RIGHTS OF WAY MANAGEMENT STRATEGY

Adopted by Council 10 November 2009

Contents

Executive Summary

The City of Stirling has nearly 60 kilometres of Rights of Way (ROWs) within its jurisdiction.

To date Council has agreed to the construction, drainage and acquisition of certain ROWs that are considered to be of significant benefit to the wider community into public lanes. These comprise about 27% of the total length of all ROWs and are now dedicated as part of the City public street network.

A substantial number of ROWs still remain in private ownership. Nevertheless they tend to be perceived by the general community as public areas and there is mounting expectation for the City to resolve issues associated with their use.

The Rights of Way Management Strategy has been prepared in response to a Council directive seeking to determine its role and extent of involvement with respect to the private Rights of Way within its district, in particular the development of a program of works to dedicate and upgrade ROWs that offer strategic benefits to the community, including the provision of lighting to all dedicated laneways.

Strategy vision statement :

> ***That all private Rights of Way in the City of Stirling with potential for greater public use are constructed and managed by the City as part of its functional road network by the year 2020.***

Objectives :

- ***To upgrade and dedicate all ROWs that have potential for public use as public streets for management by the City.***
- ***To contribute to better traffic management along regional roads.***
- ***To provide street lighting to all dedicated and upgraded laneways and ROWs.***
- ***To close ROWs that offer limited benefits to the wider community.***
- ***To enhance traffic safety and accessibility around commercial developments.***
- ***To contribute to the preservation of existing streetscapes.***
- ***To minimise the negative impacts of infill developments by using ROWs for access to infill dwellings.***
- ***To rationalise the land tenure of all ROWs.***
- ***To ensure landowners contribute financially to the capital cost of upgrading and lighting their abutting ROWs/dedicated laneways.***
- ***To fund a 10 year ROWs works program using City Funds and Development Contributions.***

Focus Areas:

1. Traffic Management
2. Land Use Infill Development
3. Heritage Protection
4. Security and Residential Amenity
5. Financial Management

The major issues considered in context of the five Focus Areas include:

- Potential liability against the City.
- Lack of clearly defined legal responsibility and authority for the care, control and management of Rights of Way.
- Strategic value of Rights of Way in terms of traffic management and town planning outcomes.
- Varying standards of ROW surfacing and lack of maintenance.
- No proper streetscape for dwellings using ROWs for access.
- Security risk and lack of passive surveillance.
- Difficulty in achieving closure of ROWs in general due to disinterest and differing agendas.
- Access by essential services.
- Funding mechanisms and financial sustainability.

The strategy (in draft form) was advertised for community comment on 31 March 2009.

Rights of Way Management Strategy Outcome Table

Focus Area 1 Traffic Management

- Categories 1, 2 and 3 ROWs are sealed and drained to the City's standards.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- All dedicated laneways are illuminated with street lighting where feasible.
- Appropriate traffic control measures are implemented on dedicated laneways where necessary to contribute to safety and residential amenity.
- Increased use of Categories 1, 2 and 3 ROWs and dedicated laneways for alternative access.
- All future developments abutting ROWs or dedicated laneways are appropriately setback and contribute to improved traffic manoeuvrability and safety in ROWs.
- Category 1 ROWs are progressively widened to 6 metres as land is ceded from abutting properties on subdivision.

Focus Area 2 Land Use and Infill Development

- ROWs in infill development areas are sealed, drained and illuminated to the City's standards as part of a City works program to provide primary access to infill dwellings.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- ROWs and dedicated laneways that provide street frontage to dwellings are improved with pleasant streetscapes in the long term.
- Infill developments orientating to and using dedicated laneways for primary access are allocated street addresses that correspond to their primary access on the laneway.
- Where ROWs are available as alternative access for infill developments, battleaxe lots are no longer an acceptable standard of infill development or subdivision.
- All future developments abutting ROWs or dedicated laneways are appropriately setback and contribute to improved traffic manoeuvrability and safety in ROWs.

Focus Area 3 Heritage Protection

- Categories 1, 2 and 3 ROWs in Heritage Protection Areas are sealed, drained and illuminated (where feasible) to the City's standards.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- Categories 1, 2 and 3 ROWs in Heritage Protection Areas provide a viable alternative to the primary street network for vehicle access to the abutting properties.

Focus Area 4 Security and Residential Amenity

- Categories 1, 2 and 3 ROWs are sealed and drained to the City's standards.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- ROWs and dedicated laneways that provide street frontage to dwellings are improved with pleasant streetscapes in the long term.
- All dedicated laneways are illuminated with street lighting where feasible.
- Categories 4 and 5 ROWs are acquired as Crown reserves for management and maintenance by the City as unsealed lanes.
- That opportunity for increased passive surveillance in ROWs and dedicated laneways are provided through the implementation of appropriate development standards abutting ROWs and dedicated laneways.

Focus Area 5 Financial Management

- That a system for collecting development contributions toward the upgrade and lighting of Categories 1, 2 and 3 ROWs/dedicated laneways from adjoining owners is implemented consistently in accordance with the relevant legislation.
- The program of works involving the upgrade and lighting of ROWs and dedicated laneways being funded from a combination of City Funds and Development Contributions.
- Funds being available to complete the program of works involving the upgrade and lighting of Categories 1, 2 and 3 ROWs and dedicated laneways within 10 years.

Introduction

There are nearly 60 kilometres of private Rights of Way (ROWs) public laneways located in the City of Stirling. The majority of the ROWs are classified as private streets and as such, are not within the direct ownership, management and control of the City of Stirling. Nevertheless these areas have been a major source of ratepayers dissatisfaction and complaints to the City for many years, principally due to the absence of clear management responsibility for them. Despite their 'private' ownership status, ROWs are commonly perceived by citizens to be public areas and look to the City to address any related issues.

The City of Stirling Rights of Way Management Strategy has been prepared in response to a Council directive seeking to determine its role and extent of involvement with respect to the private ROWs within its district. In this respect, the strategy includes former ROWs that are now dedicated laneways in order that a comprehensive approach to the ROWs issue is adopted. Rear lanes which were created as part of more recent subdivisions, eg, Stirling Civic Precinct Subdivision, do not form part of this strategy as these have been formed specifically to current standards and are subject to special design guidelines. Similarly, land designated as "R.O.W." as an interim landholding pending formalisation of a future road (full width road) and not intended as bona fide laneways also do not form part of this strategy.

This strategy has been formulated with regard to the City's planning principles centring on the achievement of sustainability, community, equity, economic and diversity in the development of the City. The paper outlines a set of objectives that contribute to the realisation of the strategy vision and consideration of the relevant issues is structured around five 'Focus Areas', including the outcomes to be achieved under each relevant Focus Area. The objectives and outcomes identified in the strategy will form the basis for the development of an Implementation Plan.

The strategy (in draft form) was advertised for community comment on 31 March 2009.

Background

There are approximately 60 kilometres of private Rights of Way (from hereon referred to as ROWs) and dedicated lanes that were formerly Rights of Way (ROWs) within the City of Stirling. These are dispersed across the City's district but are mainly found in the older suburbs, such as Scarborough, Doubleview, Tuart Hill, Joondanna, Osborne Park, Yokine, Inglewood and Mount Lawley. The majority of the ROWs are 5 metres wide, however a number have been identified which are under 5 metres in width and a small number are over 5 metres wide.

The majority of the ROWs in the City of Stirling were created as part of the original greenfields subdivision in the early 1900s. A common physical feature of many subdivisions which occurred at that time was the inclusion of ROWs at the rear of properties for access by night fill carts. These ROWs were typically left as unmade tracks and, with the advent of septic waste disposal systems, became largely redundant for waste disposal purposes for many years.

Consequently, many ROWs have been left in unkempt conditions through lack of use and maintenance. Many are overgrown with vegetation and often became targets of illegal rubbish dumping. This has led to many problems affecting residents living adjacent to these ROWs, in particular:

- Security fears associated with low levels of surveillance in ROWs;
- Fire risks from overgrown vegetation;
- Vandalism;
- Pests and rodents;
- Reduced amenity and blight on the neighbourhood;
- Inappropriate use of ROWs for storage of materials and private equipment, such as trailers and dumps; and
- Disagreements between neighbours over the management of ROWs, eg, where they have been fenced or otherwise obstructed without authority.

With increased urbanization, vehicle usage and intensification of land use, interest in the use of ROWs as an alternative form of access to properties have regained popularity in recent times. However, as the ROWs were originally intended as access for night disposal carts, they were not designed with modern traffic in mind and as a result, a number of difficulties have arisen associated with their use by some owners in recent years. These issues include:

- Poor visibility and manoeuvring space for entering and exiting from private properties;
- Frequent minor collisions resulting in damage to vehicles and properties (especially fences);
- Inadequate space to pass oncoming and/or parked vehicles;
- Excessive dust, noise and vibration, affecting the amenity of adjoining residents;
- Reduced safety for pedestrians sharing the ROWs; and
- Vehicles becoming bogged in loose sand or water-filled holes.

Even though most of the ROWs are held in private ownerships and are not under the care and management of the City, the City still receive a large number of complaints about the various problems associated with ROWs and there is mounting community pressure for the City to address them. However, there is no consistency to these requests. Although many citizens would prefer not to have ROWs in their

neighbourhood, many others use the ROWs for access to their homes or wish to preserve them for future alternative access and vehemently oppose any move to close them.

In spite of the current problems associated with ROWs, it is recognised that many ROWs have the potential to offer strategic benefits to the wider community in terms of traffic management and town planning outcomes, if managed appropriately. For instance, traffic management and safety on busy roads can be improved by the use of ROWs for rear access, reducing the need for numerous crossovers and slow points on the major roads. Also, ROWs in areas with infill development potential offer a valuable alternative form of access to the rear dwelling as opposed to the creation of a conventional “battle-axe” leg for access.

In 1997 Homeswest undertook a pilot study in north Doubleview to explore the feasibility and practicality of pre-funding the upgrade of a ROW (now named “Easton Lane”) to facilitate its conversion into a public street suitable for subdivision of the adjoining lots into green title lots (with rear lots having sole access from the dedicated laneway). The overall result from the study was very positive and encouraged Council to prepare a management strategy to determine the extent of the City’s involvement in the management of all ROWs within its district.

This strategy is in response to the Council initiative to prepare a Rights of Way Management Strategy. The strategy is intended to provide a comprehensive and co-ordinated approach to the issue of ROWs management in the City of Stirling involving the upgrade and dedication of all ROWs that remain open and available for use by the public.

The upgrade of ROWs will involve the provision of surfacing, drainage and lighting which will require considerable capital funding. At present, Council’s commitment to the upgrade and dedication of ROWs deemed to have significant traffic management benefits has been pre-funded from Municipal Funds that is periodically recovered from adjoining owners/developers as development occurs. The piecemeal construction of all other ROWs are currently funded directly by owners and developers as development occurs. However, the former is subject to significant Council budget limitations from year to year and the latter is subject to development activity where consistent progress and outcome have proven difficult to realise in the short to medium term. Based on existing cost estimations, a more substantial funding commitment by Council and/or an alternative source of funding will be required if the remaining categories of ROWs are to be upgraded by the City.

Implementation of the strategy will require the preparation of an implementation plan to determine the actions necessary for realising the objectives and outcomes of the strategy and also address the issues of resource, timing, works programming, task responsibility and allocation.

City of Stirling Planning Principles

GENERAL

The Rights of Way Management Strategy has been formulated upon the following set of broad principles:

Sustainability

Sustainability requires balancing the current and future needs of the community, the environment and the economy to provide quality of life for today and tomorrow's communities.

Community Capacity

Individuals, groups and organisations will be empowered to become active citizens through the provision of information about plans and decisions that affect them, opportunities to be involved in the planning and decision making process, and support of community initiatives.

Equality & Equity

All members of the community have an equal right to enjoy a quality lifestyle and specific locations, user groups or segments of the community will not be disadvantaged. Intergenerational equity also requires that the rights and needs of future generations will also be provided for.

Financial Responsibility & Resource Efficiency

The City must be responsible and accountable in how it uses and manages public funds, assets and resources. This strategy will guide investment, spending, maintenance, and natural resource use in an efficient, equitable and sustainable manner.

Choice and Diversity

This strategy will encourage and provide for choice and diversity in lifestyle, cultures, housing, transport and environments.

SPECIFIC

In addition to the above general principles, a set of guiding principles has also been established to guide the development and implementation of this strategy and the City's management approach to ROWs. These are:

(1) The City recognises:

a) the interest shared by all adjoining owners in the future of ROWs;
b) the problems caused by some ROWs;

c) the strategic benefits to the wider community offered by some ROWs;
d) the need for the formulation and communication of a firm position on ROWs management;
e) the need for the City to take a more proactive role in managing ROWs;
f) the need for an equitable approach to the management (and funding) of ROWs;
g) the impracticality of closing some ROWs as a solution to the issue;
h) the need to ensure that ROWs that are upgraded and/or utilised with the City's permission can be used in safety for all their legitimate purposes;
i) the need for the City to ensure that all ROWs upgraded by the City are dedicated as public streets to facilitate proper management and control;
j) the current financial and legal limitations affecting Council in managing ROWs;
k) the difficulty in closing ROWs due to the need for all adjoining owners to support and bear all costs associated with a ROW closure;
l) the possibility that the circumstances affecting each ROW may change, and therefore its classification may need to be reviewed from time to time; and
m) the need to establish appropriate legal authority for procuring contributions from the adjoining owners to fund a ROW upgrade program.

(2) All ROWs in the City should be identified and classified according to a consistent framework (the Category Designation System) reflecting the strategic value and benefit to the local and/or wider community.

(3) In determining the strategic value of each ROW, the following be taken into consideration:

a) Current ownership and tenure;
b) Potential to improve traffic movement and safety;
c) Use of abutting properties for commercial purposes which could benefit from improved access to rear parking and service areas by owners, operators and patrons alike;
d) Feasibility and opportunity for closure;
e) Current use of the ROW by adjoining properties (indicated by access points, surface quality and level of maintenance and resident consultation), particularly for primary access;
f) Potential of adjoining land for infill development and access alternatives for that development, and whether using the ROW for access may assist in optimising use of land to result in more economical, sustainable and aesthetic development (including impact on streetscape);
g) Physical constraints on the functionality of the ROW (in terms of width, level and accessibility);
h) Potential costs of upgrading and maintenance (including current condition, presence of services, gradient, drainage and dimensions);
i) Heritage or other aesthetic significance of the area; and
j) Expressed community preferences, or otherwise.

(4) Where a ROW is identified as having significant strategic value to the local or wider community, its closure not be supported.

(5) That the ROW Category Designation System be used as the basis for determining the appropriate management approach for each ROW and the formulation of complementary Council policies relating to development standards and closure actions.

(6) That the ROW Category Designation System forms the general basis for the prioritisation of ROWs for upgrading and dedication under the strategy, followed by consideration for:

- ROWs that are already more than 50% sealed (indicating a high level of use, particularly usage for primary access);
- ROWs that require upgrading for traffic safety, drainage management or access to a public facility such as parks and playground;
- ROWs for which substantial upfront contributions have already been received from owners/developers; and/or
- Logistical efficiency.

(7) Where the City assumes responsibility for a ROW, the ROW be upgraded to a standard considered appropriate by the City based on its function, degree of use, public safety and amenity.

(8) That the standard for upgrading of ROWs include the provision of street lighting, where it is feasible to do so.

(9) ROWs dedicated or controlled by the City be managed with the safety of its users (including pedestrians) foremost in mind.

(10) That the City takes responsibility for all ROWs, including all Categories 4 and 5 ROWs that could not be closed.

(11) That closure of Category 4 ROWs be supported and all owners adjoining Category 4 ROWs be encouraged to pursue closure of these ROWs.

(12) That where the widening of Category 5 ROWs to 5 metres could not be achieved through the voluntary ceding of land by adjoining owners, closure of such ROWs be supported and all adjoining owners be encouraged to pursue closure of the ROW.

(13) That owners and/or developers of lots abutting the ROWs be required to contribute financially to the upgrade of the ROWs, irrespective of usage or otherwise, given the benefits that will accrue from the upgrade and their ultimate management by the City.

(14) That the required monetary contribution from owners/developers be calculated based on rates (annually revised) determined by the City's Engineering Design Business Unit for the costs of:

- Upgrade (sealing and draining) – cost per square metre of ROW multiplied by the proportional area of the ROW abutting the subject property (as determined by the lot frontage to the ROW by half the width of the ROW); and
- Lighting – cost per linear metre of ROW multiplied by the proportional lot frontage to the ROW (as determined by 50% of the lot frontage to the ROW).

(15) That the City should contribute financially towards the upgrade and maintenance of the ROWs given the benefits that will accrue to the wider community.

(16) That once a property has met its required contribution to the sealing, drainage and lighting of an abutting ROW in full, it is not liable for further contributions toward that particular component of capital work.

(17) That where a lot has frontage to more than one ROW, Council will have the discretion to determine which ROW it will be liable to contribute towards. Council's determination will be based on the existing/proposed access or the lengthier of the 2 or more ROW frontages. In any event, a lot shall not be expected to contribute towards the upgrade of more than one abutting ROW.

(18) That the requirement for infill development/subdivision adjoining ROWs to provide a 1.5m wide pedestrian access to the traditional street network be maintained to facilitate service provision and emergency access. Waiver of this requirement should only be considered in exceptional circumstances and where certain criteria is met.

(19) That the widening of ROWs to 6 metres be pursued for Category 1 ROWs only and that the required widening land be acquired progressively through the ceding of land free of costs as a condition of subdivision by adjoining land owners.

