

October 2009

Procedure for the Closure of Pedestrian Access Ways

Planning Guidelines



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Albert Facey House
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internet: www.planning.wa.gov.au
email: corporate@planning.wa.gov.au

tel: 08 9264 7777
fax: 08 9264 7566
TTY: 08 9264 7535
infoline: 1800 626 477

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Purpose of the guidelines

These planning guidelines:

- Set out a new, simplified procedure for the closure of pedestrian access ways following a review of current processes and procedures and the associated enabling legislation.
- Explain the role of the Department of Planning (DoP) (Statutory Area Teams), the Department of Regional Development and Land (RDL) (State Land Services) and the Western Australian Planning Commission (WAPC) in the new procedure.
- Outline the issues associated with pedestrian access ways closure and the information required to accompany an application for closure.
- Explain the procedure to close pedestrian access ways on a temporary basis where permanent closure is not desirable.

The guidelines supersede *Planning Bulletin 57 Closure of Pedestrian Access Ways - Planning Considerations* which was released in May 2003.

Background

Pedestrian access ways were originally established as part of land subdivision in accordance with section 20A of the, then, *Town Planning and Development Act 1928*. They were seen as a means of providing for the unimpeded movement of pedestrians and cyclists in and around residential neighbourhoods following the change from traditional grid pattern road layouts to designs based on culs-de-sac and loop roads. Pedestrian access ways are also often used to locate public infrastructure such as water, sewer and gas pipes, and electrical cables.

There has been much concern expressed by the community about property damage, anti-social behaviour, drug abuse and burglaries associated with pedestrian access ways. This is because they are often narrow and have poor surveillance therefore providing opportunities for people to gather in an enclosed environment and can facilitate easy access into properties, with little or no passive surveillance. The problem is compounded where pedestrian access ways are poorly maintained and poorly lit, have inadequate paving and signage, and the associated fear of crime discourages legitimate use.

Pedestrian access ways are a part of an historical subdivision design practice. Contemporary urban design principles encourage the creation of permeable, accessible and sustainable street networks, with the aim of reducing car dependence by promoting non-car-based transport modes like walking, cycling and public transport. The principles also recognise the links between the increase in car use, obesity due to inactivity, and global climate change as a result of vehicle emissions.

Despite this, there are ongoing requests for the closure of pedestrian access ways on security and amenity grounds. However, existing pedestrian access ways provide access to essential services; and provide pedestrian and cycle access both in neighbourhoods and to local and district facilities including public transport, schools, shops, parks and community facilities. In considering closure requests a balance needs to be found between resident access to facilities and public transport, and concerns regarding security and amenity.

New, simplified procedure for the closure of pedestrian access ways

The new, simplified procedure for dealing with the closure of pedestrian access ways is based on section 87 of the *Land Administration Act 1997* which sets out a self-contained process by which an amalgamation of remnant Crown land may be achieved.

Amalgamation of Crown land under section 87 of the *Land Administration Act 1997* is not considered a subdivision. For the purposes of section 87, deposited plans do not require the consent of the WAPC because they are not created for the purpose of satisfying the requirements of the *Planning and Development Act 2005*.

The new closure procedure is based on the concept of a pedestrian and cycle access plan.

More information on pedestrian and cycle access plans, including a suggested preparation methodology is set out in appendix 1.

Prior to considering a pedestrian access way closure, a local government may request the submission of information from a landowner to determine the level of support for the closure from all adjoining landowners (similar to the information outlined in option A, step 3 and option B, step 5). Support for the closure from adjoining landowners of the pedestrian access way is essential for a local government to formally investigate the closure. Landowners should contact their local government to discuss the pedestrian access way closure process, including possible application and advertising fees.

Local governments may also consider imposing a three year limit on the reconsideration of an individual pedestrian access way closure, unless significant new information is presented.

Option A: Pedestrian access ways closure request is in accordance with a WAPC-endorsed pedestrian and cycle access plans

Step 1: The local government receives a request for closure of a pedestrian access way and, after exploring all reasonable management options¹, resolves to progress the request by preparing a closure report which justifies the closure by referencing a WAPC-endorsed pedestrian and cycle access plan.

