

COUNCIL POLICY LV108

RIGHT OF WAY LANEWAYS

KEY FOCUS AREA LIVEABILITY

Purpose

The purpose of this policy is to provide guidance on the management and/or acquisition of privately owned Right of Ways (**ROWS**) in the Town of Claremont.

Acquisition

A local government may request the Minister for Lands dedicate privately owned ROW for public use (Section 56 of the *Land Administration Act 1997*).

Pursuant to section 56, before a local government may request ownership of a private ROW:

1. the Private ROW must be constructed and maintained to the satisfaction of the local government and the owners of the ROW must apply to the local government and request dedication as per (s56(1)(b) ; or
2. the Public must have had uninterrupted use of that ROW for a period of not less than 10 years (s56 (1)(c)).

In relation to (1), Council considers that “to the satisfaction” will by way of guidance generally mean not in a state of disrepair and:

1. not requiring major repairs, re sealing or renewing;
2. in a trafficable state;
3. has sufficient and functioning drainage;
4. free of substantial pot holes.

Management

Pursuant to section 3.27 of the *Local Government Act* the Town is only permitted to utilise ratepayer funds on privately owned land in very restricted circumstances including:

1. Carry out works for the drainage of land.
2. Do earthworks or other works on land for preventing or reducing flooding.
3. Take from land any native growing or dead timber, earth, stone, sand, or gravel that, in its opinion, the local government requires for making or repairing a thoroughfare, bridge, culvert, fence, or gate.
4. Deposit and leave on land adjoining a thoroughfare any timber, earth, stone, sand, gravel, and other material that persons engaged in making or repairing a thoroughfare, bridge, culvert, fence, or gate do not, in the local government’s opinion, require.
5. Make a temporary thoroughfare through land for use by the public as a detour while work is being done on a public thoroughfare.

6. Place on land signs to indicate the names of public thoroughfares.
7. Make safe a tree that presents serious and immediate danger, without having given the owner the notice otherwise required by regulations.

Council does not endorse ratepayers funds being used outside of what is permissible under the *Local Government Act 1995*.

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