

Draft Rights of Way Strategy

Background

Rights of Way (ROW) are separate parcels of land that were in the main created to service rear laneway access to lots as part of an original subdivision. In most cases, ownership of the ROW has remained with the original subdivider following the sale of the lots shown on the Plan of Diagram or Survey. Rights of Way are generally contained in a Certificate of Title, registered in the name of the original subdivider. The original subdivider is often a deceased person or defunct company. Other ROWs may be in Council or Crown ownership and be dedicated as under width public roads.

Ownership of ROWs within the Town is varied. Of the 79 ROWs identified, 22 are owned by the Town or the Crown (1), whilst the remaining 57 are held in private ownership. As a result, ownership and the responsibility of managing ROWs within the Town is complex and can cause several issues for residents who either abut or live within proximity of ROWs.

The Town has an extensive ROW network which services access to approximately 488 properties. The total length of the private ROW network is approximately 5.9km and the length of the Council/Crown owned ROW network is approximately 2.5km – the total ROW network is approximately 8.4km.

Due to the varied ownership of the ROWs, the condition of the network varies impacting safety and accessibility. There are legal constraints under the Local Government Act 1995 which restricts the Town from spending ratepayer funds on private land – this has historically prevented the Town from maintaining or upgrading the majority of the network.

The purpose of this ROW Strategy is firstly to clarify and document the current ownership of all ROWs within the Town, and secondly to consider ongoing management and use options for these ROWs. This Strategy presents options for Council to consider ongoing financial management of the network, which will ultimately need to be determined in light of the Town's budget constraints by Council and potential infrastructure construction programs.

The objectives of the Draft ROW Strategy include:

- Transition the ROW network into a safe, functional, and well-managed asset.
- Rationalising Tenure: Converting private ROWs into underwidth public roads to allow for Town-led maintenance.
- Enhancing Safety: Implementing Lighting (Solar) and “Crime Prevention Through Environmental Design” (CPTED) principles.
- Improving Access: Requiring widening (to 5-6m) through the development and subdivision process to support two-way traffic and service vehicle use.

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The Draft Strategy proposes to prioritise ROWs into four action categories based on the following:

- **Priority 1** – Highest priority action – public and private ROWs (17) – arrangements must be in place for private ROW construction involving dedication. Need for upgrading involving prior closure and/or dedication as an underwidth Public Road and possible implementation of Specified Area Rates to enable cost sharing of construction and lighting, or Council taking on the long-term responsibility for construction, lighting and maintenance.
- **Priority 2** – (36 plus 2 part) Existing well-maintained public and private ROWs in need of lighting (and in some isolated instances, minor drainage upgrades) involving closure and/or dedication where appropriate in order for Council to take on the long-term maintenance obligations. ROWs constructed to a suitable level of paved construction and drainage can be dedicated as an underwidth Public Road for the Town to take over longer term maintenance. Taking on public responsibility for maintenance also introduces levels of care responsibilities and as a consequence, to improve public safety, CPTED principles should be applied by installing supplementary lighting.
- **Priority 3** (4 plus 3 part) – Closure where appropriate.
- **Priority 4** (13 plus 1 part) – Retain in private ownership where appropriate (small ROWs servicing minimal access requirements).

Independent Engineering consultants have estimated the following preliminary costs for the purpose of establishing approximate financial implications of implementing a construction programme for the upgrading of the existing ROW network (it is noted that these costs will need to be verified through a test reconstruction project once dedication arrangements have been finalised):

- Paving – \$300 + 25% contingencies (\$75) = \$375/m²
- Drainage – \$50 + 25% contingencies (\$12.50) = \$62.50/m²
- Kerbing/speed humps/driveway and road tie-ins/fence repairs – \$50 + 25% contingencies (\$12.50) = \$62.50/m²
- Lighting (solar) – \$30 + 25% contingencies (\$7.50) = \$37.50/m²
- Total cost per square metre – \$537.50/m²

The Draft ROW Strategy tabulates and assesses each individual ROW in the network and makes recommendations on the future management of the ROW. Based on the above cost estimates, it is envisaged that a construction project will be in the order of \$4.89m, noting that additional costs will also apply to resource staffing for the program (dependent on the number of staff employed and period of program), survey costs and DPLH registration fees to roll out the program over a Council specified timeframe.

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Draft Strategy Conclusions

The Town's Draft ROW Strategy identifies a clear need to transition the current fragmented network into a safe, public-managed asset. By addressing long-standing ownership and maintenance barriers through the legal dedication of private ROWs as public roads, the Town can ensure consistent infrastructure standards, enhanced safety through solar lighting, and improved urban functionality.

While the estimated \$4.89 million program presents a significant long-term commitment, the proposed 10-year implementation plan offers a sustainable pathway to enhance neighbourhood amenity without overwhelming annual budgets. Adopting this strategy following public consultation and a pilot reconstruction project once dedication processes have been complete will be essential to securing the community support necessary for these critical infrastructure improvements.

Next Steps

Following public consultation of the Draft ROW Strategy, Council will:

1. Assess community support for the proposal and how to proceed with implementing the Strategy (noting that approximately 70-75% owner support is a benchmark for individual ROW dedications).
2. Amend Council Policy LV108 – Rights of Way/Laneways to align with the Strategy management pathways.
3. Determine commencement of a test reconstruction project to verify cost estimate and engineering standards following dedication of the ROW.
4. Refine and priorities individual ROW upgrades following dedication as part of the annual Council budget preparation process.

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Frequently Asked Questions

What is Council's commitment to the Draft ROW Strategy?

Council is looking at ways of improving access to private property through the ROW network. Section 3.27 and Schedule 3.2 of the *Local Government Act 1995* limits the type of work Council can undertake on private land. Before being able to legally upgrade the network, private ROWs must be dedicated for public use. Once ROWs are dedicated for public use, Council is to consider funding individual ROWs through its annual budget preparation process.

Who approves the closure and dedication of a private ROW?

Under the *Land Administration Act 1997*, the Minister for Lands is responsible for approving the closure and dedication of private ROWs.

How long will it take to close or dedicate a private ROW?

Closure and dedication processes under sections 52 and 56 of the *Land Administration Act 1997* can take up to 12 months or more to finalise.

When can Council undertake works proposed by the Draft ROW Strategy on private ROWs?

Once the Draft Strategy is endorsed by Council, it can commence the process of closure and dedication of the private ROWs in the Town and reflect the Strategy in Council Policy LV108 – Rights of Way/ Laneways. Council will also consider a pilot construction project to verify cost estimates and move to refine the construction priorities for the network as part of its annual budget preparation procedures.

How can I make comment on the proposals?

You are welcome to make a submission to the Town of Claremont on these proposals. The Town will review the submissions and make a recommendation on how each aspect of the proposal will proceed.

When will Council consider the Draft ROW Strategy?

On conclusion of advertising of the Draft ROW Strategy, all submissions will be referred to Council with a recommendation on how to proceed. Timing for Council consideration will depend on the number of submissions received and work involved in responding to any issues raised. It is envisaged that the matters will be referred to Council for consideration in June or July 2026.

Can I present my views directly to Council?

Once a Council report on these matters has been completed and scheduled for a Council meeting, you will be advised. All respondents will be advised of the Council meeting date and provided an opportunity to make a submission at the Council meeting.