Step 2: The local government refers the closure report to all infrastructure providers that have an interest in the pedestrian access way, and requests their comments and advice in writing.

¹ See the related planning guidelines *Reducing Crime and Anti-Social Behaviour in Pedestrian Access Ways* for a range of designing out crime strategies.

The infrastructure providers should be asked:

- to confirm that they have infrastructure located in the pedestrian access way;
- whether that infrastructure is proposed to be relocated at some stage in the future or will remain in situ;
- whether they have any objection to the closure; and
- if they have no objection to the closure, what their requirements are in relation to service relocation and easements.

Note: Infrastructure providers that have an interest in the pedestrian access way will have been identified in step 6 of the pedestrian and cycle access plan preparation process set out in appendix 1.

Step 3: The local government refers the request for closure, together with the closure report, to all abutting landowners seeking:

- written support for the closure;
- written agreement as to how the land is to be divided; and
- written agreement from those wishing to purchase a portion of the pedestrian access way that they are prepared to meet all costs associated with the closure including the possible relocation of infrastructure and registration of easements, removal of improvements from the pedestrian access way, and cost of reinstatement of kerbing.

Step 4: The local government submits the closure report, together with a written request for confirmation that the proposed closure is in accordance with a WAPC-endorsed pedestrian and cycle access plan, to the DoP Statutory Area Teams.

Step 5: The DoP Statutory Area Teams receives the local government's request and confirms, in writing, that the proposed closure is in accordance with a WAPC-endorsed pedestrian and cycle access plan.

Step 6: The local government formally resolves to proceed with the closure, and refers the request, together with:

- the closure report (amended to include an assessment of the responses received from the DoP Statutory Area Teams, infrastructure providers and abutting landowners);
- a copy of the letter received from the DoP Statutory Planning Division confirming that the proposed closure is in accordance with a WAPC-endorsed pedestrian and cycle access plan;

- copies of all letters received from infrastructure providers;
- copies of all letters received from abutting landowners; and
- a sketch showing the proposed disposition of the closed pedestrian access way among adjacent properties

to RDL State Land Services for processing under section 87 of the *Land Administration Act 1987*.

Option B: Pedestrian access way closure without a pedestrian and cycle access plan

Step 1: The local government receives a request for closure of a pedestrian access way and, after exploring all reasonable management options², prepares a closure report which addresses the range of matters set out in steps 3-9 of appendix 1, with appropriate amendments made to the methodology in recognition of the fact that a single pedestrian access way is involved.

Step 2: The local government refers the closure report to all relevant infrastructure providers and any other agencies that may have an interest in the pedestrian access way, and requests their comments and advice, in writing.

The infrastructure providers, in particular, should be asked:

- whether there is any infrastructure located in the pedestrian access way;
- whether that infrastructure is proposed to be relocated at some stage in the future or will remain in situ;
- whether they have any objection to the closure; and
- if they have no objection to the closure, what their requirements are in relation to service relocation and easements.

Note: Infrastructure providers and agencies that may have an interest in the pedestrian access way are identified in steps 6 and 10 of the pedestrian and cycle access plan preparation process set out in appendix 1. The comments of the infrastructure providers and agencies are essential in determining each provider's and agency's willingness to alter existing arrangements in the case of a pedestrian access way proposed to be closed. There is little point in pursuing a closure where infrastructure providers or agencies are unwilling to support the closure.

² See the related planning guidelines *Reducing Crime and Anti-Social Behaviour in Pedestrian Access Ways* for a range of designing out crime strategies.

Step 3: The local government consults the community likely to be affected by the proposed closure (including all abutting landowners) using two or more of the following methods, and seeks their comments in writing:

- placement of signs at either end of the pedestrian access way advising of the proposal to close the pedestrian access way;
- press release and advertisement in the local newspaper and other media;
- direct mail out to households likely to be affected by the closure;
- liaison with local community groups;
- stakeholder workshops;
- information sessions and discussion groups;
- questionnaire surveys;
- public displays.

