------|--------|
| Heavy 12 | Good 0 | Paved 0 | Existing 0 | Yes 20 | Yes 1 | Good 4 |
| Medium 8 | Fair 5 | Firm Surface 4 | Easy 6 | No 0 | No 0 | Fair 2 |
| Low 4 | Impassable 10 | Sand 8 | Medium 5 | | | Poor 0 |
| None 0 | | | Difficult 4 | | | |

- 3.1 Prone to flooding – alleviating flooding issues in the Laneway/Rights of Way.
- 3.2 Usage – significant/regular use of the Laneway/Rights of Way.
- 3.3 Condition/Surface – ease of providing vehicle access in the Laneway/Rights of Way
- 3.4 Geometry – ease of access.
- 3.5 Retaining required – complexity of construction/retain property access.

4. Laneways/Rights of Way Upgrading Standard

- 4.1 Where a private developer has been granted approval to upgrade a Laneway/Rights of Way, the Laneway/Rights of Way shall to be upgraded to the City’s Laneways/Rights of Way upgrade Specification and be carried out under the City’s Supervision.
- 4.2 Future lighting of a Laneway/Rights of Way may be considered where a property has its only frontage onto the Laneways/Rights of Way, subject to the Laneway/Rights of Way being 5 metres or greater in width. Future lighting will not be considered where the property has an alternative frontage or side boundary onto an existing dedicated road, strata title, multi units, or battle-axe properties.
- 4.3 The minimum manoeuvring width of 6 metres shall be provided at all vehicle accesses from the Laneway/Rights of Way to private property. Where the Laneway/Rights of Way is 5 metres wide, the access shall be set back 1 metre. Where the Laneways/Rights of Way is 3 metres wide, the access shall be set back 3 metres. These dimensions shall be relevant to accesses on both sides of the Laneway/Rights of Way. The setback shall remain in the ownership of the private property. The setback is to be constructed in accordance with the City’s standard crossover specification.
- 4.4 Land transfer and corner truncations for sight distance and vehicle manoeuvring to be subject to the relevant Council Policies.

4.5 Property Access

Boundary levels between the Laneway/Rights of Way and the property are to be set by City prior to development approval.

5 Dedication

The Council may make a request to the Minister for Land to dedicate “*land*” as a public road, having regard for Section 56 of the Land Administration Act 1997 (Refer to attached Guidelines and Policy Procedure Clause3).

6. Obstruction

The Council may close a Laneway/Rights of Way to vehicles in accordance with Section 3.1 and 3.5 of the Local Government Act (LGA) 1995 (Refer to attached Guidelines and Policy Procedure Clause 4).

7. Naming

Refer to attached Policy Procedure Clause 5.

8. Community Consultation

Prior to proceeding with the construction of a Laneway/Rights of Way, the adjacent residents are to be notified as specified in the City’s Community Consultation Policy.

9. Significant Trees

Requests to retain any significant tree in a Laneway/Rights of Way may be approved subject to:

- 9.1 The tree being assessed as safe and in good health by the City.
- 9.2 The nominated tree be adjacent to the property owners fence who is requesting that the tree be retained.
- 9.3 The subject tree will not create an obstruction to traffic in the Laneway/Rights of Way.
- 9.4 All other vegetation in the Laneway/Rights of Way is to be removed.
- 9.5 The retained tree shall not restrict turning movement for property access to the Laneway/Rights of Way or to adjacent or opposite properties. The minimum reversing width required shall be 6 metres.
- 9.6 Any tree or vegetation be retained only on the proviso that the applicant is prepared to maintain the vegetation to an acceptable and safe standard to the satisfaction of the Director Technical Services.
- 9.7 The City reserves the right to remove any vegetation which is not maintained or in the opinion of the Director Technical Services is unsafe, dangerous or causes a hazard.

This Policy is to be read in conjunction with the following Guidelines and Policy Procedures.