(20) That Categories 1, 2 and 3 ROWs be dedicated and upgraded to the City's standard for sealing, drainage and lighting. That Categories 4 and 5 ROWs be offered firstly for closure, which if unsuccessful, be acquired as Crown reserve for management and maintenance as unsealed ROWs.

(21) That appropriate Council policies be established to complement and contribute to the objectives of this strategy.

(22) Parking within ROWs and laneways should not be permitted due to their limited width unless specifically accommodated on adjoining land or unless the resultant width of the ROW/laneway would not preclude the safe passing of a motor vehicle.

Strategy Vision

Strategy Vision

That all private Rights of Way in the City of Stirling with potential for greater public use are constructed and managed by the City as part of its functional road network by the year 2020.

Strategy Objectives

Objective 1

To upgrade and dedicate all ROWs that have potential for public use as public streets for management by the City.

Objective 2

To contribute to better traffic management along regional roads.

Objective 3

To provide street lighting to all dedicated and upgraded laneways and ROWs.

Objective 4

To close ROWs that offer limited benefits to the wider community.

Objective 5

To enhance traffic safety and accessibility around commercial developments.

Objective 6

To contribute to the preservation of existing streetscapes.

Objective 7

To minimise the negative impacts of infill developments by using ROWs for access to infill dwellings.

Objective 8

To rationalise the land tenure of all ROWs.

Objective 9

To ensure landowners contribute financially to the capital cost of upgrading and lighting their abutting ROWs/dedicated laneways.

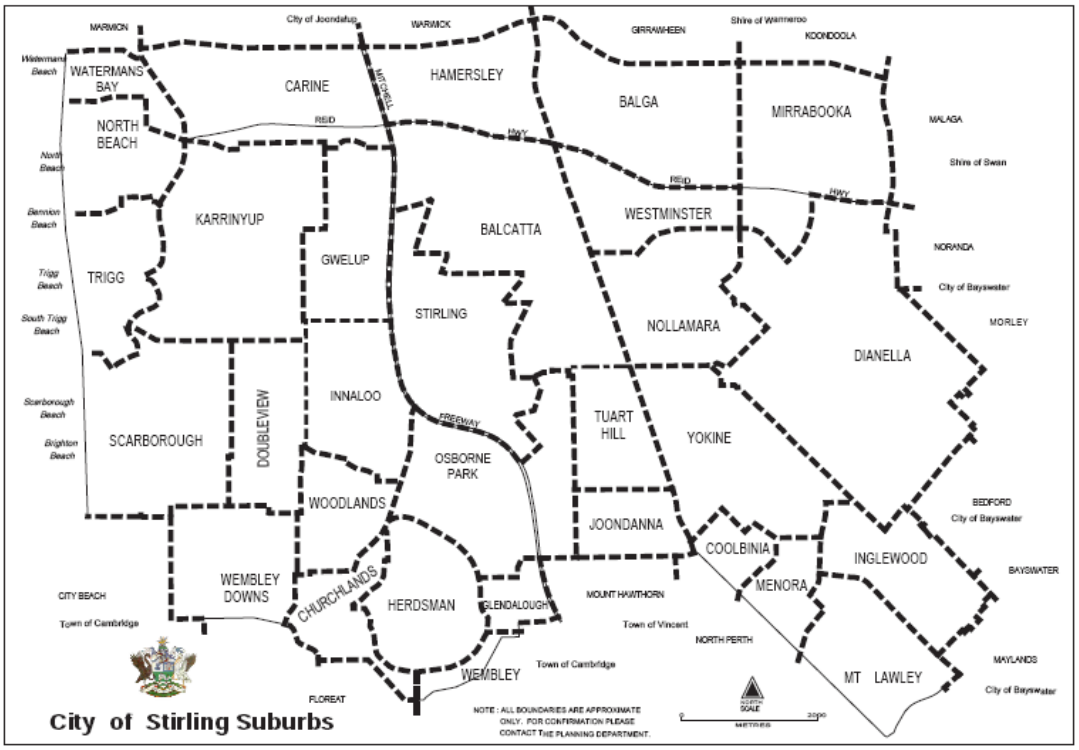
Objective 10

To fund a 10 year ROWs works program using City Funds and Development Contributions.

Planning Context

STUDY AREA

The City of Stirling covers approximately 100 square kilometres of the Perth Metropolitan Area. This strategy forms the basis for the City's approach to the management of bona fide ROWs and dedicated laneways (formerly ROWs) that currently total close of 60 kilometres in length. These ROWs are typically located in the suburbs of Scarborough, Doubleview, Tuart Hill, Joondanna, Osborne Park, Yokine, Inglewood and Mt Lawley circa early 1900's.



Map of City of Stirling Locality

STATE PLANNING CONTEXT

The following state planning policies and documents are relevant to this strategy and the issue of ROWs from a town planning perspective:

Liveable Neighbourhoods

In 1999, Council adopted the principles contained in the Department for Planning's draft *Liveable Neighbourhoods: Community Design Code*. This document recommends the design of subdivisions that are economically, environmentally and socially sustainable; provide a range of housing choice; make best use of resources through flexibility and design; and provide for a range of transport modes, particularly pedestrians. The initial document has since been revised twice before finally being adopted by the Western Australian Planning Commission in October 2007. Entitled "Liveable Neighbourhoods: a Western Australian Government Sustainable Cities

Initiative", the document is an operational policy upon which all structure plans and subdivisions are designed and assessed.

The use of ROWs as an alternative source of access for infill developments, local commercial centre developments, and off-street parking in heritage areas is seen to comply with the principles and objectives of the Liveable Neighbourhoods policy.

Western Australian Planning Commission Directives

In July 1999, the Western Australian Planning Commission released Planning Bulletin No 33 "Rights of Way or Laneways in Established Areas – Guidelines" which outlines the Commission's policy, practice and procedures in relation to residential and commercial development and subdivision adjoining ROWs. This strategy generally complies with the objectives and standards proposed in the Commission's Bulletin.

The Western Australian Planning Commission has also published Planning Bulletin No 18 "Developer Contributions for Infrastructure" and Planning Bulletin No 41 "Draft Model Text Provisions for Development Contributions" dealing with circumstances under which local authorities may seek developer contributions for infrastructure and the formulation of a Development Contribution Plan based on the model scheme text provisions, respectively. This strategy is also seen to comply with the principles and objectives of these directives.

Residential Design Codes of Western Australia

In October 2002, the Western Australian Planning Commission released the Residential Design Codes of Western Australia for implementation across the state. This document has since been revised and replaced by State Planning Policy 3.1 Residential Design Codes (Var. 1) gazetted on 29 April 2008 (the "R-Codes"). The R-Codes set the standards for residential development for single houses, grouped dwellings and multiple dwellings. The R-Codes do not directly address any issues associated with ROWs, however they do suggest that the smaller scale of ROWs as streets should entail reduced setback requirements compared to a standard width road. Council Policy N101301 'Developments Abutting Rights of Way' discussed below sets out specific standards for developments adjoining ROWs which takes precedent over certain prescriptions in the R-Codes.

CITY OF STIRLING PLANNING CONTEXT

This strategy has been prepared having regard for the following City of Stirling documents and initiatives, some of which will also serve as complementary instruments in the implementation of this strategy and may require adjustment to reflect the principles of this strategy upon final adoption:

City of Stirling Strategic Plan 2009 - 2012

The City of Stirling's Strategic Plan for 2009 - 2012 sets out the strategic direction for the City over that period. Strategic Initiative 2.3.1 "Adopt and implement the Rights of Way Management Strategy" is listed under Objective 2.3 of Goal 2 : 'To plan, develop, enhance and maintain a quality built and natural environment based on sustainability principles'. This strategy is in accordance with the directions contained in the City's Strategic Plan.

District Planning Scheme

Under clause 1.4.6.2 of the City's District Planning Scheme No 2, vehicular access to and from developments is not permitted directly via Important Regional Roads where access is available from an alternative street or a ROW. The Scheme also specifies certain areas to be Heritage Protection Areas to ensure development within these areas contribute to the preservation of the existing character, streetscape and pattern of development. This strategy recognises the strategic benefits offered by ROWs in achieving these outcomes (Categories 1 and 3 ROWs in particular) and complements the provisions of the District Planning Scheme No 2.

The City is currently completing a new Local Planning Scheme No 3 to replace District Planning Scheme No 2. The proposed new scheme is based on the Western Australian Planning Commission model scheme text containing provisions relating to Development Contribution Areas for infrastructure contributions from affected land owners. This strategy proposes to utilise the functions of the Development Contribution Areas provisions in the new Local Planning Scheme No 3 (if approved) as a funding mechanism for the implementation of ROW upgrade works under the strategy.

Heritage Protection Areas – Character Retention Guidelines

The Character Retention Guidelines adopted by Council in July 2006 for the Inglewood, Menora and Mt Lawley Heritage Protection Areas seek to, inter alia, ensure that new developments are in harmony with and reflect the character of the existing dwellings and streetscape. Wherever possible, the guidelines prescribe the use of ROWs located at the rear of properties for vehicular access. This strategy is consistent with and complements the provisions of the guidelines.

Council Policy J107100 Rights of Way Construction

This policy allows for the progressive dedication and upgrading (sealing and draining) of ROWs as public streets which meet certain specified assessment criteria, including benefits to the wider community. In practice, this currently applies to ROWs that provide traffic management benefits (Category 1 ROWs) for which Council had previously committed to a five-year implementation plan. This policy also sets out the terms for constructing a ROW by developers as part of the planning conditions under the District Planning Scheme, including the requirement to deposit a bank guarantee with the City. This policy will require revision as soon as this strategy has been formally adopted for implementation by Council.

Council Policy N101008 Rights of Way – Closures

This policy identifies the circumstances under which closure of a ROW may be considered. The policy was substantially reviewed in October 2000 to provide applicants with clear guidance as to Council's interim position on ROWs, and provides for consideration of the strategic value of a ROW through reference to its designated category. It also sets out the procedure involved in the closure process and the City's role therein, and specifies that Council's support for a closure application is also dependant on the support of all adjoining property owners.

Council Policy N101301 Developments Abutting Rights of Way

This is a development control policy which sets out the City's standards and requirements relating to developments adjacent to ROWs and enables the City to specify certain planning conditions on developments to protect the amenity and usefulness of a ROW. It includes specifications on setbacks, orientation, design and

contribution from developers towards the upgrade of ROWs in accordance with the relevant category designation. The policy also encourages the orientation to and/or use of ROWs for new developments abutting Categories 1, 2 and 3 ROWs generally. This policy was adopted by Council as an interim measure pending the finalisation of a comprehensive strategy for ROWs and will therefore be reviewed to complement the objectives of this strategy as soon as it has been finalised and adopted for implementation by Council.

Council Directives and Actions

In 1995, Council agreed to participate in the North Doubleview Laneway Pilot Project jointly with Homeswest involving the acquisition, dedication, and comprehensive upgrade of a ROW (now named Easton Lane) as part of an investigation into the feasibility of using ROWs for access to infill developments. The project was pre-funded and undertaken by Homeswest and facilitated with the support of the City. The actual cost of the ROW upgrade works is being recovered from the adjoining owners progressively as the properties are re-developed. To date approximately 80% of all contributing lots have paid their proportion of the cost. The project was completed successfully in 1997 and a follow-up assessment on the pilot project in early 1998 concluded that the Easton Lane upgrade project was a success overall and might well be repeated elsewhere.

In September 1997, whilst awaiting the final report on the North Doubleview Laneway Pilot Project, Council resolved to investigate the development of a Works Program to address the upgrading of ROWs throughout the City to address the issues of sealing, drainage and lighting.

In March 1998, Council adopted a proposed process for the development of a Management and Implementation Strategy for Rights of Way involving three stages:

1. Preparation of a Database on each ROW;
2. Formulation of Management/Policy Principles; and
3. Development of an Implementation Strategy.

Stage 1:

The creation of a database on all ROWs located in the City, involving physical inspections and document searches, was completed in 1998. The information collected includes:

- Dimensions of a ROW
- Lots and development abutting a ROW;
- Access onto a ROW and an approximate indication of use;
- Proportion of a ROW that has been sealed.

Each length of ROW was designated a unique identification number based on the associated Tax Map prefix number, and therefore, location (Maps showing the location, identification number and designated category of each ROW is at Appendix A). The information contained in the database has been used in the formulation of this strategy.

Rear lanes which were created as part of more recent subdivisions, eg, Stirling Civic Precinct Subdivision, do not form part of this strategy as these have been formed specifically to current standards and are subject to special design guidelines. Similarly, land designated as “R.O.W.” as an interim landholding pending

formalisation of a future road (full width road) and not intended as bona fide laneways also do not form part of this strategy.

Unfortunately due to resource limitation, the ROWs database had not been maintained over time, in particular the information relating to the condition of each ROW and its abutting developments, and is therefore no longer up to date. A current data set will be procured and maintained prior to implementation of the strategy.

Stage 2:

Management principles, including a system for prioritising ROWs for management purposes, were drafted and submitted to Council in April 1999, along with an 'Issues Paper'. However Council did not adopt the principles proposed but instead provided supplementary direction in the formulation of the strategy at the April 1999 and August 1999 meetings.

In accordance with Council's direction, an amended Category Designation System, with associated policy actions, was developed and subsequently adopted by Council in March 2000. A draft Rights of Way Management Strategy was then prepared based principally around the category designation system in which all ROWs were allocated into one of five priority categories according to their strategic value. The broad management principles proposed specific to each category were as follows:

Category 1 – High Strategic Value – Traffic Management & Commercial
To be upgraded over the next 5 years by the City for the benefit of the wider community.

Category 2 – Significant Strategic Value – Potential to Reduce Negative Impacts of Infill Development
To be upgraded over a longer time frame, requiring abutting owners to contribute to the cost, as and when they develop.

Category 3 – Medium Strategic Value – Heritage / Streetscape Benefit
To be left open and usage encouraged, but the City not to take an active role in upgrading or maintenance.

Category 4 – Low Strategic Value – Minimal Strategic Benefit
To be earmarked for future closure if and when possible, and to discourage use by all abutting development.

Category 5 – Special Constraints
Detailed investigation of under-width ROWs be undertaken to determine possibility of closure or utilisation.

The following factors were considered in determining the strategic value of ROWs:

(a) Current ownership or tenure;
(b) Potential to improve traffic movement and safety;
(c) Commercial use of abutting properties which benefit from increased access to rear parking and service areas, for owners, operators and customers alike;
(d) Feasibility of closure, in the long term;
(e) Current use of the ROW by adjoining properties (indicated by access points, current quality and level of maintenance and resident consultation), particularly for primary access;

(f) Potential of the adjoining land for infill development and access alternatives for that development, and whether using the ROW for access may help to optimise the use of that land, allowing for more economical, sustainable and better development (including impact on streetscape);
(g) Physical constraints on the functionality of the ROW (in terms of width, level and accessibility);
(h) Potential costs of upgrading and maintenance (including current condition, presence of services, gradient, drainage and dimensions);
(i) Heritage or other aesthetic significance of the area;
(j) Expressed community preferences, or otherwise.

The draft Rights of Way Management Strategy was considered at the Council meeting in November 2001 and a Councillor workshop in February 2002. However, the draft strategy was not adopted by Council at the time, but from the discussions that took place, revised management principles were subsequently developed. These were adopted by Council in April 2002 and specifically included:

1. There should be a general presumption against the use of ROWs for access, particularly primary access, except where:

   - Primary access already exists along the ROW;
   - The lots fronting the ROW have narrow frontages (less than 17 metres) and have infill development potential. Streetscape and design benefits of ROW utilisation are most pronounced in these instances; and
   - In some locations of the heritage protection areas with each ROW requiring assessment upon its merits.

2. Where a ROW does not meet the above criteria, the City should pursue long-term closure and methods to assist this to occur.

3. ROWs providing primary access to properties will not be closed and should ideally be dedicated, paved, drained and lit.

4. The City should identify all ROWs not currently providing primary access and seek to preclude any primary access to maintain the option of closure in the long term.

5. Where a ROW is dedicated as a public street, its use should be encouraged to maximise the benefits.

6. More detailed and up-to-date information is required on ROWs including the provision of plans to show current primary usage and other relevant issues.

The draft management strategy was accordingly revised with the following proposed management approach specific to each ROW category:

Category 1 – High Strategic Value – Traffic Management & Commercial
No of ROWs – 157, Total Length – 18.65km, Sealed – 95%

ROWs in this category have high strategic value and should be in public ownership. ROWs that have already been dedicated as public streets or owned by the City are included in this category. The recommended management approach was to: oppose closure; pre-fund and progressively upgrade, light, widen (to 6m) and dedicate as public streets; require abutting developments to

orientate to ROW; and undertake Scheme Amendment to recoup costs from owners.

Category 2 – Significant Strategic Value – Potential to Reduce Negative Impacts of Infill Development
No of ROWs – 145, Total Length – 28.1km, Sealed – 20%

ROWs in this category have significant strategic value in terms of facilitating optimal forms of future development. The recommended approach was to: oppose closure; pre-fund and progressively upgrade, light and dedicate; require abutting developments to orientate to ROW; and undertake Scheme Amendment to recoup costs from owners.

Category 3 – Medium Strategic Value – Heritage / Streetscape Benefit
No of ROWs – 19, Total Length – 3.0km, Sealed – 9%

ROWs in this category provide significant local benefits and therefore should be retained and maintained, although it was not considered necessary for Council to directly assume responsibility for them. The recommended approach was to: oppose closure and encourage use for secondary access generally; offer to upgrade at cost of abutting owners; and financial onus to remain with abutting owners for maintenance though the City may provide an optional service at cost to owners.