Step 4: The local government assesses any comments and advice received from infrastructure providers, agencies and the community and determines whether to close the pedestrian access way, or retain it and keep it open.

Step 5: If the local government resolves to close the pedestrian access way, it advises all abutting landowners of its decision and seeks:

- written support for the closure;
- written agreement as to how the land is to be divided; and
- written agreement from those wishing to purchase a portion of the pedestrian access way that they are prepared to meet all costs associated with the closure including the possible relocation of infrastructure and registration of easements, removal of improvements from the pedestrian access way, and cost of reinstatement of kerbing.

Step 6: The local government submits a written request to close the pedestrian access way to the WAPC together with:

- the closure report (amended to include an assessment of the responses received from the infrastructure providers, agencies, abutting landowners and other members of the community);
- copies of all letters received from infrastructure providers; and
- copies of all letters received from abutting landowners.

Note: The local government is not required to supply the WAPC with copies of all letters received from other members of the community. These will be summarised in the closure report.

Step 7: The WAPC assesses the proposal taking into account the:

- range of matters set out in steps 3-9 of appendix 1; and
- comments of infrastructure providers, agencies, abutting landowners and other members of the community and makes a decision to either endorse or not endorse the proposal, and communicates its decision to the local government.

Note: There is no right of review available in relation to a WAPC refusal to endorse a proposal for a pedestrian access way closure. Despite this, and depending on the particular circumstances, the WAPC may be asked to reconsider its decision.

Step 8: On receipt of the WAPC's endorsement, the local government proceeds with the closure, and refers the request, together with:

- the closure report (amended to include an assessment of the responses received from the WAPC, infrastructure providers, agencies, abutting landowners and other members of the community);
- a copy of the letter of endorsement received from the WAPC;
- copies of all letters received from infrastructure providers;
- copies of all letters received from abutting landowners; and
- a sketch showing the proposed disposition of the closed pedestrian access way among adjacent properties;

to RDL State Land Services for processing under section 87 of the *Land Administration Act 1987*.

Timeframes for the consideration of closure

The DoP will endeavour to provide comments to a local government regarding a pedestrian access way closure request within:

- 90 days - assessment of a pedestrian and cycle plan;
- 30 days - assessment of a pedestrian access way closure through option A (where a pedestrian and cycle plan has been endorsed); and
- 60 days - assessment of a pedestrian access way closure through option B (without a pedestrian and cycle plan).

The role of RDL State Land Services

The role of RDL State Land Services is to give effect to the request for closure of the pedestrian access way under section 87 of the *Land Administration Act 1987*, and undertake formal sale and conveyancing of the subject land.

State Land Services has developed more detailed procedural guidelines to outline the process involved in the closure of a PAW and should be referred to for more advice on the closure process through the *Land Administration Act 1997*.

Information required at lodgement

As a general rule, the local government should ensure that all issues associated with the closure of a pedestrian access way are resolved between the various parties involved before the request for closure is lodged with State Land Services. In this regard, at the time the request for closure is lodged, the local government will need to:

- provide evidence that the WAPC or DoP Statutory Area Teams, infrastructure providers, other agencies, and abutting landowners who have agreed to purchase a portion of the pedestrian access way support the closure in the manner proposed; and
- ensure that all infrastructure provider comments have been provided, including details as to service relocation costs or requirements for easements.

Prior to commencing the formal process of preparing an application for closure, State Land Services will, where asked to do so by the local government, provide the local government with the purchase price of the pedestrian access way (both the conditional up-front price, and later final price).

If State Land Services needs clarification on any matter related to the closure, it will contact the local government for information and advice.

The local government will be responsible for liaising with abutting landowners regarding advising likely costs, and reaching agreement on the proposed disposition of the pedestrian access way after it has been closed. Final formal sales agreement, liaison with landowners associated with final settlement, and conveyancing, will be attended to by State Land Services.

