1. Introduction

Pedestrian Access Ways (PAWs) were originally established as part of land subdivision 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 cul-de-sac and loop roads. PAWs are also often used to locate public infrastructure such as reticulated water, sewer and gas pipes, and electrical cables.

Although the purpose of PAWs is to provide safe pedestrian and cycle access to local facilities, they are also used for criminal activity, vandalism and other forms of anti-social behaviour and as such, the City receives requests for the closure of PAWs on security and amenity grounds.

In response to the growing number of PAW enquiries, the City undertook a Study to evaluate all PAWs within the City, to establish a coordinated assessment tool or guide to use in its consideration of applications to close PAWs which takes into account all relevant issues. In February 2010, Council adopted a Pedestrian Access Way Strategy (Strategy) to provide recommendations on which PAWs are essential, should be retained, and those that are not essential and may be closed. In December 2010, the Western Australian Planning Commission (WAPC) endorsed the Strategy.

Planning Bulletin No.57/2009A sets out the process to be followed by a Local Government in processing PAW closure requests. There are also certain matters not dealt with by this Planning Bulletin which has prompted the Council to establish its position. These matters can be summarised as follows:

- The City’s administrative costs;
- The costs associated with land purchase, creation of easements and/or relocation or removal of services; and
- The creation of a ‘Public Utilities Services Reserve’ versus purchase by landowners.

This Planning Procedure has been prepared based upon the Strategy and the PAW closure procedures in Planning Bulletin 57/2009A.

Note 1: Refer to Appendix 1 for a copy of WAPC Bulletin No.57/2009A – ‘Planning Guidelines for Pedestrian Access Ways’. The Pedestrian Access Way Strategy can be viewed on the City’s Website.

2. Statement of Intent

The purpose of this Planning Procedure is to detail the process to be followed by the City in processing applications to close PAWs. The City’s position is also provided in respect of administration costs, direct closure costs and the creation of a ‘Public Utilities Services Reserve’ versus outright purchase by landowners. This Planning Procedure also provides a guide to applicants on the matters that City will take into consideration, before an application is made to close a PAW.
3. Planning Procedure

3.1 Pedestrian Access Way Strategy

The Strategy emphasises the need to maintain good accessibility to facilities, schools, shops, parks and surrounding neighbourhoods for the community, which is of paramount importance when considering the merits or otherwise of PAW closures. While it is clear that some PAWs and neighbouring properties are subjected to abuse and vandalism by some PAW users, this needs to be balanced against the retention of PAWs where they are well used and important to the pedestrian/cycle network.

3.2 Classification

The Strategy applies a classification system which relates to connectivity only - to individually ‘classify’ each of the PAWs and the other access ways. This system has also been endorsed by the WAPC as follows:-

**E (Essential)** The PAW should be retained and kept open, as it forms an essential or important function in the local pedestrian and cycle movement network.

**R (Retain)** The PAW should preferably be kept open, as it has some significance in the local pedestrian and cycle movement network. Closure may be acceptable, however, if prompted by significant local community support and clear evidence of considerable anti-social and/or criminal behaviour associated with the PAW.

**NE (Non-essential)** The PAW could be closed without significantly affecting the local pedestrian and cycle movement network. Few residents would be disadvantaged.

**NP (No path)** The PAW does not contain a path. Therefore the PAW could be ‘closed’ without any disruption to the local pedestrian and cycle movement network.

<table>
<thead>
<tr>
<th>Classification</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
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<td>The PAW should be retained and kept open, as it forms an essential or important function in the local pedestrian and cycle movement network.</td>
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<td>R (Retain)</td>
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</tr>
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<td>The PAW does not contain a path. Therefore the PAW could be ‘closed’ without any disruption to the local pedestrian and cycle movement network.</td>
</tr>
</tbody>
</table>

Note 2: Refer to Appendix 3 for a copy of the Council's adopted Classification for each PAW.