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| Date Adopted: | 22 September 1997, 14 April 1998, 24 August, 1998, 12 October 1998 |
| Date Amended: | 11 October 1999, 8 & 22 August 2000, 28 February 2012, 26 June 2012, 9 April 2013, 5 March 2019 |
| Date Reviewed: | 26 August 2003, 13 May 2008, 28 February 2012, 9 April 2013 |
| Date of Next Review: | February 2018 |

GUIDELINES AND POLICY PROCEDURES FOR LANEWAYS AND RIGHTS OF WAY POLICY NO. 2.2.8

1. Paving and Draining

That in the case of dealing with written requests from the City's residents offering to contribute to the cost of upgrading private Laneway/Rights of Way, the following procedure is to be followed:

- 1.1 Upon a written request to upgrade a private Laneway/Rights of Way being received, the Executive Manager Technical Services will investigate the request to determine whether the private Laneway/Rights of Way is suitable for upgrading and a detailed estimate of the cost to upgrade the Laneway/Rights of Way to a sealed and drained standard will be determined.
- 1.2 All adjoining property owners are to be advised in writing, that a request to upgrade the private Laneway/Rights of Way has been received and advised of the Council's policy.
- 1.3 Subject to clause (v), the City will contribute up to $\frac{1}{3}$ of the overall cost to upgrade the Laneway/Rights of Way to a sealed and drained standard in accordance with the City's Laneway/Rights of Way Specification.
- 1.4 Subject to clause (v), all adjoining property owners must contribute equally a total of $\frac{2}{3}$ of the overall costs to upgrade the private Laneway/Rights of Way.
- 1.5 Where an adjoining property owner is an eligible pensioner under the Rates and Charges (Rebates and Deferments) Act, a concession of up to 50% of the required contribution will be granted in accordance with the percentage rebate entitlement that owner has for rates.
- 1.6 All adjoining property owners will be given twenty-one (21) days to sign a declaration stating that they are prepared to contribute the amount specified towards the upgrade of the Laneway/Rights of Way.
- 1.7 If all adjoining property owners sign the declaration agreeing to meet their share of the costs to upgrade the Laneway/Rights of Way, they will be requested to make payment within 30 days of notification that the Laneway/Rights of Way upgrade will take place.
- 1.8 In the case of eligible pensioners, their rebated contribution can be made over (90) days on written application.
- 1.9 An owner unable to pay within 30 days may be granted an extension to pay over 90 days on written application.
- 1.10 Requests for the upgrade of private Laneway/Rights of Way will be prioritised from the date the application is received.
- 1.11 All Laneway/Rights of Way upgrading works will be carried out by the City's workforce unless authorised by the Chief Executive Officer or nominee.

All other Laneway/Rights of Way will be dealt with in accordance with the Council's adopted program for the Upgrade of Laneway/Rights of Way.

Developers required to upgrade a portion of a Laneway/Rights of Way as a condition of development approval will NOT be eligible for a Laneway/Rights of Way subsidy as outlined in this policy.

2. Closure Part Closure and Amalgamation

Having regard for Section 52 of the Land Administration Act (LAA) 1997, a local government may request acquisition, as CLaneway/Rights of Wayn Land of certain land no longer required.

The local government can request the Minister for Lands to acquire the *private* Laneway/Rights of Way as Laneway/Rights of Wayn land. Having regard for Section 58 of the Land Administration Act 1997 a local government may make a request to the Minister for Lands to close a *public* road.

A Laneway/Rights of Way, which has been dedicated for public use, is classified as a public road.

2.1 The applicant must submit a non-refundable application fee of \$100.

Note: The process will not proceed further until the application fee has been received.

2.2 The Laneway/Rights of Way is to be inspected and the issues of that particular Laneway/Rights of Way are recorded on a data sheet, which summarises details of the Laneway/Rights of Way, including ownership status.

2.3 If the Laneway/Rights of Way is a dedicated public road, the process will proceed in accordance with Section 58 of the Land Administration Act 1997, which addresses closure of roads.

2.4 If the Laneway/Rights of Way is privately owned, the process will proceed in accordance with Section 52 of the Land Administration Act 1997, whereby local government may request acquisition as CLaneway/Rights of Wayn land of any private road no longer required.

2.5 In both cases stated in clauses 2.3 and 2.4, a list detailing names and addresses of all people who would be affected by the closure and a plan indicating the location of the Laneway/Rights of Way proposed for closure is to be prepared.

2.6 The Executive Manager Technical Services or his nominated representative in liaison with the Manager Planning and Building Services is to investigate the proposal for closure in terms of existing access, future development potential etc. This will affect the value the Department of Land Administration (DOLA) places on the land if the closure is warranted.