Category 4 – Low Strategic Value – Minimal Strategic Benefit
No of ROWs – 46, Total Length – 5.3km, Sealed – 2%

ROWs in this category are considered to offer little or no benefit to the wider community or where the cost/benefit ratio of upgrading them is likely to be excessive. The recommended approach was to support and pursue closure; not permit development with sole access to the ROW and additional vehicle access discouraged; and financial onus to remain with abutting owners for maintenance though the City may provide an optional service at cost to owners.

Category 5 – Special Constraints
No of ROWs – 38, Total Length – 3.7km, Sealed – 13%

ROWs in this category have special or unique constraints limiting their development (eg underwidth) and therefore an individual management plan is required. The recommended approach was to: conduct further individual assessment in consultation with owners as soon as possible; close where possible; widen where agreements can be reached; generally refuse additional vehicle access unless the specific constraints can be overcome; and offer optional maintenance service at cost to abutting owners.

In recognition of the significant benefit offered by Category 1 ROWs in terms of potential traffic management outcomes, in 2000, Council endorsed a program of works for the dedication, surfacing and drainage of all Category 1 ROWs over a period of 5 years whilst a comprehensive management strategy continue to be developed for the remaining Categories 2, 3, 4 and 5 ROWs. As a result of this commitment, the majority of Category 1 ROWs have now been upgraded (without lighting) and dedicated by the City. A small number of Category 1 ROWs have yet to be upgraded by the City at this stage due to the presence of certain physical/technical constraints that could not presently be overcome. These would be further investigated and if deemed unfeasible for upgrade and use, would be

considered for re-classification to an appropriate alternative category for possible closure.

In an effort to reduce the number of ROWs, in 2000 the City conducted a survey of owners whose properties abut some of the ROWs which were deemed to have low or uncertain strategic value with a view to establishing the feasibility of closing these ROWs or re-categorising them for possible closure in the long-term. The results highlighted the difficulty of closing ROWs, as the closure of a ROW would result in the removal of an established property right, consensus to closure from all adjoining owners are rarely forthcoming, particularly given that owners have to bear the costs associated with the closure, namely, purchase of the resultant land, boundary survey and relocation of fencing. The majority of ROWs subject of the closure survey did not result in closure being achieved for these reasons. The difficulty of achieving closure was further compounded by virtue of the Department for Planning's opposition to closing part of a ROW where this would result in the formation of an under-width cul-de-sac, potentially leading to traffic management problems and reduced surveillance.

In light of this, in order that a comprehensive and uniform management approach is provided under the strategy to address the ROWs issues in the long term, on 3 April 2007 Council indicated its preference for all categories of ROWs to be upgraded where it is legally and technically feasible to do so and closure is not a feasible option (for Categories 4 and 5 ROWs). This would result in all private ROWs in the City of Stirling being dedicated and managed by the City as part of the public road network in the long term. This approach represents a significant change to the earlier Council direction where only Categories 1 and 2 ROWs were to be upgraded and managed by the City.

Following community consultation undertaken by the City in May 2009, the management approach to Categories 4 and 5 ROWs was further refined such that in lieu of dedication as public streets, Categories 4 and 5 ROWs could be acquired as Crown reserves for management by the City as unsealed lanes in order to preserve the opportunity to close these ROWs in the long term whilst minimising costs.

Stage 3:

A detailed implementation plan will be developed once this strategy has been formally adopted by Council. However, recognising that an informed decision cannot be made without some indication of the cost and funding mechanism for the strategy, a Funding Options - Issues Paper was prepared in 2007 to discuss the various funding approaches and models available. This matter was the subject of a number of Councillor workshops held. More details on the financial implications are discussed under the sections 'Financial Context' and 'Focus Area 5: Financial Management' to follow.

Legal Context

The State legislations that currently have provisions relating to ROWs or private streets are generally limited to the creation of easement rights, closure of ROWs and conversion to public streets. There is a general absence of practical guidance for the day-to-day management and maintenance of private ROWs. This has contributed to the large number of complaints received by the City relating to problems associated with the use and conditions of private ROWs from adjoining owners.

The following legislations, local law and legal tenure are relevant to this strategy and the issue of ROWs:

Transfer of Land Act 1893

Section 167A(1) of the transfer of Land Act 1893 (as amended), provides that every ROW marked on a plan of survey registered with the Registrar of Titles is deemed to be an easement appurtenant to the land shown abutting the ROW on that plan, and is not a public road or thoroughfare.

Provisions of the Transfer of Land Act 1893 also provide for closure of ROWs where the registered proprietor of the ROW makes an application to the Commissioner of Titles to do so and the application is accompanied by a formal written surrender of easement/implied rights from the proprietors of all the lots shown abutting the ROWs on the original plan of subdivision and/or the proprietors of any land which have implied rights over the ROW. Given that the majority of ROW adjoin many lots involving multiple ownerships, this method of closing a ROW is rarely used in practice.

Local Government Act 1995

The Local Government Act 1995 provides minimal direct authority for local government intervention in relation to private ROWs. Section 3.25 of the Act provides authority for a local government to issue a notice to an owner or occupier of land to remove or make safe any obstruction in a private thoroughfare to prevent or minimise dangers to other users. The City of Stirling Parking Local Law 2003 contains provisions prohibiting the parking of vehicles in ROWs which is adjunctive to the powers provided under Section 3.25 of the Act.

Land Administration Act 1997

The Land Administration Act 1997 defines private roads as including ROWs created pursuant to Section 167A of the Transfer of Land Act 1893 which have not been dedicated for use by the public and forms or formed a common access to land or premises that are separately occupied. This Act contains provisions to facilitate the closure and extinguishment of private roads and the dedication of private roads as public streets.

Section 52 of the Land Administration Act provides that a local government may request the Minister for Lands to convert (thereby extinguishing the easement rights) the land contained in ROWs to Crown Land, subject to consultation with the relevant interest holders. Upon conversion of a ROW to Crown Land, the State Land Services branch of the Department for Regional Development and Lands may reserve the land as a Crown reserve or arrange for the disposal of the Crown Land to the respective adjoining property owners. As a matter of practice, State Land Services would not effect the closure of a ROW under Section 52 of the Act unless the necessary agreements are in place to dispose of the resultant land to the adjoining land owners. The costs associated with the closure, including purchase of the resultant Crown Land, boundary survey, production of duplicate title, and fencing relocation, are the responsibility of the adjoining owners.

Section 56 of the Act contains provisions to enable the dedication of certain land (including ROWs) as public roads. The Act provides that a local government may request the Minister for Lands to dedicate a ROW as a public road where: either the registered proprietor of a ROW or more than 50% of the abutting rateable owners request the local government to do so; or where a ROW has been in uninterrupted use by the public for more than 10 years.

The provisions of the Land Administration Act 1997 provide the necessary legal mechanisms for the implementation of this strategy in terms of: (i) closing, where feasible, ROWs that are considered to have minimal strategic benefit; (ii) dedicating ROWs to become public roads for control and management by the City; and (iii) acquiring ROWs as Crown reserve for management by the City as rights of way.

City of Stirling Parking Local Law 2008

The City of Stirling Parking Local Law 2008 forbids the parking of a vehicle in a ROW at any time and is a measure to control unauthorised parking in laneways obstructing access by other legitimate users of the ROW.

Land Tenure

The majority of the ROWs located in the City of Stirling are currently held in fee simple ownership. The ROWs were created at the time of the original broad-acre subdivisions in the early 1900s. In the majority of the cases, the ROWs remained as residual parcels on the original land title following the excision and transfer of the subdivided lots. Due to the easement rights in favour of the abutting lots and the consequential encumbrance over ROWs and their ownership, in most instances, the registered proprietors of the ROWs took little interest in passing ownership of the ROWs to successive owners upon their death or demise. Over time, the majority of the ownerships of ROWs became 'abandoned' and the whereabouts of the owners could not be located.

Financial Context

The estimated costs for completing the sealing, drainage and lighting of all ROWs and dedicated laneways (constructed, only lighting required) as at 2008/09 have been calculated as follows:

Upgrade:	$\$100/m^2$ – sealed and drained
Lighting:	\$135/lm (unsealed lanes) to \$165/lm (sealed lanes)
Sundry:	10% - including costs of retaining walls and replacement of fences in poor conditions
ROW Width:	5 metres (A number of Category 5 ROWs are less than 5 metres wide) – assuming all Categories 1 to 5 ROWs are currently 100% unconstructed)

ROW CATEGORIES	ROW LENGTH	UPGRADE	SUNDRY	LIGHTING	TOTAL
Dedicated/COS	16.07 km	\$160,000	\$16,000	\$2,642,000	\$2,818,000
Category 1	2.77 km	\$476,000	\$48,000	\$428,000	\$952,000
Category 2	28.50 km	\$9,918,000	\$992,000	\$4,107,000	\$5,017,000
Category 3	3.30 km	\$1,360,000	\$136,000	\$463,000	\$1,959,000
Sub-Total	*50.64 km*	*\$11,914,000*	*\$1,192,000*	*\$7,640,000*	*\$20,746,000*
Category 4*	4.97 km	\$2,266,000	\$227,000	\$684,000	\$3,177,000
Category 5*	3.35 km	\$1,434,000	\$143,000	\$467,000	\$2,044,000
Total	**58.96 km**	**\$15,614,000**	**\$1,562,000**	**\$8,791,000**	**\$25,967,000**

Based on current costs, if all categories of ROWs are upgraded and lit, the cost of works is estimated at $25.9 Million (engineering design and project management costs not included). It is expected that the anticipated cost of works will continue to escalate as a result of rising material and labour costs. There is however, scope for reducing the quantum of costs if Categories 4 and 5 ROWs are excluded from full upgrades and are only managed as unsealed lanes by the City. The cost of clearing and compacting Categories 4 and 5 ROWs for subsequent management and maintenance by the City as unsealed lanes is expected to be 20% of construction costs, a likely reduction of about $4.5 Million to the total estimated cost of works to $21.4 Million (excluding design and project management costs).

Given the costs associated with the upgrade works, funding is a significant issue that must be addressed as part of the ROW Management Strategy. A Funding Options – Issues Paper (28th February 2007) was prepared by the City to consider the various funding options available and to demonstrate the viability of the preferred option through financial modelling. The options examined include:

1. City Funds
2. No intervention
3. Developer Construction or Bond Contributions
4. Voluntary Contributions / Service Contractor
5. Specified Area Rate
6. Differential General Rate
7. Town Planning Development Scheme.

On 3 April 2007, Council indicated that the preferred funding approach is for a combination of Differential General Rates, Developer Contributions and City Funds based on a financial model that provides for works to be completed over a period of 10 years with a 20 year financial break even period where the level of contribution from the City matches the contribution from Differential General Rates. The preferred funding option and financial model was selected on a balance of user-pay principle, cost sharing, financial impact and sustainability and administrative practicality. However, the use of Differential General Rates was not supported by the Department for Regional Development and Lands (Local Government) and further investigation into the application of the ratings method revealed significant administrative complexities associated with this method of funding.

Financial management is discussed under Focus Area 5 of this strategy.

Focus Area 1: Traffic Management

RELEVANT OBJECTIVES

Objective 1: To upgrade and dedicate all ROWs that have potential for public use as public streets for management by the City.

Objective 2: To contribute to better traffic management along regional roads.

Objective 3: To provide street lighting to all dedicated and upgraded laneways and ROWs.

Objective 5: To enhance traffic safety and accessibility around commercial developments.

BACKGROUND AND GENERAL PRINCIPLES

Most ROWs are still owned in the name of the original subdivider of the land, with all adjoining owers having a legal 'right of carriageway' over them. Privately owned ROWs are classified as equivalent to a private road for legal purposes.

The only ROWs for which the City currently has responsibility are those that are owned by the City and the State, and those which have been dedicated as public streets. These currently represent about 27% of the total length of all ROWs/laneways in the City. Where a ROW is classified as a private road (as the vast majority are), the City has no control over it, and no legal obligation to maintain or upgrade it. In fact, there is strong legal and ethical argument that the City should not expend municipal funds on any privately owned land, including ROWs.

However, in spite of the private ownership of most ROWs, most citizens perceive them to be areas in the public domain as the ROWs are generally open and accessible to the public and there is an absence of an identifiable entity who exercises absolute control and authority over their use and management. Consequently, there is a general expectation from the community for the City to take responsibility for their management and maintenance.

There is also rarely any clear agreement or consensus between the residents abutting private ROWs with respect to the preferred management approach, creating further imperative for Council to become involved in mediating or to take control of the issue. It should also be noted that potential liability may exist where the City has encouraged, or even permitted, the use of privately-owned ROWs but not undertaken measures to ensure their safety, adding further weight to the need for the City to address the issue of its role in the management of ROWs. The increasing use of ROWs for primary access to dwellings, with the encouragement and approval of the City, will over time reinforce the public's perception of ROWs as part of the public street network and therefore the community's expectation for these to be managed by the Council much like the public road infrastructure network.

To improve traffic management and safety, the City generally seeks to reduce the number of access points onto Important Regional Roads in its district. To this end, District Planning Scheme No 2 prescribes that vehicle access to or from a property would not be permitted directly via an Important Regional Road if alternative access is available from an abutting ROW. In recognition of the strategic significance of ROWs that are parallel to Important Regional Roads to traffic management improvements, Council has progressively dedicated and upgraded the majority of these ROWs into public lanes.

ISSUES & OPPORTUNITIES

ROWs located at the rear of properties with frontage to major arterial roads offer an alternative and safer vehicle access point for the adjoining lots from a traffic management and safety point of view. However, it was also recognised that unless a ROW is of an adequate standard throughout its length and an entity is responsible for its management and upkeep, there is little incentive for the adjoining properties to utilise the ROW, especially where access to the primary street network has already been established. Given the potential traffic management benefit these ROWs could offer the wider community, Council considered that the upgrade of these ROWs to be of high priority and have converted the majority of these into public ownership and completed the surfacing of these ahead of other ROWs within the City. Nevertheless, the future management issues for these laneways are not dissimilar to other ROWs in the City and would best be addressed as part of a comprehensive approach to all ROWs and dedicated laneways.

In assuming responsibility for ROWs, one of the major considerations involves the issue of legal liability for the City. The City may be held liable for accidents resulting directly from negligence on its part or inadequate standard of the road for which it is responsible. Therefore, where the City chooses to be involved in the use and upgrade of a ROW, it should arrange for the land to be acquired and dedicated as a public street to ensure it has proper legal authority over the management and control of the lane. In addition, for all ROWs that are acquired by the City and dedicated as public street, these should be upgraded to an adequate standard suitable for the intended purpose, including the provision of surface sealing, drainage and lighting to these laneways. A design specification for the upgrade of ROWs that is compatible with specifications for normal roads has been prepared by the City (Appendix B). The specification has been developed with a view to meeting the desired safety and traffic standards as far as possible, whilst minimising future maintenance costs. Due to their restricted widths, dedicated laneways in the City of Stirling have not been installed with street lighting to date as a standard of upgrade but have relied on illumination from lighting on adjacent developments. However, lighting is considered to be a particularly important safety feature where the ROWs are used by both pedestrians and motor vehicles, and once dedicated as a public street, the City may be legally obliged to include street lighting of an appropriate standard.

Although not originally designed to carry modern traffic, experiences from ROWs that have been upgraded and used by adjoining properties for vehicle access indicate that ROWs are capable of carrying localised traffic. The *Liveable Neighbourhoods* policy suggests an indicative maximum traffic volume of 300 vehicles per day and a target maximum speed of 15km/hr. However this maximum speed is not enforceable by law. Nevertheless, speed reduction can be promoted through traffic calming measures such as speed humps and/or signage. For ROWs that provide primary access to the abutting properties, it is anticipated that the ROWs will be used by pedestrians and vehicles. As the width of ROWs are insufficient to allow for mode separation, it is seen as appropriate that ROWs should be treated as shared

pedestrian/traffic areas which would enable the City to impose the lowest enforceable speed limit of 40km per hour. Where this is not seen as adequately slow, traffic calming treatments may be introduced to reduce the incidence of minor collisions and degradation of road surface. This latter treatment, in the form of speed humps, have been used effectively by the City on many dedicated laneways. At this stage, it is not considered necessary or feasible to limit laneways to one-way traffic given their current low levels of use and the difficulty of policing such a regulation. Notwithstanding, in order for the City to implement the appropriate traffic control measures in a ROW, it is necessary for the ROW to be acquired and dedicated as a public street for management and control to be vested in the City.

At least 5 metres is generally required for vehicles to pass each other, and up to 6 metres for passing oncoming or parked vehicles, which should only be undertaken at low speeds. The Department for Planning recommends that dedicated laneways should be widened to 6 metres wherever possible. However, this position has changed over the years and has not been uniformly implemented and still faces obvious difficulties. The Department currently relies on owners of land abutting ROWs to cede the necessary land for widening purposes free of costs as a condition of subdivision. Contiguous widening along the whole length of a ROW/laneway will therefore unlikely to be achieved in the short to medium term, if at all, particularly for ROWs that are relatively lengthy. Therefore, whilst it is desirable for all laneways to be widened to 6 metres, in view of the difficulty in achieving contiguous widening, Council's current stance is only to require the ceding of land for the widening of Category 1 ROWs/laneways where facilitated by owners, as these are considered to offer significant strategic value to the wider community and therefore likely to have a higher level of usage.