Administrative actions

State Land Services will then:

- assess the application to determine whether closure and disposal, or any alternative arrangement, can proceed;
- arrange the offer and acceptance documentation³;
- provide information regarding the requirements for the survey and plan preparation (in limited circumstances State Land Services will arrange for the preparation of survey and graphic); and
- close the pedestrian access way and effect disposal of the subject land.

³ In the event of a strata company's involvement, the strata company's agreement (form 13) will be obtained as part of the offer and acceptance process.

Alternatives to permanent pedestrian access way closure

The *Reducing Crime and Anti-Social Behaviour in Pedestrian Access Ways* guidelines include a range of designing out crime strategies and a number of alternatives to permanent pedestrian access way closure, based on improvements to safety and security within the pedestrian access way.

Longer term redevelopment opportunities may also be worth exploring in some situations. Appendix 2 provides an example of the possible redevelopment of lots adjoining an essential pedestrian access way. In this example, the adjoining land is up-coded, the pedestrian access way is widened and dedicated as a public road and a pedestrian island provided to prevent through traffic. The benefit of this option include maintaining pedestrian access and increasing surveillance of the pedestrian thoroughfare, which could assist in reducing antisocial behaviour.

Temporary pedestrian access way closure

The temporary closure of a pedestrian access way may be considered as an alternative to permanent closure where:

- other methods of dealing with safety, crime and anti-social behaviour have proven to be unsuccessful; and
- permanent closure is not desirable due to the possible need for future access.

The procedure set out in option A or B (whichever is relevant) should also be followed for temporary pedestrian access way closures, with appropriate amendments to reflect the temporary nature of the proposed closure.

Should the WAPC or DoP Statutory Area Teams agree to the temporary closure, such closure shall be valid for a period agreed between the WAPC, DoP (Statutory Area Teams) or RDL (State Land Services) and the local government.

In some cases the subject land can retain its existing tenure as freehold in the name of the State (where the land is vested in the Crown under section 20A of the former *Town Planning and Development Act 1928*) or reserved without a management order (where the land is vested under section 152 of the *Planning and Development Act 2005*), and simply be fenced provided that the local government agrees to continue managing the pedestrian access way or right of way as 'an otherwise unvested facility' in accordance with section 3.53 of the *Local Government Act 1995*.

However, where the local government prefers formal management, or wishes to lease the subject land to adjoining landholders for management purposes, State Land Services will arrange the issue of a management order, with power to lease. Alternative agreed management arrangements can also be established.

The responsible local government or other management body such as an infrastructure provider can then:

- arrange for the temporary closure of the pedestrian access way by means of fencing, gates or such other temporary means considered appropriate by the local government;
- ensure the pedestrian access way is maintained;
- ensure infrastructure providers retain access to any services in the pedestrian access way.

Subject to the agreement of State Land Services, the pedestrian access way may be leased to the adjoining owners for the agreed period subject to the same conditions as mentioned above in the dot points.

Once a temporary closure period has expired, the pedestrian access way must be reopened or a request submitted to WAPC to consider a further temporary closure in accordance with option A or B.

Appendix 1

Preparation of a pedestrian and cycle access plan

Introduction

A pedestrian and cycle access plan, as the name suggests, is a comprehensive strategic and action plan that identifies existing and future pedestrian and cycle access ways, and includes a classification system to identify the relative importance of each access way in the local movement system.

Pedestrian and cycle access plans provide a framework to assist decision-making, including:

- Determining the impact on access if a particular pedestrian access way is closed, which should negate the need to do a complete assessment for each individual pedestrian access way closure application.
- Determining which pedestrian access ways need to be upgraded and improved which, in turn, can assist in prioritisation of capital and maintenance expenditures and works programming.
- Determining where additional public access is needed which can assist in identifying land that may need to be acquired for public purposes.

The preparation of pedestrian and cycle access plans requires community consultation to ensure the needs of the community are reflected in the plan ultimately adopted by the local government. Such community involvement should ensure more representative decision-making – particularly decisions involving the closure of pedestrian access ways where the biased views created by localised issues can be balanced with broader community views and needs.