2.7 Upon the commencement of the closure process, a letter, a sketch plan indicating how the land is to be amalgamated into the adjoining properties, and brief outline of the proposal is to be sent to DOLA requesting a valuation based on the information supplied.

- 2.8 Standard letters are to be sent to potentially affected owners and occupiers and all suppliers of public utility services in the vicinity are to be notified, giving details of the proposal and inviting them to submit comments on the proposed closure.
- (a) The submission period for a Private Laneway/Rights of Way is 30 days (Section 52 LAA).
 - (b) The submission period for a Public Road is 35 days (Section 58 LAA).
- 2.9 Once the submission period has closed, a report is to be presented to Council detailing all the submissions received both for and against the proposal.
- 2.10 The closure will not proceed without the consent of all adjoining property owners who have an implied or expressed right of access through the Laneway/Rights of Way.
- 2.11 If the Council resolves NOT TO PROCEED with the closure, all affected persons will be advised accordingly.
- 2.12 If the Council resolves TO PROCEED with the closure, a request is to be made to the Minister for Lands, accompanied by the sketch plan indicating how the land is to be amalgamated into adjoining properties, a copy of the Council Report, and copies of all submissions received.
- 2.13 If the Minister for Lands concurs with the decision of the Council, DOLA will dispose of the land accordingly and Council would have no further involvement in the process.

3. **Dedication**

Having regard for Section 56 of the LAA 1997, a local government may make a request to the Minister for Lands to dedicate 'land' as a Public Road

- 3.1 The applicant is required to submit a non-refundable application fee of \$100.
- Note: The process will not proceed further until this fee has been paid.
- 3.2 The Laneway/Rights of Way is to be inspected and the issues of that particular Laneway/Rights of Way are recorded on a data sheet, which summarises details of the Laneway/Rights of Way, including ownership status.
- 3.3 The preferred width for a Laneway/Rights of Way proposed for dedication is a minimum of 6 metres. However, in certain cases approval may be granted to dedicate a Laneway/Rights of Way which is less than 6 metres wide. It should be noted that the minimum allowable width for a Laneway/Rights of Way proposed to be dedicated under this clause is 5 metres. All existing and future garages perpendicular to the Laneway/Rights of Way are to be set back at least one (1) metre from the property boundary to achieve the required manoeuvring space. Therefore, in some cases dedication of a Laneway/Rights of Way which is less than 6 metres wide but not less than 5 metres wide will be permitted.
- 3.4 If lighting is not already in place in the Laneway/Rights of Way this must be installed prior to dedication, at the expense of the applicant.

- 3.5 If 3.3 and 3.4 above have been satisfied, the dedication of the Laneway/Rights of Way can proceed under Section 52 of the LAA 1997.
- 3.6 An initial report is to be prepared and presented to Council, to commence the dedication process.
- 3.7 Upon Council resolving to commence the dedication process, the owner of the right of way or in the owners' absence the applicant will be required to make payment of the sum covering the cost of bringing the private Laneway/Rights of Way to the standard of a Public Road. The applicant will be required to lodge either a bond or a bank guarantee for the full upgrade cost including street lighting and the following conditions would be applicable:
- (i) The Laneway/Rights of Way must be no less than 5 metres wide, and be paved and drained in accordance with Council's Laneway/Rights of Way Upgrading specifications.
 - (ii) All public utility services must be provided (where required).
 - (iii) Street Lighting must be provided as per Council policy No. 2.2.9 and Australian Standards 1158.
 - (iv) 20kph signage as approved by MRWA must be installed.
 - (v) Street nameplates, and posts if applicable, must be in accordance with Council's Standard Street Name Plate Specification.
- 3.8 Standard letters are to be sent to the Department for Planning and Infrastructure (DPI), all affected property owners and all suppliers of public utility services, giving them details of the proposal and inviting them to submit comments on the proposed closure and dedication. The submission period is 30 days.
- 3.9 Once the submission period has closed, a second report is to be presented to Council detailing all the submissions received both for and against the proposal.
- 3.10 If the Council resolves NOT TO PROCEED with the dedication of the Laneway/Rights of Way, all affected persons will be advised accordingly and the applicant will be refunded their deposit.
- 3.11 If the Council resolves TO PROCEED with the dedication, a request is made to the Minister for Lands, accompanied by the sketch plan to describe the dimensions of the proposed road. The request should also include a copy of the report to Council and copies of all submissions received.
- 3.12 If the Minister for Lands concurs with the decision of Council, the Minister will by order grant the request.
- Note: If the private Laneway/Rights of Way is dedicated the holder of the freehold in that land is not entitled to compensation as a result of that dedication.