Alternative measures that could contribute to overcoming some of the traffic and pedestrian safety concerns in ROWs/laneways include:

- Discouraging or disallowing parking and stopping of vehicles in ROWs unless specific parking spaces can be provided through widening of parts of a ROW. The latter may be possible where the City controls land or reserves abutting a ROW. Alternatively, developers could be encouraged or required to provide visitor parking area/s in addition to normal parking requirements. The City's current development policy contains special setback provisions requiring additional setback adjacent to garages or carports to accommodate one visitor parking space per development. However, in situations where a ROW provides the sole pedestrian access to a dwelling, this may, on occasion, prove inadequate. Therefore, pedestrian access from each development to an alternative parking area (usually the primary street network) needs to be provided by each development (in the form of a 1.5 m wide pedestrian access leg which extends from the development to the primary street network) to assist users to comply;
- Requiring special setbacks and visual truncations where there is vehicle access to properties from a ROW/laneway to improve manoeuvrability, driver visibility and reversing standards; and
- ROWs that are less than 5m wide to be discouraged for primary access until widening to 5m have been facilitated by the adjoining lot owners. In general, if widening is not feasible either because owners are unwilling to contribute land for the widening without compensation or the presence of some other constraints following assessment of a ROW, full closure of such ROWs be supported and pursued.

Commercial properties generate higher traffic and are commonly located along major arterial roads for reasons of exposure and trade. Unfortunately, parking is generally

restricted at the front, particularly for older strip-style commercial developments and local centres with limited setback. Where ROWs exist adjacent to commercial properties, these provide a safer and more convenient alternative access for service/delivery and access to rear parking. ROWs adjacent to commercial premises, especially those located along major roads, offer significant strategic benefit for the wider community in terms of the potential improvements to traffic safety and management if they are an upgraded for use by the adjacent properties and the general public.

TRAFFIC MANAGEMENT OUTCOMES

- Categories 1, 2 and 3 ROWs are sealed and drained to the City's standards.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- All dedicated laneways are illuminated with street lighting where feasible.
- Appropriate traffic control measures are implemented on dedicated laneways where necessary to contribute to safety and residential amenity.
- Increased use of Categories 1, 2 and 3 ROWs and dedicated laneways for alternative access.
- All future developments abutting ROWs or dedicated laneways are appropriately setback and contribute to improved traffic manoeuvrability and safety in ROWs.
- Category 1 ROWs are progressively widened to 6 metres as land is ceded from abutting properties on subdivision.

Focus Area 2: Land Use and Infill Development

RELEVANT OBJECTIVES

Objective 1: To upgrade and dedicate all ROWs that have potential for public use as public streets for management by the City.

Objective 6: To contribute to the preservation of existing streetscapes.

Objective 7: To minimise the negative impacts of infill developments by using ROWs for access to infill dwellings.

Objective 8: To rationalise the land tenure of all ROWs.

BACKGROUND AND GENERAL PRINCIPLES

Liveable Neighbourhoods was formulated as a development control policy to guide the design and assessment of structure plans, subdivisions and development in new urban areas and large urban infill sites in developed areas. The principal aims of the *Liveable Neighbourhoods* policy included:

- To ensure cost-effective and resource-efficient development to promote affordable housing; and
- To maximise land efficiency wherever possible by facilitating development which uses land and infrastructure efficiently and which encourages cost savings in housing to benefit the economy and the environment.

To achieve these aims, the policy encourages the use of rear laneways:-

- in medium density housing areas;
- to provide rear parking access for small lots;
- where lot widths are narrow;
- for retail commercial areas; and
- to provide rear access to lots on busy streets.

In the City of Stirling, the majority of the existing ROWs are located in areas with infill redevelopment potential. Many of the ROWs are currently under-utilised or not used at all by the adjoining properties due to lack of proper surfacing and maintenance which makes access and use difficult. However, in cases where ROWs have been properly sealed and drained, the ROWs are mostly well-used and serve as primary access for many infill dwellings adjoining ROWs.

The pilot project undertaken by Homewest in 1997 which resulted in the construction and dedication of Easton Lane in north Doubleview demonstrated the feasibility and potential for converting a previously under-utilised ROW into a street that could contribute to achieving some of the *Liveable Neighbourhoods* objectives in terms of land use and resource efficiency (by using an available ROW resource for access to infill development that can be shared by many developments rather than creating

space-wasting individual battle-axe access legs for each development). More importantly, aside from the more tangible benefits derived from the project, a post-completion assessment carried out by the project consultants also indicated a high level of resident satisfaction with the overall outcome. The availability of a fully upgraded and lit public thoroughfare that provides access to the adjoining lots would also appear to have encouraged redevelopment on the adjacent properties, with over 70% of the lots adjoining Easton Lane having already been redeveloped to date with infill dwellings, mostly with primary access from the laneway.

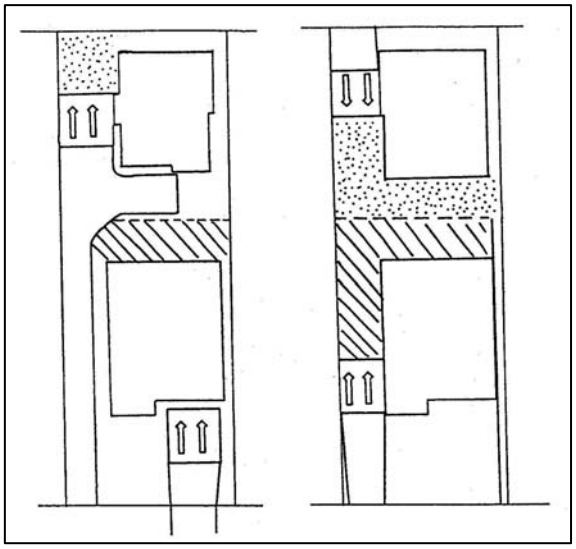


Figure 1: "Battle-axe subdivision vs subdivision using the ROW"

Figure 2: Easton Lane – An upgraded ROW used for infill development

The use of ROWs in large urban infill sites within developed areas has also similarly been echoed in the Western Australian Planning Commission Planning Bulletin No 33 – "*Rights-of-Way or Laneways in Established Areas – Guidelines*". In the guidelines, the adoption of a co-ordinated long-term approach to the use and upgrading of ROWs in infill redevelopment areas is encouraged. The use of ROWs for infill development was favoured as it provides an opportunity for greater use of urban land without detrimentally affecting the streetscape, particularly in heritage areas. Further, it was considered that the use of ROWs in these situations would provide a superior living environment than battleaxe development and preferable for houses to face streets (and laneways) as opposed to being enclosed in backyards.

An in-house analysis undertaken by the City in November 2004 to determine the location and number of residential properties that have yet to reach the relevant

development density indicated approximately 66% of properties abutting ROWs and dedicated laneways have infill development potential under the current residential zonings. With the current positive economic outlook for Western Australia expected to continue for another decade, and continuing demand for housing in the metropolitan area, the impetus to maximise infill development potential is expected to persist, if not accelerate in the coming years.

For commercial properties, the use of rear laneways in retail commercial areas for vehicle access and off-street parking was a key recommendation in the *Liveable Neighbourhoods* policy towards achieving sustainable developments as it promotes main street-fronting retail layouts that capitalise on and address arterial roads as opposed to enclosed or parking-lot dominant retail formats.

ISSUES & OPPORTUNITIES

Since the early 1980s, infill developments proposing the use of ROWs for access were required to pave and drain the full width of the portion of ROW adjacent to the development as a condition of planning approval. This practice was adopted and implemented by the City as a means of achieving the upgrading of ROWs by the private sector progressively as developments occur over time. Whilst this approach had minimal financial impact on the City, it has raised other issues, principally relating to the pace of the upgrades, maintenance and the consistency of materials used. Given that the upgrade of portions of an ROW is dependent on re-developments taking place on the abutting properties, few ROWs have been fully upgraded in their entire lengths under this method to date, especially ROWs that are relatively long, and it would be a long time before substantial portions of each ROW are completed in this fashion. As a result many complaints have been received from residents using the ROW for primary access relating to the poor condition and aesthetics of the remaining sections of the ROW that are unmade, unlit and prone to bogging and drainage problems. Moreover, once a section of ROW has been upgraded by a developer, there is no clear legal direction on the maintenance responsibility relating to the ROW and the onus is generally left with the adjoining owners to carry out at will. Unless there is good prospect of the whole ROW being upgraded in a short-medium timeframe, there will be little incentive for developers to support the orientation of infill dwellings to a ROW and use it for primary access.

The piecemeal upgrade of portions of ROWs by developers in response to planning conditions have also resulted in parts of a ROW being finished in different materials (eg brick paving and bitumen), detracting from a uniform appearance with possible implications for future maintenance.

The absence of clearly defined legal responsibility for the care, management and control of ROWs, which is a consequence of the current land tenure of the majority of private ROWs, has resulted in most ROWs not being maintained to facilitate use by the adjoining owners. Even in situations where the individual abutting owners agree to maintain their respective sections, conflict could still arise relating to the degree of use by some owners or damage caused by visitors or invitees of others along the ROW. The dedication of ROWs into public streets will ensure the responsibility for maintenance of the laneway is vested in the authority of the local government and issues relating to use and damage could be resolved and managed within the framework for public streets. The dedication of ROWs into public streets will also definitively resolve the legal question of who has the right to use the ROW and formalising its use by the public (not just by virtue of it being physically accessible by the public).

New infill dwellings orientating to the ROWs are unable to have addresses referenced from the respective laneways until the ROWs are dedicated as public streets. This means that these properties are still required to maintain a mail box on the original primary street frontage accessed via a 1.5m wide pedestrian access on the property. The dedication of a ROW into a public street would enable the street to be formally named to facilitate the use of the laneway in allocation of street addresses for dwellings that orientate to or use the laneway for primary access.

Essential services are generally unable to service properties from a ROW until it has been fully constructed and dedicated. Even then, certain access impracticalities may still exist that hinder services being delivered efficiently via ROWs by larger vehicles (eg, fire trucks and standard-sized rubbish trucks). Nevertheless, delivery of most essential services would be facilitated by the upgrade and dedication of ROWs.

A proliferation of infill development by way of conventional battle-axe subdivisions will result in increased cross-overs along the primary streets and domination of carports and garages along the streetscape, particularly in areas where the lots have relatively narrow street frontages (say, less than 17 metres wide). The upgrade and dedication of ROWs to encourage orientation to and use of ROWs for infill housing offers an opportunity to mitigate the negative impact of infill development on the existing streetscape and improve land use efficiency in the process. The benefits relating to preservation of streetscape may be particularly significant in Heritage Protection Areas where numerous crossovers, front garages and the use of primary streets for parking are seen to be out of character with the neighbourhood streetscape. In certain cases, the availability of a rear ROW access to service infill development also enables the retention of the existing dwelling where the siting of the original dwelling does not have sufficient space to enable creation of a battleaxe access leg adjacent to the existing building. The provision of an upgraded and dedicated rear laneway to facilitate access by infill development in these situations will go toward achieving the aim of ensuring resource-efficient development to promote affordable housing envisioned in *Liveable Neighbourhoods*.

The City's consideration of legal, administrative and financial issues suggests that the most practical means of encouraging participation is through the planning approval process by placing requirements and conditions on developments abutting ROWs. Such conditions should reflect the long-term objectives of the strategy, and need to vary according to each ROW's strategic value. The City's policy which currently sets out the standards and requirements for developments abutting ROWs will be reviewed and the appropriate development contribution provisions be incorporated into the City's proposed Local Planning Scheme No 3 to ensure capital contributions are made by developers towards the City's ROWs upgrade program. This is to ensure that adjacent developments are suitably co-ordinated and that the upgrade of strategic ROWs are undertaken in a comprehensive and systematic manner.

The type of land use that the strategy intends to facilitate depends on infill developments addressing ROWs. Currently this cannot be a mandatory requirement for all developments abutting ROWs and the City can only encourage developers to do so for certain strategic ROWs because there is no program in place to systematically dedicate and upgrade all strategic ROWs. The resulting developments could thus be left with no legal street frontage from which to be serviced. This is one of the anomalies that the strategy seeks to address. In addition, the strategy also aims to clarify under what circumstances developments should be required or encouraged to take their primary access from a ROW, suggest appropriate setback and design conditions, and reaffirm the need for developers and owner (as primary beneficiaries) to contribute to the upgrade of strategic ROWs. It is considered that

there is a strong need to have a program of upgrading in place, so that developers who are asked to participate might be assured that the works will be carried out within a specified period. The current practice of requesting participation and/or contributions on the basis that the works might be carried out at some future time, is understandably unpopular with many developers and abutting residents.

LAND USE & INFILL DEVELOPMENT OUTCOMES

- ROWs in infill development areas are sealed, drained and illuminated to the City's standards as part of a City works program to provide primary access to infill dwellings.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- ROWs and dedicated laneways that provide street frontage to dwellings are improved with pleasant streetscapes in the long term.
- Infill developments orientating to and using dedicated laneways for primary access are allocated street addresses that correspond to their primary access on the laneway.
- Where ROWs are available as alternative access for infill developments, battleaxe lots are no longer an acceptable standard of infill development or subdivision.
- All future developments abutting ROWs or dedicated laneways are appropriately setback and contribute to improved traffic manoeuvrability and safety in ROWs.

Focus Area 3 : Heritage Protection

RELEVANT OBJECTIVES

Objective 6: To contribute to the preservation of existing streetscapes.

Objective 7: To minimise the negative impacts of infill developments by using ROWs for access to infill dwellings.

Objective 8: To rationalise the land tenure of all ROWs.

BACKGROUND AND GENERAL PRINCIPLES

The suburbs of Mount Lawley, Menora and Inglewood in the City of Stirling were settled around the early 1900s to 1950s. These areas still contain many building styles that are considered to be historically significant from that era and, in an effort to protect and preserve the architectural styles from that period and the special heritage character of these areas, the Council declared a significant part of these suburbs Heritage Protection Areas and adopted the *Character Retention Design Guidelines* to determine particular development standards that contribute to that aim.

One of the key objectives of the *Character Retention Design Guidelines* is to ensure that new buildings, alterations and additions to existing buildings, carports, garages and front fences are in keeping with the heritage character of the area and are designed to fit into the existing streetscape. The design guidelines seek to:

- Prevent carports, garages and parking areas from dominating the streetscape.
- Ensure that the appearance of carports, garages and parking areas are in keeping with, and respectful to, the residences to which they belong.
- Reduce the impact of vehicle access and parking on the existing streetscape by ensuring that any new vehicular access is obtained from the rear of the property (via a rear access lane/ROW), where possible.
- Reduce the impact of parking structures on the existing streetscape by ensuring that such structures are located at the rear and side of properties.

A large part of the Heritage Protection Area, Mt Lawley and Inglewood in particular, currently have ROWs located at the rear of properties. The lot sizes and street frontages of these properties in Mt Lawley and Inglewood also tend to be smaller relative to their counterparts in Menora and therefore more constrained in their ability to locate parking structures that are not intrusive on the streetscape. The availability of rear ROWs access is therefore of particular significance as these have potential to contribute to achieving the aims of the Character Retention Design Guidelines by offering an alternative vehicle access to properties from the rear.

ISSUES & OPPORTUNITIES

A significant portion of the Heritage Protection Area, are currently zoned for medium density residential development under District Planning Scheme No 2 and have potential for infill development. The availability of rear ROW access in these areas provide the opportunity for infill development to be accessed from the ROW, thereby reducing the negative impacts on existing streetscapes that would otherwise occur from battleaxe subdivisions that result in the eventual dominance of carparking structures, driveways and crossovers on the primary street streetscape and detracts from the traditional streetscape and its heritage character. The issue of negative impacts of infill development was discussed in some detail under the section 'Focus Area 2 – Land Use and Infill Development'.

ROWs located in Heritage Protection Areas with no infill development potential are often used by the adjoining lots for secondary access. The style of development at the time generally called for relatively shallow front setback and a single garage, if any, located at the side of the dwelling was typical. However, with the increase in vehicle ownership and therefore the need to house multiple vehicles on site, the use of the rear ROW for access to additional garages and carports became more popular as a practical alternative due to restricted space in the front setback area as well as the need to comply with heritage protection planning control measures. However, because the use of a ROW was considered to be secondary access in these cases and that the ROW would be used by local traffic only, Council policies to date did not require owners to upgrade their respective portions of the ROW as a condition of the approval for the garage/carport as the ROW was considered to provide local benefits only. Nevertheless, due to the absence of a singular entity responsible for the maintenance and management of most ROWs, residents look to Council to assist and intervene on issues relating to inappropriate use, maintenance and management of ROWs. In addition, there are concerns relating to the issue of responsibility and potential liability on the City' part in the event of a claim for damages associated with the use of a ROW where it has encouraged property owners to use rear ROWs for access with the aim of contributing to heritage protection outcomes and/or given approval for the construction of a garage/carport with access via a ROW.

HERITAGE PROTECTION OUTCOMES

- Categories 1, 2 and 3 ROWs in Heritage Protection Areas are sealed, drained and illuminated (where feasible) to the City's standards.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- Categories 1, 2 and 3 ROWs in Heritage Protection Areas provide a viable alternative to the primary street network for vehicle access to the abutting properties.

Focus Area 4 : Security and Residential Amenity

RELEVANT OBJECTIVES

Objective 1: To upgrade and dedicate all ROWs that have potential for public use as public streets for management by the City.

Objective 3: To provide street lighting to all dedicated and upgraded laneways and ROWs.

Objective 4: To close ROWs that offer limited benefits to the wider community.

Objective 8: To rationalise the land tenure of all ROWs.

BACKGROUND AND GENERAL PRINCIPLES

By the nature of their land tenure, ROWs are legally classified as private streets. However, for reasons of the existence of the easement rights in favour of all abutting lots and the burden of these encumbrances, most of the registered proprietors of the ROWs take little further interest in them once the ownership of all the abutting lots have been disposed of and the ownership of the ROWs are usually 'abandoned' and the current whereabouts of the owners unknown. In the absence of an identifiable owner of the land and clear legal guidance on the legal responsibility for ROWs, it is usually left to the abutting owners who have easement rights over the ROWs to manage and maintain them on a voluntary basis.