Preparation of a pedestrian and cycle access plan

The work involved in the preparation of a pedestrian and cycle access plan can be quite extensive – both in terms of gathering and analysing information and in facilitating community participation.

Local governments may choose to use an external consultant to prepare a pedestrian and cycle access plan or, alternatively, use their own in-house resources. In either case, the following methodology is suggested as the generic basis for the preparation of such plans.

Step 1: Define the plan area

Local governments vary in size, and it may not be reasonable to cover the whole local government area in a single plan.

The area of coverage of a pedestrian and cycle access plan could be:

- the whole local government area
- the central business district
- a selection of centres/townships (particularly in the case of rural local governments)
- a district within the local government area
- a neighbourhood within the local government area.

The definition of the plan area will be guided by the available resources and the project's budget.

Successive pedestrian and cycle access plan projects may need to be undertaken on a staged basis to have complete coverage of the local government.

Step 2: Research and review

A literature review should be undertaken. This should include an examination and analysis of:

- relevant State and Federal government planning documents (eg designing out crime planning guidelines);
- relevant local government planning documents (eg local planning scheme, local planning strategy, structure plans, detailed area plans, local access plans, local planning policies);
- local government disability and access policies and reports;
- relevant design standards;
- previous submissions to the local government seeking closure of pedestrian access ways in the plan area;
- future infrastructure needs in the plan area;
- new subdivisions in and abutting the plan area;
- existing cycling networks and safe route to schools plans.

Step 3: Pedestrian access way mapping

All existing pedestrian access ways in the plan area should be identified, coded to a common legend or classification system, and plotted on maps.

Note: The Office of Crime Prevention has had a large number of pedestrian access ways throughout Western Australia mapped and added to Landgate's Shared Land Information Platform's WA Atlas map viewer as a WMS layer (see "Public Access Ways" in the "Administrative and Political Boundaries" category)⁴.

⁴ Landgate's Shared Land Information Platform's WA Atlas map viewer can be accessed at: <https://www2.landgate.wa.gov.au/idelve/bmvt/app/waatlas/>.

Step 4: Community facility mapping

All relevant community facilities in the plan area should be plotted on maps. Community facilities include:

- schools and other educational establishments
- shops
- parks and recreation facilities
- community facilities (eg libraries)
- employment nodes
- public transport services, including bus stops and train stations
- aged person facilities
- other land uses or facilities likely to generate pedestrian or cycle traffic.

Step 5: Connectivity assessment

An assessment of the connectivity of areas around each community facility should be carried out based on a walkable catchment with a radius of 400 metres. This radius should be increased to 800 metres in the case of large-scale community facilities such as town centres, train stations, bus stations, schools, district open space or other facilities likely to attract large numbers of people.

The walkable catchment (ped shed) technique is explained fully in appendix 3 of the WAPC's *Liveable Neighbourhoods*.

Step 6: Infrastructure provider identification

Pedestrian access ways are often used to locate private and public infrastructure such as water, sewer and gas pipes or electrical cables.

Infrastructure providers that may have an interest in a particular pedestrian access way should be identified using the *Dial Before You Dig Services* website⁵ and recorded.

Step 7: Pedestrian access way inspection and assessment

Each pedestrian access way should be visited and an assessment of the following matters carried out:

⁵ The Dial Before You Dig Services website is available at: <http://www.dialbeforeyoudig.com.au/>.

Physical assessment

- location
- design characteristics (width, length, geometry, topography, presence of bollards)
- level of casual surveillance from adjacent properties along its length, at its entrance and at its exit
- condition
- fencing attributes
- paving
- landscape/vegetation
- lighting
- presence of infrastructure (to visually confirm the information obtained from step 6)
- connectivity (to identify the role the pedestrian access way plays in the local movement system and the likely impact of its closure, and to verify the results of the assessment carried out in step 5)
- appropriateness of alternative routes available (assessment of resulting travel paths if the pedestrian access way is closed).

Usage assessment

- main uses of the pedestrian access way (pedestrians, cyclists or other)
- main groups using the pedestrian access way (local neighbourhood users or users from outside the neighbourhood or both)
- level, and distribution, of use.