3.3 Management Outcomes

In accordance with the Strategy, the following approach will be applied when considering an application to close a PAW:-

(i) **PAWs classified as Essential (‘E’) will not be closed by the City.**

(ii) **PAWs classified as Retain (‘R’) will only be considered for closure subject to substantial justification and evidence of anti-social behaviour. If the City is satisfied that the PAW contributes to anti-social behaviour, it will proceed to be advertised for public comment prior to being referred to the Council for determination.**

(iii) **PAWs classified as Not Essential (‘NE’) or No Path ‘NP’ will be considered for closure by the City upon request.**

3.4 PAW Closure Procedure

Planning Bulletin No.57/2009A – ‘Planning Guidelines for Pedestrian Access Ways’ details the process to be followed by the City in processing PAW closure requests listed in ‘Option A: PAW closure request is in accordance with a WAPC endorsed Pedestrian and Cycle Access Plan’. The Strategy satisfies the general requirements of a WAPC endorsed pedestrian and cycle access plan.
The steps in seeking closure of PAWs classified 'NE', 'NP' or 'R', if supported, are as follows:-

**Step 1 (Initial Request)**

The City receives a request for closure of a PAW supported by one or more adjoining landowners and, after exploring all reasonable management options, outlined in WAPC's Planning Guidelines - *Reducing Crime and Anti-Social behaviour in Pedestrian Access Ways*, progresses the request by preparing a closure report, which justifies the closure by referencing the Strategy.

For PAW's classified as Retain 'R' the City requires a request for closure to be supported by substantial justification and clear evidence of considerable anti-social and/or criminal behaviour associated with the PAW.

**Step 2 (Adjoining Landowner Support)**

The City will refer the request for closure, together with the closure report, to all abutting landowners seeking:-
- written support for the closure request;
- written agreement as to how the land is to be divided; and
- written agreement from those wishing to purchase a portion of the PAW 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 PAW, and cost of reinstatement of kerbing.

**Step 3 (Advertising – Government Agencies)**

The City will refer the request for PAW closure, together with the closure report, to all infrastructure providers that have an interest in the PAW, and requests their comments and advice in writing.

**Step 4 (Advertising - Public)**

The City will advertise PAWs classified as 'R', 'NE' and 'NP' for a 35 day public comment period with a notice being provided in a local newspaper circulating in the area and notification letters being sent to owners and occupiers within 400m of the PAW.

**Step 5 (Referral – Department of Planning)**

The closure report and confirmation that the proposed closure is in accordance with the Strategy will be submitted by the City to the Department of Planning (DoP).

**Step 6 (DoP Response)**

The DoP receives the City's request and confirms, in writing, that the proposed closure is in accordance with the Strategy.

**Step 7 (Council Consideration)**

If the Council formally resolves to proceed with the PAW closure, the matter will be referred to State Land Services (Department of Regional Development and Lands) for processing, under section 87 of the *Land Administration Act 1997*, together with:

- the closure report (amended to include an assessment of the responses received from the DoP, infrastructure providers and abutting landowners);
- a copy of the letter received from the DoP confirming that the proposed closure is in accordance with the Strategy;
- copies of all letters received from infrastructure providers;
- copies of all public submissions received during advertising for PAWs classified as 'R';
- copies of all letters received from abutting landowners; and
- a sketch showing the proposed disposition of the closed PAW among adjacent properties

Step 8 (State Land Services)

State Land Services will then:
- assess the application to determine whether PAW closure and disposal, or any alternative arrangement, can proceed;
- arrange the offer and acceptance documentation;
- 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 PAW and effect disposal of the subject land.

3.5 Direct Closure Costs

When a PAW closure application is successful, it is normal practice that the closed PAW is amalgamated with the adjoining properties and the landowners are required to pay for the land cost and any associated transaction fees and charges.

The sale price for a closed PAW will normally be market value as assessed by the Valuer General’s Office and the associated transaction fees and charges are calculated and administered by State Land Services. Payment of these costs is the responsibility of the landowners, who have previously indicated agreement to have portion of the closed PAW amalgamated with their property.