The lack of a single authority to manage ROWs has resulted in the majority of them being left in a poor state of repair and the source of many complaints and dissatisfaction from residents centring around overgrown vegetation, illegal rubbish dumping, vehicle bogging, antisocial activities and obstructions. Even where ROWs have been progressively upgraded by the abutting owners, issues relating to damage and repairs, drainage, accessibility, and security remain points of concerns for residents due to the lack of a responsible body with appropriate authority to resolve these issues. Irrespective of the legal tenure of ROWs, they are still viewed by many citizens as being public areas, and therefore an expectation for the City to be responsible for their management and maintenance.

The *Liveable Neighbourhoods* policy generally promotes the use of rear laneways in high density areas. However it recognises that for laneways to operate successfully, they must be designed and managed with community safety and surveillance in mind. From this perspective, the policy recommends the provision of public lighting in laneways and adequate sightlines for both pedestrians and cars, and that developments abutting rear lanes to address the issues of personal and property safety.

Council Policy N101301 'Developments Abutting Rights of Way' encourages developments using ROWs for access to provide a porch or carport light, preferably sensor activated, as a measure to improve security and safety for residents. However, the provision of lighting is not compulsory and the continued maintenance and operation of lighting on private properties cannot always be ensured.

ISSUES & OPPORTUNITIES

The current practice of upgrading portions of ROWs on an ad-hoc basis as adjoining properties are re-developed with infill dwellings has resulted in properties that orientate to and rely on the ROW for sole vehicle access having to wait for the remaining sections of the ROW to be upgraded by other adjoining owners when they re-develop. This has lead to an unsatisfactory interim situation where increasingly more residents whose dwellings face onto a ROW have no properly developed streetscape, inability to have an address allocated according to their dwelling orientation (ie from the laneway), and have to travel through unmade and poorly maintained sections of the ROW that are prone to overgrown vegetation, drainage problems, rubbish dumping and bogging in order to reach their homes. If the City encourages infill developments to orientate to ROWs, there would appear a strong argument that it has, at the very least, a moral (if not legal) obligation to ensure that a certain standard of residential amenity can be expected by these residents such as trafficable access, safety and security and a pleasant streetscape. In addition, for the City to continue to encourage the use and orientation of infill dwellings to ROWs successfully, the future of the ROWs must be clearly determined so as to provide the necessary incentive and impetus for developers to comply.

On the other hand, there are a number ROWs (Categories 4 and 5) in the City which provide limited or no benefit to the local and wider community, or whose function is constrained (eg. less than 5 metres wide). These are usually in a neglected state and a source of security and safety concerns for the adjoining residents as they are not widely surveyed by passing traffic or adjoining properties. As the adjoining residents also take little active interest in maintaining these ROWs, they are often overgrown with vegetation, used for illegal dumping of rubbish and are a blight on the local area. Closure may offer the most practical solution for ROWs that deliver little or no strategic benefits to the community in the long term. However closure of a ROW must be administered in accordance with the relevant legislation through the Department for Regional Development and Lands' State Land Services branch. For closure to be effected, the consensus and support of the adjoining owners is generally a pre-requisite. Recent experiences with closure proposals have shown that the costs to be borne by the adjoining owners to facilitate closure, eg land purchase, boundary survey and fencing relocation, are significant deterrents to owners' preparedness to participate in a closure action. Where closure cannot be achieved but rationalisation of the land tenure is still desirable, acquisition and re-vestment of the ROW as a Crown reserve would enable the City to take over responsibility for its maintenance and management as an unsealed lane.

Street lighting is not currently specified as a standard feature of upgrading ROWs or laneways in the City, principally as a result of technical and practical issues relating to their installation and maintenance, eg, not feasible to carry out on ad-hoc basis by owners as part of development. Hence, with the exception of Easton Lane in Doubleview which was upgraded in entirety as a pilot project by Homewest and illuminated with street lighting as part of the upgrade, no street lighting have been installed in ROWs and dedicated lanes by the City to date. As properties abutting ROWs and laneways are re-developed, owners are generally encouraged to provide a strong porch or carport light to provide some illumination into the adjacent ROW.

However, given that ROWs are used by both pedestrians and vehicles, for reasons of safety and security, it is considered that street lighting should be included as part of the standard for upgrade of Categories 1, 2 and 3 ROWs under the Strategy. A report on 'Standards for Laneway Lighting' commissioned by the City to assess the various design options concluded that smaller scaled overhead fixtures or bollard designs are feasible options, however the final decision would need to consider the issue of maintenance as lighting in ROWs and laneways would not be included in the normal street lighting maintenance by Western Power.

Reduced opportunity for passive surveillance of ROWs and dedicated laneways by virtue of their restricted widths, location at the rear of properties and solid rear boundary fences contributes to higher security risks experienced by abutting properties. ROWs that are to remain open for use should therefore have improved passive surveillance opportunities from passing traffic and adjoining developments. This could be achieved through the implementation of special development standards abutting ROWs including but not limited to the orientation of dwellings and windows to the ROW and use of visually permeable fencing.

SECURITY AND RESIDENTIAL AMENITY OUTCOMES

- Categories 1, 2 and 3 ROWs are sealed and drained to the City's standards.
- ROWs upgraded and used by the public generally are dedicated as public streets under the care, management and control of the City as part of the functional road network.
- ROWs and dedicated laneways that provide street frontage to dwellings are improved with pleasant streetscapes in the long term.
- All dedicated laneways are illuminated with street lighting where feasible.
- Categories 4 and 5 ROWs are acquired as Crown reserves for management and maintenance by the City as unsealed lanes.
- That opportunity for increased passive surveillance in ROWs and dedicated laneways are provided through the implementation of appropriate development standards abutting ROWs and dedicated laneways.

Focus Area 5 : Financial Management

RELEVANT OBJECTIVES

Objective 9: To ensure landowners contribute financially to the capital cost of upgrading and lighting their abutting ROWs/dedicated laneways.

Objective 10: To fund a 10 year ROWs works program using City Funds and Development Contributions.

BACKGROUND AND GENERAL PRINCIPLES

The Local Government Act 1995, provides the legal authority and framework under which local governments, including the City of Stirling, perform their functions. Parts 6 and 7 of the Act deal with the financial management and audit requirements for local governments, including powers to raise revenue and expend funds, budgeting, reporting and record keeping of all financial matters. The Planning and Development Act 2005 (and its predecessor) also provide adjunct powers for local governments to collect contributions from developers and landowners toward infrastructures via local planning scheme provisions under certain conditions.

A program of works involving the construction, drainage and lighting of all ROWs by the City forms an essential part of this Strategy. Cost estimations as at indicate a total budget requirement in the region of $30 Million (inclusive of project management and design costs) to complete the works at today's value. Funding is therefore a significant issue and must be addressed as part of the strategy to ensure a successful outcome.

The City's approach to the funding of any upgrades of ROW up until now had been based on a combination approach depending on the ROW's assessed strategic value and priority, viz:

- upgrade of Category 1 ROWs were pre-funded from Municipal Funds and progressively recovered from adjoining owners as infill development occurs.
- Upgrade of Category 2 ROWs were undertaken by developers/owners in sections on an ad-hoc basis as necessitated by development, or payment was made to a trust fund for future upgrade by the City as part of a strategy.
- Upgrade and contribution was not required for Categories 3, 4 and 5 ROWs as Council had yet committed to the upgrade of these ROW.

This management approach was an interim measure due to the enormous cost implication for the City if it was to take over responsibility for all ROW. Whilst Council was keen to provide a comprehensive solution to the ROW issue, it was also mindful of the need to deliver the outcomes in a financially sustainable manner.

The ROW Management Strategy – Funding Options – Issues Paper 28th February 2007 was prepared by the City to consider the various funding options that are within the scope of the City's revenue raising capability. These were:

1. City Funded
2. No intervention
3. Developer Construction or Bond Contributions
4. Voluntary Contributions / Service Contractor
5. Specified Area Rate
6. Differential General Rate
7. Town Planning Development Scheme.

Each of the funding methods identified has associated advantages and disadvantages and the use of one method need not necessarily be mutually exclusive. In considering the most suitable method for funding the strategy, the fundamental question is whether the funding option will deliver a satisfactory outcome in the final analysis.

The legal position relating to responsibility for the upkeep and maintenance of ROW has never been clearly established. There are no specific provisions in the existing legislations that deal with this aspect of ROW and there is no known precedent available to give proper direction on who is responsible for constructing or maintaining ROW. In the majority of cases, the registered proprietor of a ROW no longer exists or has little interest in the land. A legal opinion obtained by the City has suggested that an adjoining owner cannot undertake works on a ROW. However, this advice contradicts the directive contained in Planning Bulletin No 33 issued by the Western Australian Planning Commission which, pursuant to the provisions of Section 167A of the Transfer of Land Act, states "that the registered proprietors of the original lots, which were included in the Plan or Diagram of Survey creating that private right-of-way, have an 'implied right' easement to use them provided it is shown as a 'right-of-way' on the Land Titles Office Plan or Diagram of Survey. The present owners of abutting properties have the right to upgrade, seal and drain and to use, along with guests and invitees, the right-of-way for vehicular and pedestrian access." In the absence of more specific legal guidance on this issue, the latter view has tended to be followed by the City in practice which is reflected in Council Policy N101301 'Developments Abutting Rights of Way' requiring owners/developers to undertake construction of the abutting section of ROW as part of any infill development orientating to a ROW.

The City's position is also consistent with Western Australian Planning Commission Policy No DC1.7 'General Road Planning' relating to the construction and upgrade of existing roads by a developer as a condition of subdivision necessitated by additional traffic generated from the subdivision. This principle is reinforced in the provisions of Section 159 of the Town Planning and Development Act 2005 which enable a subdivider to claim a portion of the cost of providing and upgrading an existing road (including ROW) from subsequent subdividers.

ISSUES & OPPORTUNITIES

The Funding Options Issues Paper was formally received by Council on 3 April 2007 (Item 11.1/A1). The preferred funding approach using a combination of City Funds, Developer Contributions and Differential General Rates was endorsed by Council and approval was given in principle to financial model B2 (10 year works period, expenditure/cost recovery breakeven at 20 years and contribution from City Funds to

equal differential general rates) as the basis for the implementing the ROW upgrade works program.

The combination of City Funds, Developer Contributions and Differential General Rates was preferred as it reinforces the user-pay principle where owners/developers in infill development areas or those owners who will benefit directly from the upgrade and dedication of ROW in the form of an improved vehicular access to their development would contribute proportionately to the cost of upgrading the ROW on the basis of their frontage. Owners adjoining a ROW who already have an established primary access from the normal street network but nevertheless will benefit from an upgraded and maintained ROW would contribute a lesser amount in the form of additional municipal rates until redevelopment occurs or the ROW is used for access.

Differential General Rates for the purpose of the Strategy however, can only be implemented upon necessary changes being made to the Local Government Act Regulations. Although the Department of Local Government and Regional Development (now known as the Department of Regional Development and Lands) indicated initial support for the use of Differential General Rates, the Department re-considered its stance in August 2009 and is no longer supportive of changing the Act to facilitate its use for the purpose of this strategy.

Since the Funding Options Issues Paper was prepared, the practicality and complexity of implementing a rates based funding system on strata-titled properties has also come too light. Given that a significant proportion of properties abutting ROWs are strata-titled lots, the complexity associated with administering a funding system based on rates would be impractical.

In light of these events, Differential General Rates is no longer a feasible funding option and is therefore abandoned. Instead, a combination of City Funds and Development Contributions will provide the primary funding mechanism for the strategy. This approach is not dissimilar to that used by Council in relation to the upgrade of Category 1 ROWs in recent years where upgrades were funded by the City from municipal funds and supplemented by contributions from owners and developers as development occurs over time.

It is anticipated that whilst development will occur in a significant proportion of properties adjoining a ROW, these will occur over the long term and there will remain a proportion of properties that will not redevelop in the foreseeable future and therefore unlikely to make any direct contribution to the strategy. Preliminary estimation suggests a requirement of $21 Million (in current value inclusive of engineering design and project management costs) from City Funds to upgrade and light all ROWs, with development contributions comprising the remaining $9 Million recoverable over 20 years.

The City has to date relied on Council Policy N101301 ‘Developments Abutting Rights of Way’ as an interim measure to seek development contribution and the construction of portions of ROWs upon development of properties abutting ROWs in anticipation of this strategy being finalised. However, as the contribution requirements are not formally incorporated as part of the City’s local planning scheme provisions, the contribution impositions were capable of being challenged as part of the development approval appeal process. In order to implement development contributions consistently and successfully under the strategy, formal development contribution provisions for ROW improvements will need to be included in the City’s local planning scheme. A Development Contribution Plan to facilitate implementation of development contributions for ROW improvements will be prepared for

incorporation in the City's proposed Local Planning Scheme No 3 (the Scheme is currently awaiting final approval by the Minister for Planning) if the strategy is adopted. The Development Contribution Plan is proposed to reflect the objective of the strategy to ensure that all developments abutting a ROW being upgraded under the strategy will contribute to its upgrade.

Since the adoption of Council Policy N101301 'Developments Abutting Rights of Way', the City has seen many non-contiguous sections of ROW upgraded by developers and the accumulation of cash contributions totalling approximately $1 Million in the ROW upgrade trust fund. In the event this strategy is adopted for implementation, the contributions held by the City will be applied towards the ROW upgrade works. Upgrades and contributions paid to date have not included the provision for lighting. Therefore, it is expected that all properties abutting ROWs to be upgraded under the strategy will be subject of further contributions, albeit properties that have already contributed previously will only need to contribute to the cost of lighting only.

Contributions currently held by the City in the ROW upgrade trust fund were collected on the premise that the City will undertake the upgrade of the respective ROW as part of a City-wide ROW Management Strategy. Hence the monies are deposited in trust accounts pending Council adoption of the strategy. In the event Council does not proceed to implement a program of works to upgrade the subject ROW, there are moral and legal arguments for the contributions to be returned to the payees, with interests.

Council is of the view that in order to provide a comprehensive and co-ordinated solution to the ROW issue, its preference is for all ROW to be brought under its control and management. However, the cost to complete the upgrade and illumination of all ROWs is currently estimated to be about $30 Million (inclusive of engineering design and project management costs). After weighing the cost and benefit associated with upgrading ROW that provide minimal or no strategic values to the community (Categories 4 and 5 ROW), it was considered preferable that where these ROW could not be closed in the short-medium term, they be maintained as unsealed laneways by the City and held as Crown reserves. This would enable the long term closure opportunity be preserved, whilst reducing the cost of the upgrade works by about $4.5 Million to a total of $26.4 Million.

From a financial perspective, a longer term timeframe for the program of works is more desirable as this would enable the financial impact to be spread over a longer period. However, from a customer service perspective, a shorter works period is preferred as this would provide an earlier resolution to the ROW issue for residents. After considering various scenarios, Council indicated a preference for a 10 year works program and for cost recovery to occur over 20 years and beyond. A copy of the simplistic model (Model 5) showing the financial impact for works to be undertaken over 10 years with cost recovery over 20 or more years and only basic maintenance to Categories 4 and 5 ROWs is at Appendix C.

Whilst the necessary legislative provisions may be structured to provide the necessary legal authority for the City to collect and recover contributions toward the proposed ROW improvements, to ensure financial sustainability for the project, good project management and administrative processes will also need to be put in place to ensure contributions requirements are consistently enforced.

FINANCIAL MANAGEMENT OUTCOMES

- That a system for collecting development contributions toward the upgrade and lighting of Categories 1, 2 and 3 ROWs/dedicated laneways from adjoining owners is implemented consistently in accordance with the relevant legislation.
- The program of works involving the upgrade and lighting of ROWs and dedicated laneways being funded from a combination of City Funds and Development Contributions.
- Funds being available to complete the program of works involving the upgrade and lighting of Categories 1, 2 and 3 ROWs and dedicated laneways within 10 years.

Management Approach

ROW CATEGORY DESIGNATION SYSTEM AND MANAGEMENT APPROACH

In order that the issue of ROWs be addressed in a co-ordinated and cohesive manner but also recognising the differing strategic intent, values and characteristics between groups of ROWs, the City's management approach to ROWs will be structured around the adopted ROW Category Designation System as follows:

Category 1 – High Strategic Value – Traffic Management & Commercial

No of ROWs – 157 - Dedicated – 123, Total Length – 15.73km (Sealed – 100%)
- Private – 32, Total Length – 2.72km (Sealed – 68%)
- City of Stirling – 2, Total Length – 0.2km (Sealed 100%)

ROWs in this category have high strategic value and should be in public ownership. These ROWs are generally considered to have significant traffic management benefits, in particular ROWs that provide access to commercial properties and those parallel to regional roads. For ease of administration, all ROWs that had already been dedicated as public lanes and ROWs that are owned in fee simple by the City to date were also included in this category. If this Strategy is adopted, dedicated laneways will no longer automatically be included in this category but will instead be classified in accordance with its strategic characteristics. On 21 March 2000 Council adopted a management plan for Category 1 ROWs involving the dedication, construction and drainage of these ROWs in advance of the other ROW categories over a period of 5 year to 2003/2004. Lighting was not included as a specific component of the upgrade program at the time. The majority of these ROWs have now been upgraded pursuant to Council's direction where budget permits, with the remaining yet to be completed or require review.