Step 8: Connectivity assessment

Each pedestrian access way should be visited and an assessment of its safety and security carried out using the situational crime prevention assessment methodology for pedestrian access ways that is set out in the planning guidelines *Reducing Crime and Anti-Social Behaviour in Pedestrian Access Ways*.

Note: Steps 7 and 8 could be carried out concurrently.

Step 9: Preparation of assessment report and draft pedestrian and cycle access plan

The information obtained from steps 1-8 should be assembled and analysed in an assessment report and a draft pedestrian and cycle access plan prepared in response. The plan should, at the very least, identify all existing pedestrian access ways and classify the role of each in terms of its functionality, using the following criteria:

Essential (E) - the pedestrian access way *should be retained and kept open* because it plays an essential role in the local movement network.

Non-essential (NE) - the pedestrian access way *could be closed without causing significant disadvantage to local residents* because it is not essential to the local movement network.

The draft pedestrian and cycle access plan may also:

- identify which pedestrian access ways need to be upgraded and improved; and
- identify where additional public access is needed in terms of the local movement system.

NB: If a pedestrian access way is identified as 'essential' it does not mean that the access way must be upgraded in accordance with the *Reducing Crime and Anti-Social Behaviour in Pedestrian Access Ways* guidelines.

Step 10: Consultation with other agencies

Other agencies that may have an interest in the movement network in the plan area should be contacted for their comments on the assessment report and draft pedestrian and cycle access plan.

Agencies that may have an interest will include, but not be limited to, the DoP Statutory Area Teams, Public Transport Authority, the Office of Crime Prevention, the Department of Education and Training, and the Disability Services Commission.

Step 11: Consultation with the community

The community likely to be affected by the draft pedestrian and cycle access plan should be consulted using one or more of the following methods:

- press release and advertisement in the local newspaper and other media;
- direct mail out to households in the plan area;

- stakeholder workshops;
- information sessions and discussion groups;
- questionnaire surveys; and
- public displays.

Step 12: Review of draft pedestrian and cycle access plan in response to agency and community consultation

Any comments received from agencies and the community should be assessed and, if needs be, the assessment report and draft pedestrian and cycle access plan modified in response.

Step 13: Finalisation of pedestrian and cycle access plan and adoption by local government

The completed assessment report and pedestrian and cycle access plan should be submitted to Council, and the plan formally adopted.

Step 14: Submission of pedestrian and cycle access plan to WAPC for endorsement

The formally adopted pedestrian and cycle access plan should be submitted to the WAPC for endorsement.

The adopted pedestrian and cycle access plan should be accompanied by:

- the assessment report; and
- copies of all submissions received from infrastructure providers, agencies and the community during steps 10 and 11, together with the local government's analysis and final decision in respect of each submission.

Note: There is no right of review available in relation to a WAPC decision to refuse to endorse a pedestrian and cycle access plan. Despite this, and depending on the particular circumstances, the WAPC may be asked to reconsider its decision.

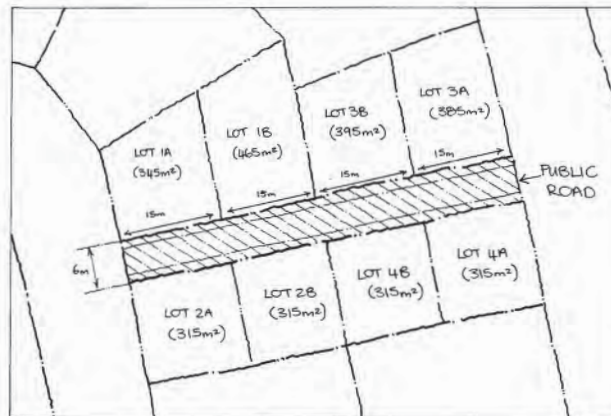
Appendix 2

Redevelopment opportunity as an alternative to pedestrian access way closure



1. BEFORE

An alternative to pedestrian access way closures



2. SUB-DIVISION

An alternative to pedestrian access way closures



3. AFTER

An alternative to pedestrian access way closures