

* TITLE: Use of Rights of Way
* ADOPTED BY: Glen Eira City Council
* DATE ADOPTED: 21 May 2001

1. Policy Basis

Rights of way were principally created as part of subdivisions for the purpose of providing ancillary services to properties, which include sanitary collection, deliveries to retail, commercial and industrial properties. Most rights of way were never intended to be the principal means of access to any property, nor are they wide enough to cater for public vehicular through traffic and/or pedestrian access. Unless the originally intended use of the road can be demonstrated to be still required, Council holds the view that the best use of such land should be discontinuance and sale to adjoining properties.

A number of planning proposals for multi unit developments are on sites adjoining rights of way. Some of these planning proposals seek to rely on the right of way for vehicular and pedestrian access to a dwelling. This raises a number of issues such as maintenance, security, pedestrian safety, lighting, inability for garbage and emergency vehicle access and difficulties in street numbering.

The Municipal Strategic Statement encourages a balanced mix of housing types and densities, and the facilitation of shop top housing where appropriate. There are some locations where the use of rights of way may actually assist in the achievement of strategic planning objectives such as providing shop top housing or providing increased residential densities in urban villages and neighbourhood centres.

2. Objective

To provide a coordinated approach for Council in considering the use of rights of way within the municipality.

3. Policy

It is policy that;

3.1 Maintenance

- Council may, at its discretion, continue to maintain existing constructed sections of rights of way.
- The care and management of rights of way not maintained by Council, including all unmade sections, rests with adjoining properties.
- The provision and maintenance of public lighting in rights of way is the responsibility of adjoining properties.

3.2 Planning permit applications

- It is Council's preferred option that all properties contain all access within their title boundary onto the primary road abutting their property.
- Where an owner seeks to use an abutting right of way as an access to his/her property, it is desirable that the owner purchase the abutting section of the right of way from Council, subject to the constraints of this policy.
- Where it is not possible to purchase such land, the applicant should be required to:
 - (i) construct and thereafter maintain the section of right of way to be used to Council's satisfaction; and
 - (ii) take measures to restrict access to the property only along the section of right of way immediately abutting the property.
- Council will only encourage use of rights of way for vehicular access in urban villages or neighbourhood centres where an outcome consistent with the Municipal Strategic Statement would be achieved. Use of rights of ways for vehicular access in "incremental change" areas should be discouraged.
- Pedestrian access to the primary road abutting the property should be provided at all times.

3.3 Assigning street names to rights of way

- Council will consider assigning a street name to a right of way only if all of the following have occurred:
 - (i) A planning permit has been issued for at least one property which provides sole abuttal to the right of way;
 - (ii) Council considers that addressing the above property(ies) from the principal road might not provide sufficient identification to visitors;
 - (iii) The applicant requesting the naming is an owner of an adjoining property and has received written support for the request from the majority of other adjoining owners;
 - (iv) The applicant has also obtained written consent from Australia Post in support of the request;
 - (v) Adjoining owners have been advised that –
 - Any such naming is made solely for the purposes of assisting residents in the better identification of their properties by visitors;
 - No obligation rests with Council to improve, upgrade or maintain the right of way as a result of properties using the new street name as their address. Any such works would be at the expense of adjoining owners;
 - (vi) Any name assigned will recognise that it is a subsidiary road, and will contain the suffix 'Lane'.

* Relevant Legislation: Local Government Act 1989, Subdivision Act 1988

* Cross References to other Policies / Documents: Rights of way and reserves – Discontinuance and sale, Glen Eira Municipal Strategic Statement.

* Responsible Officer(s): Director Assets and Facilities, Director City Development, Compliance Co-ordinator, Statutory Planning officers, Manager Infrastructure Assets