The City's approach to the management of Category 1 ROWs is therefore to:

C1.1 oppose closure in general;

C1.2 acquire, dedicate and upgrade (including lighting) the remaining Category 1 ROWs, with the owners of abutting lots being required to make financial contributions towards the ROW upgrade works program in the form of development contributions;

C1.3 install lighting to all dedicated and upgraded ROWs/lanes as part of the ROWs upgrade works program;

C1.5 progressively widen these ROWs to 6 metres as land is ceded free of cost from adjoining developments; and

C1.6 assess all development applications abutting Category 1 ROWs according to their impact on and use of the ROWs, as follows:

- Commercial developments will be required to use the ROW for access, or to demonstrate why use of the ROW does not represent the optimal traffic management options.
- Commercial developments will be required to provide lighting in parking areas accessed from the ROW, until lighting has been installed in accordance with C1.3 above.
- Commercial developments providing parking accessed from the ROW will be required to provide pedestrian access from parking to the commercial property, or to demonstrate why such access is unnecessary.
- Commercial developments providing parking accessed from the ROW will be encouraged and may be required to integrate this with the parking on abutting commercial properties, wherever possible.
- Developers will be encouraged to subdivide their properties in such a way as to facilitate development addressing the ROW.
- Residential developments abutting Category 1 ROWs will generally be required to address and use the ROW for primary access or to demonstrate that their alternative form of development will not compromise the long-term objectives of good traffic management, promoting passive surveillance or creating a pleasant streetscape in the ROW.
- Setbacks to all developments must, as a minimum, provide safe access and sufficient manoeuvring to the satisfaction of the City's Engineering Business Design Unit.
- Setbacks to developments should allow for the creation of a relatively open streetscape.
- Setbacks to developments in ROWs under 6 metres wide must provide for opportunities for cars to pass one another, and at least one unenclosed visitor parking space.
- Residential developments not using the ROW for access will be subject to the same ROW setback requirements as those using the ROW, for the purposes of maintaining/creating a reasonable streetscape. In addition, a high quality of rear fencing will be required.
- All developments using a ROW for vehicular access or abutting a development that uses a ROW for vehicular access must provide sufficient visual truncation to the satisfaction of the City's Engineering Design Business Unit.
- Developments on all corner lots abutting ROWs must provide corner truncations to the satisfaction of the City's Engineering Business Design Unit to ensure reasonable sightline and turning area for vehicles using the ROWs.
- Consideration to security and safety issues, as well as streetscape issues, shall be given in the assessment of all developments abutting ROWs. Passive surveillance opportunities will be strongly encouraged.
- All developments using the ROW for primary access are required to provide pedestrian/service access to the normal public street for rubbish collection, postal deliveries and emergency access. This will generally be in the form of a 1.5m wide access leg from the rear development to the existing public street.
- All developments are required to make a financial contribution to the City toward the cost of upgrading and lighting the ROW, unless the property has already contributed towards such works in full.
- Developments using the ROW for access *may*, subject to the approval of the City's Engineering Design Business Unit, elect to seal, kerb and

drain the full width of the section of ROW abutting the property and to make the remainder section to the nearest street trafficable, in lieu of paying a financial contribution toward the sealing and draining of the ROW by the City. A cash contribution towards the City's ROWs upgrade works program for the installation of lighting will still be required from the development in this situation.

Category 2 – Significant Strategic Value – Potential to Reduce Negative Impacts of Infill Development

No of ROWs – 145, Total Length 28.1km (Sealed – 20%)

ROWs in this category have significant strategic value in terms of facilitating optimal forms of future development, efficient land use and protection of streetscapes that do not have any major engineering constraints to upgrade and/or maintain. These ROWs are generally located in areas with significant potential for infill development or future subdivision under the prevailing local planning scheme where the abutting lots have relatively narrow frontages that are less than 17m wide. Redevelopment of these lots could therefore be achieved without the use of battleaxe legs for infill dwellings that could impact negatively on the existing streetscape and also facilitate retention of the existing dwellings. ROWs that could not be considered for closure due to existing primary access to adjoining lots are also included in this category.

The City's approach to the management of Category 2 ROWs is therefore to:

C2.1 oppose closure in general;

C2.2 acquire, dedicate and upgrade (including lighting) these ROWs, with the owners of abutting lots being required to make financial contributions towards the ROW upgrade works program in the form of development contributions; and

C2.3 assess all development applications abutting Category 2 ROWs according to their impact on and use of the ROWs, as follows:

- Developers will be required to subdivide their properties in such a way as to facilitate development addressing the ROW.
- Residential developments abutting Category 2 ROWs will generally be required to address and use the ROW for primary access, or to demonstrate that their alternative form of development will not compromise the long term objectives of promoting passive surveillance, reducing the negative impacts of infill development and creating a pleasant streetscape in the ROW.
- Setbacks to all developments must, as a minimum, provide safe access and sufficient manoeuvring, to the satisfaction of the City's Engineering Design Business Unit.
- Setbacks to developments should allow for the creation of a relatively open streetscape.
- Setbacks to developments in ROWs under 6 metres wide must provide for opportunities for cars to pass one another, and at least one unenclosed visitor parking space.
- Residential developments not using the ROW for access will be subject to the same ROW setback requirements as those using the ROW, for the purposes of maintaining/creating a reasonable streetscape. In addition, a high quality of rear fencing will be required.

- All developments using a ROW for vehicular access or abutting a development that uses a ROW for vehicular access must provide sufficient visual truncation to the satisfaction of the City's Engineering Design Business Unit.
- Developments on all corner lots abutting ROWs must provide corner truncations to the satisfaction of the City's Engineering Design Business Unit to ensure reasonable sightline and turning area for vehicles using the ROWs.
- Consideration to security and safety issues, as well as streetscape issues, shall be given in the assessment of all developments abutting ROWs. Passive surveillance opportunities will be strongly encouraged.
- All developments using the ROW for primary access are required to provide pedestrian/service access to the normal public street for rubbish collection, postal deliveries and emergency access. This will generally be in the form of a 1.5m wide access leg from the rear development to the existing public street.
- All developments are required to make a financial contribution to the City toward the cost of upgrading and lighting the ROW, unless the property has already contributed towards such works in full.
- Developments using the ROW for access *may*, subject to the approval of the City's Engineering Design Business Unit, elect to seal, kerb and drain the full width of the section of ROW abutting the property and to make the remainder section to the nearest street trafficable, in lieu of paying a financial contribution toward the sealing and draining of the ROW by the City. A cash contribution towards the City's ROWs upgrade works program for the installation of lighting will still be required from the development in this situation.

Category 3 – Medium Strategic Value – Heritage / Streetscape Benefit

No of ROWs – 19, Total Length – 2.97km (Sealed – 9%)

ROWs in this category provide significant local benefits in terms of facilitating the preservation of heritage character and existing streetscape. ROWs in Heritage Protection Areas (excluding those in Categories 1 and 2) where rear access and parking to properties can contribute to the minimisation of the negative impacts on traditional streetscapes are included in this category.

The City's approach to the management of Category 3 ROWs is therefore to:

C3.1 oppose closure in general;

C3.2 acquire, dedicate and upgrade (including lighting) these ROWs, with the owners of abutting lots being required to make financial contributions towards the ROW upgrade works program in the form of development contributions;

C3.3 assess all development applications abutting Category 3 ROWs according to their impact on and use of the ROWs, as follows:

- Wherever possible, developments abutting Category 3 ROWs will be required to use the ROW for vehicular access, or to demonstrate that their access and parking proposal will not have undue negative impact on the streetscape of the primary street.

- Use of Category 3 ROWs for primary access will only be encouraged if it facilitates the retention of an existing dwelling or is located in proximity to a street access.
- Setbacks to all dwellings to be in accordance with the R-Codes to a minimum 1.0 metre from the ROW generally.
- Setbacks to carports and garages from the ROW must as a minimum, provide safe access and sufficient manoeuvring, to the satisfaction of the City's Engineering Design Business Unit.
- Setbacks to developments using ROWs under 6 metres wide for primary access must provide for at least one unenclosed visitor parking space.
- All developments using a ROW for vehicular access or abutting a development that uses a ROW for vehicular access must provide sufficient visual truncation to the satisfaction of the City's Engineering Design Business Unit.
- Developments on all corner lots abutting ROWs must provide corner truncations to the satisfaction of the City's Engineering Design Business Unit to ensure reasonable sightline and turning area for vehicles using the ROWs.
- All developments using the ROW for primary access are required to provide pedestrian/service access to the normal public street for rubbish collection, postal deliveries and emergency access, etc. This will generally be in the form of a 1.5m wide access leg from the rear development to the existing public street.
- All developments are required to make a financial contribution to the City toward the cost of upgrading and lighting the ROW, unless the property has already contributed towards such works in full.

Category 4 – Low Strategic Value – Minimal Strategic Benefit

No of ROW s – 46, Total Length – 5.3km (Sealed – 2%)

ROWs in this category are considered to offer little or no benefit to the wider community and refers to ROWs which are deemed to offer minimal strategic value or for which the cost/benefit ratio of upgrading them is likely to be excessive. ROWs that do not offer the advantages of Categories 1, 2 or 3 ROWs or where there is significant practical constraints to their upgrade/use (excessive gradient, immovable obstacles or dead-end) are included in this category.

The City's approach to the management of these ROWs is therefore to:

C4.1 support and pursue closure, where this is also supported by the adjoining owners;

C4.2 encourage adjoining owners to pursue closures by subsidising costs associated with closure proceedings such as survey costs and seeking inter-governmental agreement to apply nominal pricing to ROW land;

C4.3 acquire these ROWs as Crown reserves for management by the City as unsealed laneways where closure cannot be achieved in the short to medium term; and

C4.4 assess all development applications abutting Category 4 ROWs according to their impact on and use of the ROWs, as follows:

- Developments will be discouraged from using the ROW for access, particularly primary access, unless closure has been determined to be impossible and the proponent can show that use of the ROW is vital to their development and in keeping with the neighbouring properties. Developments using the ROW for access, if approved, will be required to seal and drain the ROW to the nearest public street to the satisfaction of the City's Engineering Design Business Unit.
- Setbacks to all dwellings to be in accordance with the R-Codes to a minimum 1.0 metre from the ROW generally.
- Developments using the ROW for secondary access are required to setback carports and garages from the ROW to provide sufficient manoeuvring area to the satisfaction of the City's Engineering Design Business Unit.
- Developments using the ROW for primary access are required to setback carports and garages from the ROW as per the requirements for Category 2 ROWs.
- All developments using a ROW for vehicular access or abutting a development that uses a ROW for vehicular access must provide sufficient visual truncation to the satisfaction of the City's Engineering Design Business Unit.
- Developments on all corner lots abutting ROWs must provide corner truncations to the satisfaction of the City's Engineering Design Business Unit to ensure reasonable sightline and turning area for vehicles using the ROWs.
- Developments using the ROW for primary access are required to provide pedestrian/service access to the normal public street for rubbish collection, postal deliveries and emergency access. This will generally be in the form of a 1.5m wide access leg from the rear development to the existing public street.

Category 5 – Special Constraints

No of ROWs – 38, Total Length – 3.73km (Sealed 13%)

Category 5 is a special designation, indicating ROWs that have special or unique constraints limiting their development and use and therefore require an individual assessment and management plan. ROWs that are under five metres in width (regardless of their strategic benefit to the community) and therefore present constraints to traffic manoeuvrability and visibility are classified in this category.

The City's approach to the management of Category 5 ROWs is therefore to:

C5.1 in consultation with the adjoining lot owners, assess each ROW on its own merit in order to identify those that are likely to incur significant use in the future and those that have potential to address significant traffic management, land use efficiency or amenity issues in the long-term. Following such assessment, a recommendation may be made to widen the ROW and amend its classification to reflect its strategic value;

C5.2 re-designate under width ROWs to Category 1 and 2 only when these have been acquired and widened to at least 5 metres;

C5.3 offer the abutting lot owners the opportunity to fund the removal of the constraints for Category 5 ROWs located in infill development areas. In the case of under width ROWs, this would entail owners giving up the necessary land for widening of the ROWs voluntarily or as a condition of

development/subdivision without compensation and meeting any associated survey, subdivision and transfer fees;

C5.4 support and pursue full closure of ROWs where widening is not facilitated by the adjoining owners but the closure option is;

C5.5 where widening is not facilitated by the adjoining owners, encourage owners to pursue closure by subsidising costs associated with closure proceedings such as survey costs and seeking inter-governmental agreement to apply nominal pricing to ROW land;

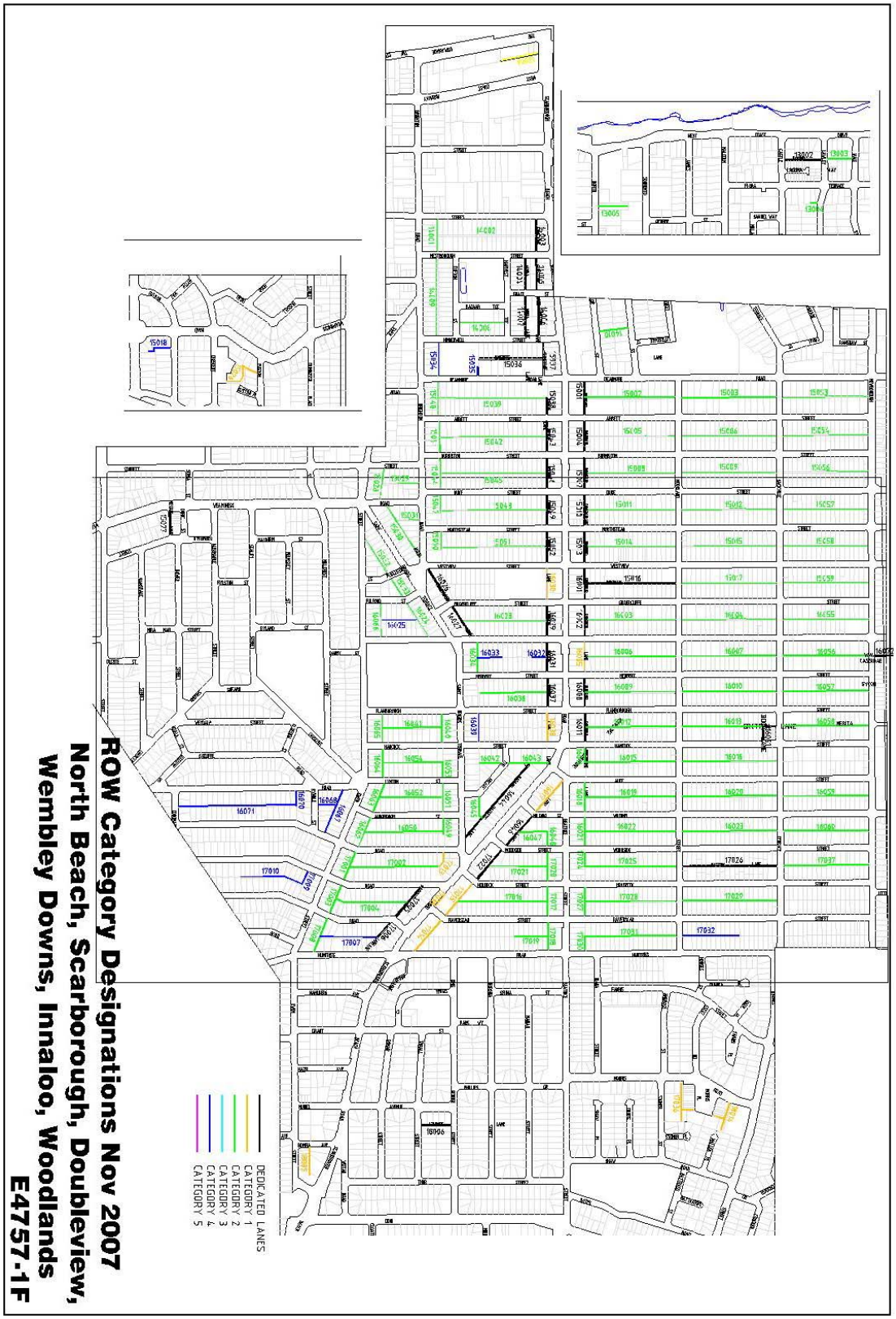
C5.6 acquire these ROWs as Crown reserves for management by the City as unsealed laneways where closure cannot be achieved in the short to medium term; and