Where the PAW accommodates service infrastructure, which is required to be relocated, removed or protected by way of easement, the affected landowners are also responsible for the costs involved which are determined by the servicing agencies.

3.6 Creation of a ‘Public Utilities Services Reserve’ versus Outright Purchase by Landowners

The reclassification of a PAW to a ‘Public Utilities Services Reserve’ is an alternative to formal closure. In such cases, access to the PAW is restricted by the placement of fencing and/or lockable gates at either end, thereby preventing community access, yet still providing access to servicing authorities, emergency services and for maintenance.

Where the creation of a ‘Public Utilities Services Reserve’ is the only method of closure, State Land Services will require the Council to accept a Management Order over the Reserve.

The reclassification of a PAW to a ‘Public Utilities Services Reserve’ is generally not favoured by the City for the following reasons:-

- Whilst the creation of a ‘Public Utilities Services Reserve’ and the associated fencing/gates prevents movement through the PAW to the general community, there is no guarantee that this method of closure will prevent those individuals intent on vandalism and crime from accessing the Reserve;
- All costs associated with the creation of a 'Public Utilities Services Reserve' are borne by the City. That is, the initial costs of installing fencing and gates and the ongoing maintenance, which would include regular mowing; and

- The presence of the fencing and gates can have a negative impact on the residential streetscape.

Accordingly, the Council will only support the creation of a 'Public Utilities Services Reserve' when this is the only feasible way of closing a particular PAW.

3.7 State Land Services

The role of State Land Services is to give effect to the request for closure of a PAW under section 87 of the Land Administration Act 1987 and undertake formal sale and conveyance of the subject land. State Land Services has developed more 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 1987.

3.8 Information Required at Lodgement

Prior to an application to close a PAW being lodged with the City, applicants must first identify the classification of the PAW in the Strategy.

If the PAW classification is (NP) No Path, (NE) Non-Essential or (R) Retain, residents seeking to have a PAW closed are required to provide the following information:

(i) Make a request in writing for the PAW to be closed. The request must be supported by justification for the closure (e.g. details of nuisance experienced) and signed by at least two of the owners or occupiers adjoining or abutting the PAW;

(ii) Provide written advice from the owners adjoining or abutting the PAW that should the proposal be agreed to by the Council, they will be prepared to purchase the land at a cost established by State Land Services, together with all costs associated with its closure, including an administration fee as set out in the City’s Fees and Charges.

(iii) For PAW's classified as Retain ‘R’ the City requires request for closure to be supported by substantial justification and clear evidence of considerable anti-social and/or criminal behaviour associated with the PAW. (refer to the WAPC Planning Guidelines - Reducing Crime and Anti-Social behaviour in Pedestrian Access Ways for a range of designing out crime strategies)

4. Interpretations

For the purposes of this Planning Procedure, the following terms shall have the same meaning as in Town Planning Scheme No.2:-

_Council means the Council of the City of Rockingham_

For the purpose of this Planning Procedure, the following terms are defined as follows:

_DoP means Department of Planning_

_State Land Services means Department of Regional Development and Lands_
WAPC means the Western Australian Planning Commission constituted under the Planning and Development Act 2005

5. Administration costs

The City charges an Administration Fee and an Advertising Fee in accordance with its Schedule of Fees which is to be paid by the landowner/s seeking the PAW closure, prior to the application being formally initiated.

6. Adoption

This Planning Procedure was adopted by the Council at its ordinary Meeting held on the 24 March 2009.

7. Amendment

This Planning Procedure was amended by the Council at its ordinary Meeting held on the 26th June 2012.

Appendices


Note 1: The Appendices do not form part of this Planning Procedure and are included for information purposes only.
Note 2: Refer to the City’s website www.rockingham.wa.gov.au for a copy of the City’s Pedestrian Access Way Strategy.