3.13 Once the Laneway/Rights of Way has been dedicated all works relating to the dedicated Laneway/Rights of Way including upgrading, lighting etc, can be finalised.

4. **Obstruction**

Having regard for Section 3.50 of the Local Government Act (LGA) 1995, closing certain thoroughfares to vehicles and Section 3.1 of the LGA where “*the general function of a local Government is to provide for the good government of persons in its district*”, when an application to obstruct a Laneway/Rights of Way for the purpose of prohibiting vehicular traffic is received, the following procedure is to be followed.

4.1 The applicant is required to submit a refundable bond of \$200 and a non-refundable application fee of \$100.

Note: The process will **not** proceed further until these monies have been received.

4.2 The Laneway/Rights of Way is to be inspected and the issues of the particular Laneway/Rights of Way are recorded on a data sheet, which summarizes details of the laneway, including status.

4.3 If the Laneway/Rights of Way is a dedicated street, the process will be in accordance with Section 3.50 of the LGA, closing certain thoroughfares to vehicles.

4.4 If the Laneway/Rights of Way is privately owned, the process will be in accordance with Section 3.1 of the LGA, which states that “*the general function of a Local Government is to provide good government of persons in its district*”.

4.5 If the Executive Manager Technical Services considers that the obstruction is warranted, standard letters are to be sent to affected owners and occupiers, giving them details of the proposal and inviting submissions (21 days) on the proposed obstruction.

4.6 Once the submission period has ended, a report is to be presented to Council detailing all the submissions received both for and against the proposal.

4.7 The Council should duly consider ALL submissions/objections and, unless there are extenuating circumstances, the obstruction will not proceed without the agreement of all adjacent property owners with an implied or expressed right of access through the Laneway/Rights of Way.

4.8 If the Council resolves NOT TO PROCEED with the obstruction, all affected persons will be advised accordingly and the \$200 bond will be refunded to the applicant.

4.9 If the Council resolves TO PROCEED with the obstruction, all affected persons will be advised accordingly that the bollards will be installed within a two-week period. The \$200 bond will be used to fund the installation of the bollards.

5. Road Naming

For the purposes of this Policy, a road is considered to be any public or private land-based thoroughfare or course navigable by vehicle or foot that can be used for assigning addresses or allowing access between points or to a feature. Examples of roads include laneways, alleyways, streets, highways, fire tracks, bike paths, malls, pedestrian access ways and walking tracks.

All road naming proposals must conform to Landgate's Policies and Standards for Geographical Naming in Western Australia (Policies and Standards).

5.1 Community Consultation

Community consultation for road naming will be undertaken in line with Landgate's Policies and Standards.

Where the City receives more than one naming proposal for any one road, preference will be given to the naming proposal which achieves the most community consent/support.

5.2 Road Naming Criteria

The following criteria is outlined in no particular order.

Naming proposals will only be considered if they are location specific and achieve/address one or more of the following criteria:

1. Aboriginal names relevant to the area in which the naming proposal is located;
2. Vincent identities, including persons with historical connections to Vincent and a proven association with the area in which the naming proposal is located. This can include:
 - persons who have made a significant contribution to the area; and/or
 - persons who have made a significant contribution to the Vincent community.
3. Prominent historic Vincent businesses, where the business has a historic association with the area and is proven to have existed over a substantial period of time and is held in strong regard by the community;
4. Flora and fauna local to the area in which the naming proposal is located; and/or
5. A culturally significant historic event, architectural style, artwork, waterway or other culturally iconic element connected with the area.

Note: All naming proposals must be accompanied by written evidence to support the proposal.

In the case of a personal name, the person's contribution to the area or community must be clearly outlined and accompanied by written evidence which may include newspaper articles, minutes of meetings, previous acknowledgements, awards or similar.

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