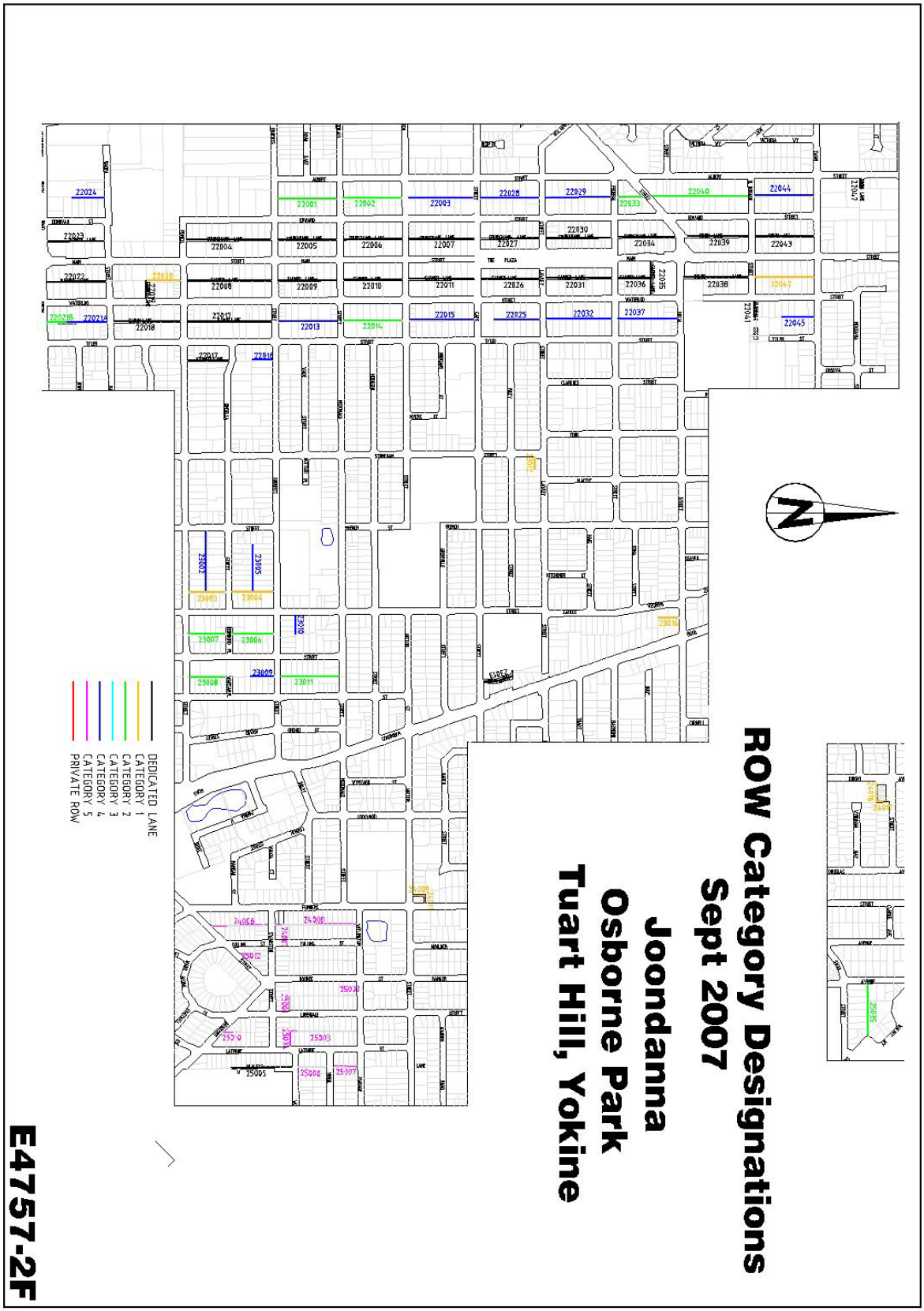
C5.7 assess all development applications abutting Category 5 ROWs according to their impact on and use of the ROWs, as follows:

- Developments will not be permitted to use these ROWs for primary access unless the constraints can be overcome or the proponents are prepared to facilitate removal of the constraints at their costs, and the proponents can show that their use of the ROW is beneficial to the community and in keeping with the neighbouring properties. This may include an agreement with the relevant property owners to cede land for the widening of the ROW from the development to the nearest primary street. Developments using the ROW for access, if approved, will be required to seal and drain the ROW to the nearest public street to the satisfaction of the City's Engineering Design Business Unit.
- Developments will be discouraged from using these ROWs for secondary access unless closure has been determined to be impossible and the proponent can show that use of the ROW is vital to their development, is in keeping with the neighbouring properties and the proponent is prepared to facilitate removal of the constraints at its cost. Developments using the ROW for access, if approved, will be required to seal and drain the ROW to the nearest public street to the satisfaction of the City's Engineering Design Business Unit.
- Developments using the ROW for primary access are required to setback carports and garages from the ROW to provide sufficient manoeuvring area plus at least one unenclosed visitor parking space to the satisfaction of the City.
- Developments using the ROW for secondary access are required to setback carports and garages from the ROW to provide sufficient manoeuvring area to the satisfaction of the City.
- All developments using a ROW for vehicular access or abutting a development that uses a ROW for vehicular access must provide sufficient visual truncation to the satisfaction of the City.
- Developments on all corner lots abutting ROWs must provide corner truncations to the satisfaction of the City's Engineering Business Design Unit to ensure reasonable sightline and turning area for vehicles using the ROWs.
- Developments using the ROWs for primary access are required to provide pedestrian/service access to the normal public street for rubbish collection, postal deliveries and emergency access. This will generally be in the form of a 1.5m wide access leg from the rear development to the existing public street.

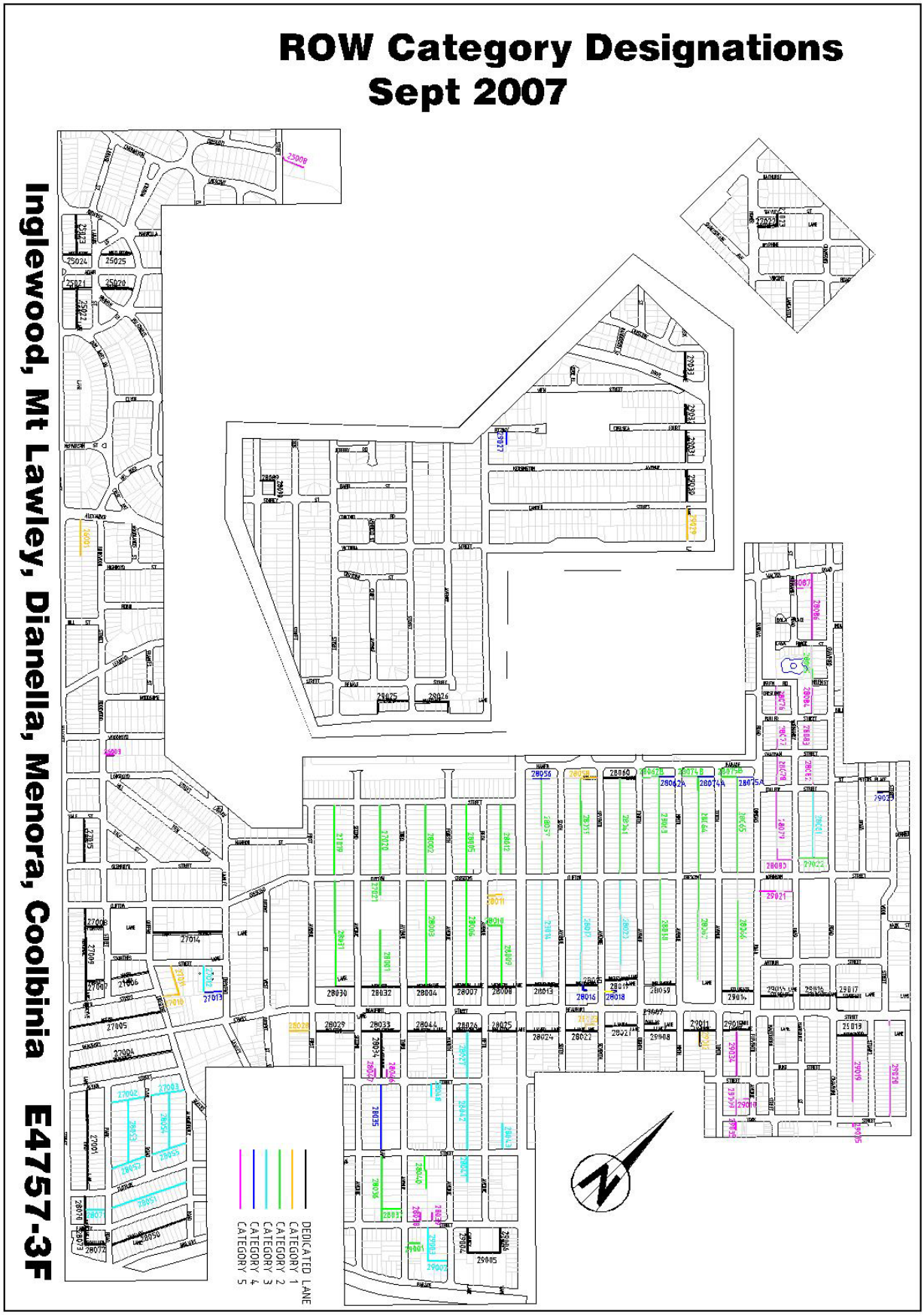
Appendices

APPENDIX A – Rights of Way Identification and Category Maps




ROW Category Designations
Sept 2007
Joondanna
Osborne Park
Tuart Hill, Yokine
E4757-2F
DEDICATED LANE
CATEGORY 1
CATEGORY 2
CATEGORY 3
CATEGORY 4
CATEGORY 5
PRIVATE ROW
N

ROW Category Designations
Sept 2007



APPENDIX B – City of Stirling Rights of Way Design Specifications

City of Stirling

CONSTRUCTION OF RIGHTS OF WAY

GENERAL

When a Right of Way is to be utilised as the primary access to a new development, Council will require that it be paved and drained at the developer's cost and to the standards and satisfaction of the City Engineer.

APPROVAL AND INSPECTION REQUIREMENTS

1. Plans for the paving and drainage of the ROW are to be prepared in accordance with City of Stirling Specifications and Guidelines.

2. Four copies of the plans are to be submitted for approval.

3. A refundable deposit equal to the City's estimated cost of the works is to be lodged as security against satisfactory completion. A bank guarantee for the same amount may be acceptable if approved by the City Engineer.

4. A supervision fee equal to 3% of the cost of the works (with a minimum of $150.00) is to be paid to the City in accordance with Section 295(6) of the Local Government Act.

5. Upon approval of plans and payment of relevant fees, the City's Construction Engineer is to be notified a minimum of 24 hours prior to each of the following stages.

   (i) Commencement of work.
   (ii) Placement of limestone sub-base.
   (iii) Placement of rockbase.
   (iv) Spraying of prime coat.
   (v) Placing of bituminous concrete.
   (vi) Placing of backfill to drainage pipes where applicable.
   (vii) Completion of works.

6. At all times the construction standards and procedure must be to the satisfaction of the City Engineer.

NOTE:

1. Where the developer chooses to engage the City to design and construct the ROW no supervision fee is payable. An estimate of costs will be supplied, but an undertaking must be given whereby the developer will agree to pay the actual cost of construction.

2. The city will in some instances provide design drawings for the paving and drainage of the ROW subject to the payment of a fee equal to 6% of the estimated cost of construction.

DESIGN STANDARDS AND REQUIREMENTS

1. Details

Plans are to be drawn at a scale of 1:200 plan, 1:200/1:50 longitudinal section and must show the following information in addition to design details.

(i) All streets and roads abutting the ROW.
(ii) All lots facing the ROW.
(iii) All lot numbers and house numbers.
(iv) Any public utility services within the ROW and abutting streets.
(v) Any existing fences, walls, vehicular access points.
(vi) Bench mark or datum used.
(vii) Spot or contour levels up to 2m inside adjoining properties.

2. Longitudinal Grades

The Right of Way must be designed to produce the best possible grades to suit the natural ground conditions particularly along property boundaries. Care must be exercised to match existing features such as entrances to properties and property fences. Longitudinal grades are to be a minimum of 0.5%. It should be the object off the designer not to appreciably alter levels in the right of way adjacent to abutting properties. If major alternations to levels are necessary a retaining wall my be required.

3. Cross Section

Where possible the right of way shall be dished in shape with a 3% crossfall towards the centre. Where this cannot be attained a one-way crossfall may be allowable with kerbing and drainage control on the low wide of the right of way. Approval should be sought from the City Engineer for any variation in the typical cross-section (refer City of Stirling Standard Drawing No.E1477-01).

4. Vehicle Crossovers

A Vehicle crossing shall be provided from the road reserve boundary line to the road carriageway edge as part of the right of way construction where applicable. The crossing is to be constructed of the same material as the ROW.

5. Drainage

The drainage system of the right of way must, where possible, be piped to a public road and connected to the underground drainage system. If the system is not within 20 metres of the end of the right of way, the stormwater may be allowed to syphon into the gutter.

All property drainage is to be retained within the property line and prevented from spilling to adjoining properties of the ROW.

6. Soakwells

Where shallow grades do not permit the installation of an integrated drainage system, a series of perforated manholes located within the ROW may be employed as soakwells to disperse the stormwater. These are to be provided with a suitable base in accordance with COS Drawing No.E2186-03 to ensure they do not sink under traffic loads.

7. **Pavement**

The contractor shall be fully aware of existing conditions, including fences adjacent tot he right of way and the locations of services. Any damage caused to services, fences or other property associated with the right of way construction is the responsibility of the contractor. All damage must be rectified and be to the satisfaction of the City of Engineer.

The full width of the right of way is to be paved unless approval is obtained from the City Engineer to pave less than the full width.

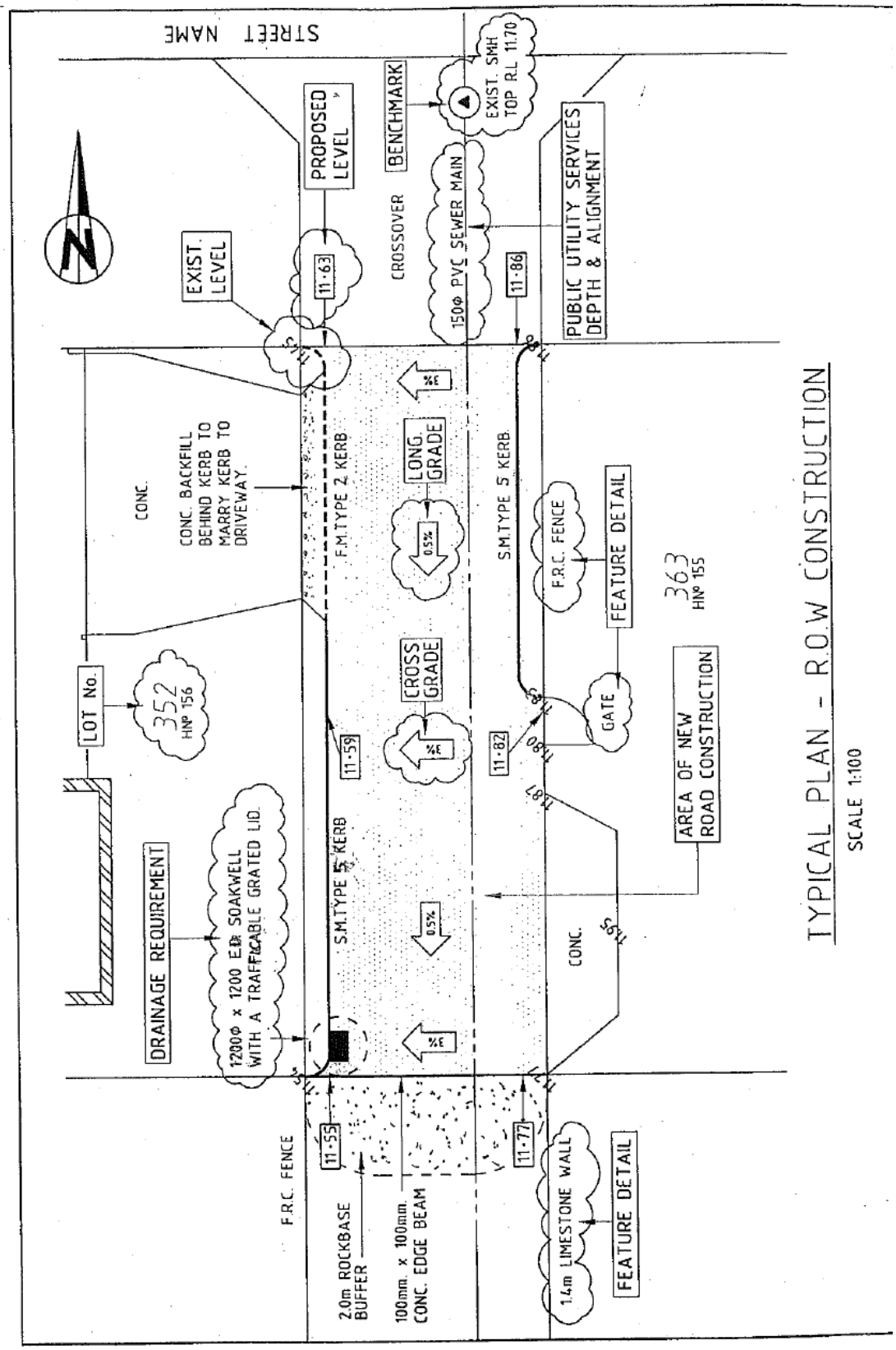
The following procedures is a guide to the construction of the right of way.

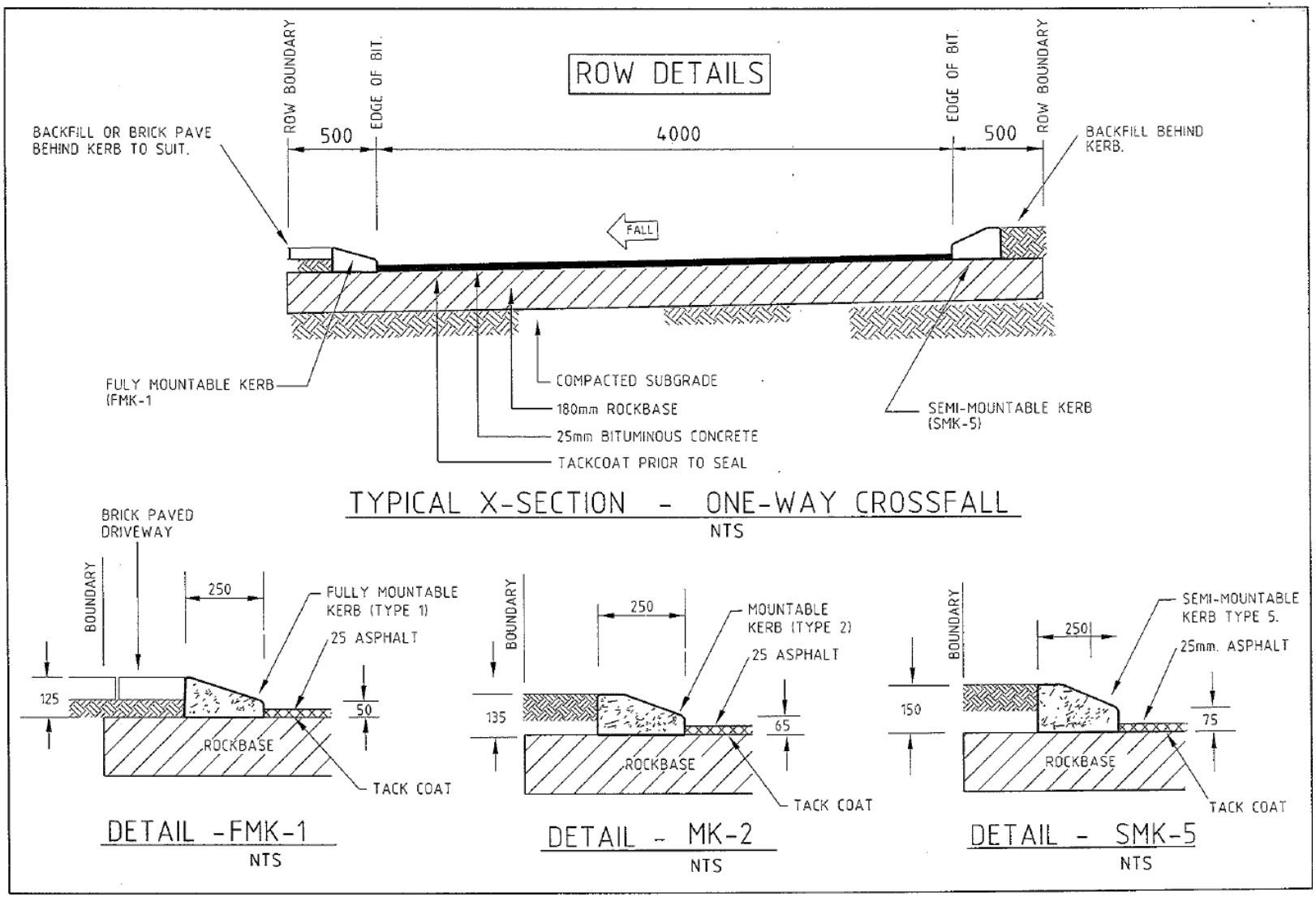
(i) Excavate material to subgrade level and compact;
(ii) **Sub-base** - sub-bade pavement to consist of 150mm minimum compacted depth of limestone;
(iii) **Base** - base pavement to consist of 50mm minimum compacted depth of rock base;
(iv) **Prime** - the total width of the right of way is to be primed with bitumen emulsion;
(v) **Wearing surface** - minimum consolidated depth of 25mm bituminous concrete (with 10mm granite aggregate) for the full width of the right of way;
(vi) The section of the right of way adjacent to the end of construction is to be made trafficable by the placement of 150mm minimum compacted depth of limestone extending 2 metres beyond the edge of construction;
(vii) Cleaning up - all excess material and debris is to be removed from the site.

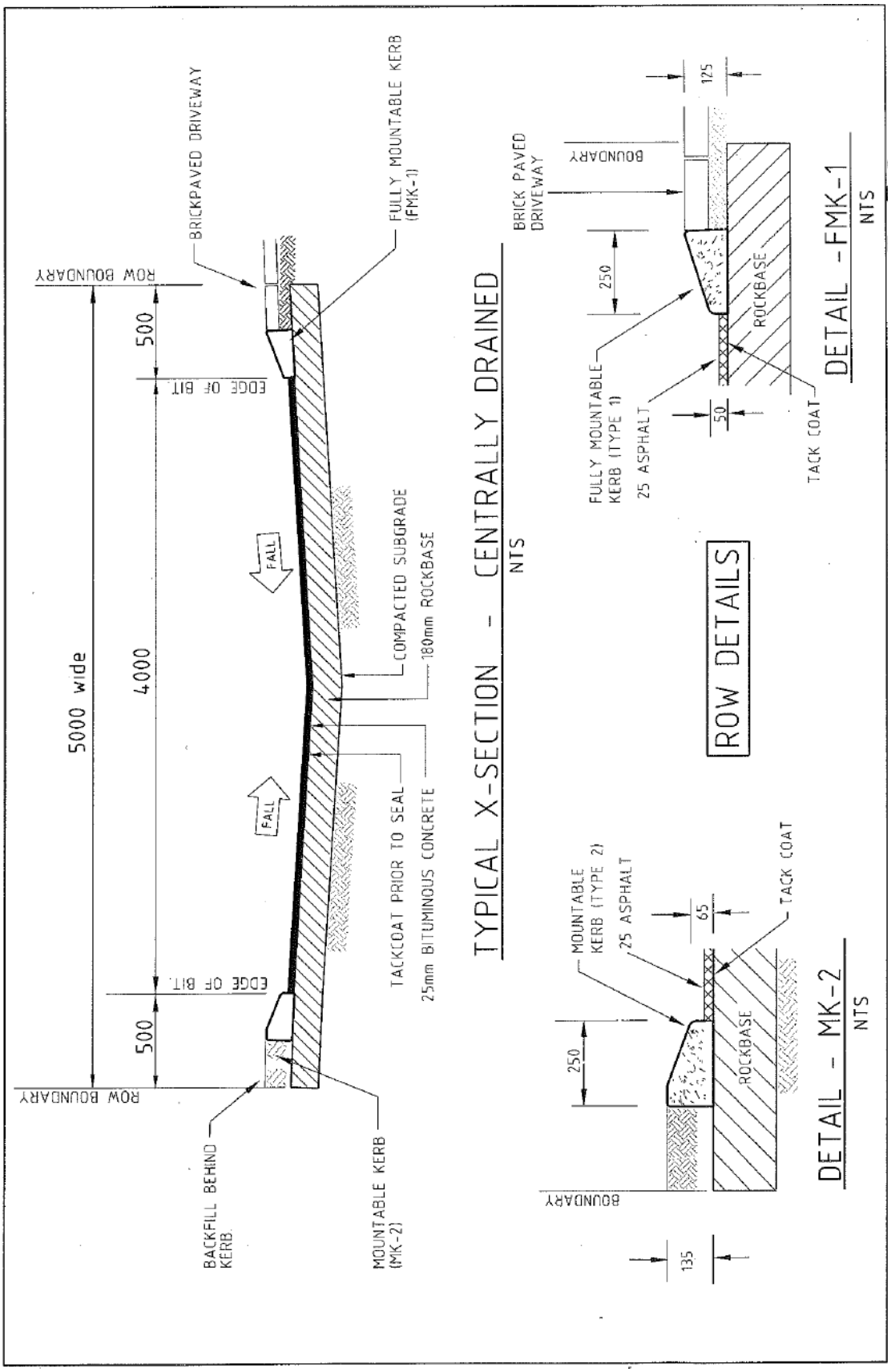
8. **Alternative Payments**

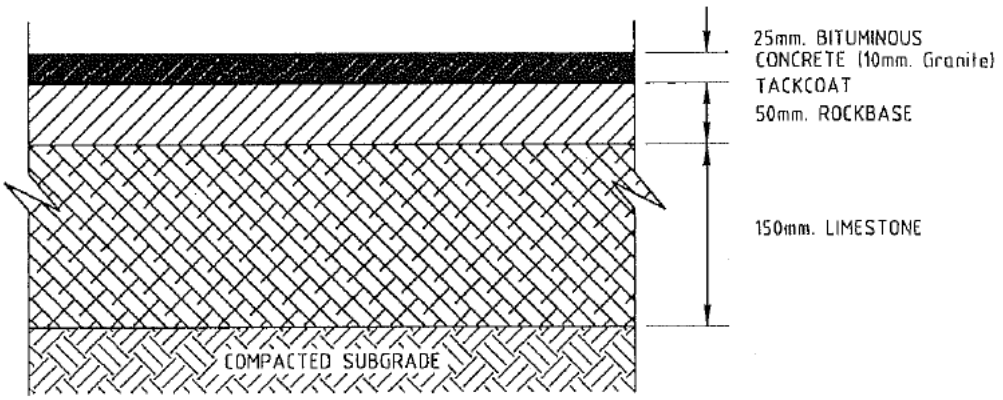
Subject to approval by the City Engineer alternative payment sections may be used as indicated on City of Stirling Drawing No.E1477.01.

These alternatives allow for the use of a single layer rockbase base course or a brickpaving wearing course.

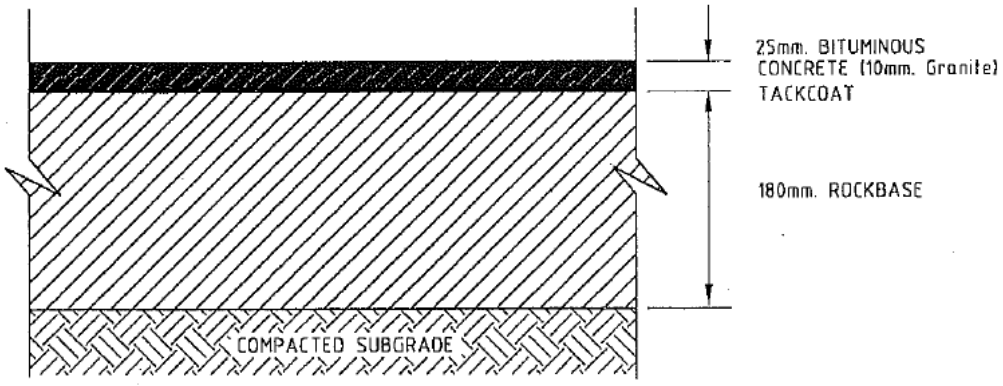

STREET NAME
N
EXIST. LEVEL
PROPOSED LEVEL
11·63
BENCHMARK
EXIST. SMH TOP R.L 11.70
CROSSOVER
150Φ PVC SEWER MAIN
11·86
PUBLIC UTILITY SERVICES DEPTH & ALIGNMENT
CONC.
CONC. BACKFILL BEHIND KERB TO MARRY KERB TO DRIVEWAY.
F.M.TYPE 2 KERB
LONG. GRADE
0.5%
S.M.TYPE 5 KERB
F.R.C. FENCE
FEATURE DETAIL
LOT No.
352
HNº 156
CROSS GRADE
11·59
11·82
GATE
363
HNº 155
AREA OF NEW ROAD CONSTRUCTION
DRAINAGE REQUIREMENT
1200Φ x 1200 Ø SOAKWELL WITH A TRAFFICABLE GRATED LID.
S.M.TYPE 5 KERB
CONC.
F.R.C. FENCE
11·55
11·77
2.0m ROCKBASE BUFFER
100mm. x 100mm. CONC. EDGE BEAM
1.4m LIMESTONE WALL
FEATURE DETAIL
TYPICAL PLAN - R.O.W CONSTRUCTION
SCALE 1:100


ROW DETAILS
ROW BOUNDARY
EDGE OF BIT.
EDGE OF BIT.
ROW BOUNDARY
BACKFILL OR BRICK PAVE BEHIND KERB TO SUIT.
500
4000
500
BACKFILL BEHIND KERB.
FALL
FULY MOUNTABLE KERB (FMK-1
COMPACTED SUBGRADE
180mm ROCKBASE
25mm BITUMINOUS CONCRETE
TACKCOAT PRIOR TO SEAL
SEMI-MOUNTABLE KERB (SMK-5)
TYPICAL X-SECTION - ONE-WAY CROSSFALL
NTS
BRICK PAVED DRIVEWAY
BOUNDARY
250
FULLY MOUNTABLE KERB (TYPE 1)
25 ASPHALT
125
50
ROCKBASE
TACK COAT
DETAIL -FMK-1
NTS
BOUNDARY
250
MOUNTABLE KERB (TYPE 2)
25 ASPHALT
135
65
ROCKBASE
TACK COAT
DETAIL - MK-2
NTS
BOUNDARY
250
SEMI-MOUNTABLE KERB TYPE 5.
25mm. ASPHALT
150
75
ROCKBASE
TACK COAT
DETAIL - SMK-5
NTS


ROW DETAILS
TYPICAL X-SECTION - CENTRALLY DRAINED
NTS
5000 wide
4000
500
500
ROW BOUNDARY
ROW BOUNDARY
EDGE OF BIT
EDGE OF BIT
BRICKPAVED DRIVEWAY
FULLY MOUNTABLE KERB (FMK-1)
FALL
FALL
COMPACTED SUBGRADE
180mm ROCKBASE
TACKCOAT PRIOR TO SEAL
25mm BITUMINOUS CONCRETE
BACKFILL BEHIND KERB
MOUNTABLE KERB (MK-2)
BRICK PAVED DRIVEWAY
BOUNDARY
250
FULLY MOUNTABLE KERB (TYPE 1)
25 ASPHALT
50
ROCKBASE
TACK COAT
125
DETAIL -FMK-1
NTS
MOUNTABLE KERB (TYPE 2)
25 ASPHALT
65
250
ROCKBASE
TACK COAT
BOUNDARY
135
DETAIL - MK-2
NTS



TYPE "A"



TYPE "B"

PERMISSABLE PAVEMENT OPTIONS

SCALE: NTS

City of Stirling

REQUIREMENTS FOR ON-SITE DRAINAGE

1. Included with the plans submitted to the City's Building Department there must be a site plan showing the following drainage details.

   1.1 Existing ground levels or contours.

   1.2 Proposed levels of paved or concrete areas.

   1.3 Details of roof and pavement drainage disposal.

   1.4 Size (depth of diameter) and locations of all soakwells.

   1.5 Minimum size soakwell allowable for roof water disposal is:

   900mm diameter x 600mm deep

NOTE:	The following formula shall be used to determine the soakwell capacities required:
	impervious Area (m^2) x 0.0122m = Capacity Required m^3

2. The following conditions shall also apply:

   2.1 All soakwells installed in paved or concreted areas are to be provided with trafficable lids and made accessible for maintenance purposes.

   2.2 Soakwells to be no closer than 1.0m to a footing or boundary.

   2.3 All soakwells used shall be of an approved manufacture and standard.

   2.4 All soakwells installed within flexible pavement areas (bitumen or brick paving) shall be provided with an approved base to prevent any subsidence of the well liners.

   2.5 The City's Health Department shall be contracted at least 48 hours prior to commencement of construction of the drainage system and shall be again contacted for inspection of the drainage system prior to backfill.

ENQUIRIES: **Engineering Department**

SOAKWELLS SIZES AND CAPACITIES

DIAMETER	DEPTH	CAPACITY	
(mm)	(mm)	M^2	M^3
900	600	31.0	0.38
900	900	47.0	0.57
900	1200	62.0	0.76
1070	600	44.0	0.54
1070	1200	89.0	1.09
1200	600	56.0	0.68
1200	900	84.0	1.02
1200	1200	111.0	1.36
1200	1500	139.0	1.70
1500	600	87.0	1.06
1500	1200	172.0	2.10
1500	1500	217.0	2.65
1800	600	125.0	1.53
1800	900	188.0	2.29
1800	1200	250.0	3.05
1800	1800	375.0	4.58

APPENDIX C –Model 5 (Simplistic)

RIGHTS OF WAY MANAGEMENT STRATEGY - DEVELOPER CONTRIBUTIONS AND CITY FUNDS

Model 5 - 10 Yrs Work Basic Mtce for Categories 4 and 5

All Dollars expressed at Current Value

	Notes	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Total	*Inflation 3.5%pa*
		$	$	$	$	$	$	$	$	$	$	$	$	$	$	$	$	$	$	$	$		$
Expenditure																							
Construction Costs	1	2,144,000	2,144,000	2,144,000	2,144,000	2,144,000	2,144,000	2,144,000	2,144,000	2,144,000	2,144,000											21,440,000	25,152,107
Project Mgt & Design	2	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000											5,000,000	5,865,697
Total Expenditure		2,644,000	2,644,000	2,644,000	2,644,000	2,644,000	2,644,000	2,644,000	2,644,000	2,644,000	2,644,000	0	0	0	0	0	0	0	0	0	0	26,440,000	31,017,804
Income																							
Developer Contributions	3	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	9,000,000	12,725,857
City Funds		*2,194,000*	*2,194,000*	*2,194,000*	*2,194,000*	*2,194,000*	*2,194,000*	*2,194,000*	*2,194,000*	*2,194,000*	*2,194,000*	*-450,000*	*-450,000*	*-450,000*	*-450,000*	*-450,000*	*-450,000*	*-450,000*	*-450,000*	*-450,000*	*-450,000*	*17,440,000*	*18,291,947*

Notes

1 Estimated Construction Costs revised as at Jan 2009 taking into account ROW sealing completed as part of development.
Construction Cost - $110/m2 inclusive of 10% contingency.
Lighting Cost - $135/m - $165/m (unconstructed/constructed ROW)
Categories 4 & 5 ROW basic maintenance only (20% of construction cost).

2 Estimated project management and design costs not included in construction cost estimates.

3 Assume 36% of construction cost. Developer Contributions collected over 20 years.

REFERENCES

City of Stirling, 'Character Retention Guidelines: Design Guidelines', July 2006

Western Australian Planning Commission, 'Planning Bulletin No 18 – Developer Contributions for Infrastructure', February 1997

Western Australian Planning Commission, 'Planning Bulletin No 33 – Rights of Way or Laneways in Established Areas – Guidelines', July 1999

Western Australian Planning Commission, 'Planning Bulletin No 41 – Draft Model Text Provisions for Development Contributions', July 2000

Western Australian Planning Commission and the Department for Planning and Infrastructure, 'Liveable Neighbourhoods: A Western Australian Government Sustainable Cities Initiative', October 2007