

**INTRODUCTION**

This policy has been prepared further to the Western Australian Planning Commission's (WAPC) *Planning Bulletin 33/2017 – Rights-of-way or laneways in established areas*.

This policy seeks to facilitate the many benefits that can be obtained through the use, widening and upgrading of the Town's rights-of-way as part of the private development process. These benefits include:

- the more efficient use and development of properties serviced by rights-of-way;
- the transition of rights-of-way from rear service lane environments to attractive streetscapes lined by building frontages, landscaping and lighting;
- increased potential to retain original dwellings that contribute to the character of the Town's established residential streetscapes;
- improved traffic and safety outcomes by reducing the number of crossovers and access points from the primary or secondary street;
- rear-loading of commercial and mixed use development that enables a continuous building interface and unhindered pedestrian and cyclist movement at street frontages; and
- increased potential to retain traditional shopfronts such as those found along Albany Highway, which contribute significantly to the character of the Albany Highway activity corridor.

**OBJECTIVES**

- (a) To encourage the use of rights-of-way for sole vehicle access to new development whenever available;
- (b) To facilitate improved streetscape outcomes by removing or reducing the number of vehicle crossovers onto the primary and/or secondary street;
- (c) To encourage development abutting rights-of-way that provides an appropriate building interface, increases activation and safety, and promotes surveillance;
- (d) To ensure development abutting rights-of-way makes provision for the widening of under-width rights-of-way;
- (e) To facilitate right-of-way upgrading to an appropriate sealed and drained standard, particularly where subdivision or development occurs that takes access from a right-of-way; and
- (f) To ensure appropriate provision for pedestrian access and utility services from the primary or secondary street to a new lot(s) or dwelling(s) that utilise a right-of-way as their main frontage and for vehicular access.

## POLICY SCOPE

This policy applies to the development, subdivision and/or amalgamation of properties abutting rights-of-way within the Town of Victoria Park.

## DEFINITIONS

**Laneway** means a narrow local street type without a verge located along the rear and/or side property boundary, typically used in more dense residential areas when smaller lot layouts justify rear garaging, and where alternative vehicle access is needed for lots fronting busy streets or parks.

**Right of way** means a laneway, private street, or other use of land (not being a public street or road) that provides vehicular access to a development site.

**Private right-of-way** means the balance of title from a subdivision held in private ownership over which adjacent owners have an implied right of access under Section 167A of the *Transfer of Land Act 1893*.

**Public right-of-way** means land vested in the Crown under the Transfer of Land Act 1893 for public use. These can be ceded to the Crown on subdivision or amalgamation under Section 152 of the *Planning and Development Act 2005*.

## POLICY REQUIREMENTS

1. Vehicle access to be solely provided from right-of-way
  - (a) New development on a property abutting a right-of-way is required to gain vehicular access solely from the right-of-way, where the property has a legal right of access to use the right-of-way;
  - (b) It is the responsibility of the owner of a property abutting a right-of-way to demonstrate that they have a legal right to take access from the right-of-way;
  - (c) Vehicle access to a property via the primary and/or secondary street for development on a property abutting a right-of-way will generally not be supported by the Town, unless significant topographic or site specific circumstances prevent the ability to gain access from the right-of-way, or a legal impediment prevents the ability to gain access from the right-of-way; and
  - (d) The presence of an existing crossover(s) providing vehicle access from a primary or secondary street to a property will not be supported by the Town as justification for new development on the property not gaining sole vehicle access from the right-of-way, where access to the right-of-way is possible.
2. Existing developments with access available from a right-of-way
  - (a) The relocation of vehicle access provided from a primary or secondary street (along with associated internal driveways, car parking bays and car parking structures) to a right-of-way is strongly encouraged, wherever possible; and
  - (b) Where existing development has vehicle access from a primary or secondary street



but adjoins a right-of-way, the existing access may be retained. However, any additional vehicle access shall be provided and located so as to gain access from the right-of-way.

3. Removal of redundant crossovers

- (a) Where a development is to be provided with sole vehicle access from a right-of-way, any existing redundant crossovers from the primary or secondary street shall be removed and the verge and kerbing shall be reinstated to the Town's specifications prior to occupation of the development.

4. Pedestrian access

- (a) Where sole vehicular access via a right-of-way is proposed for residential subdivision and/or development and the lots or dwellings do not have frontage to the public street, then a pedestrian access leg to the public street for visitors, postal, rubbish collection and utility services will be required;
- (b) Where a pedestrian access leg is required, it shall be 1.5 metres in width, except where a site is constrained by existing buildings considered worthy of retention by the Town. In such circumstances the width may be reduced to the extent necessary to allow for retention of the existing building(s) but at no point being less than 1.0 metre in width (Refer Figure 1 below); and
- (c) a minimum 1.0m x 1.0m corner truncation at the intersection of any required pedestrian access leg and the street is to be provided and kept free of obstructions to maintain unimpeded access at all times (Refer Figure 1 below).

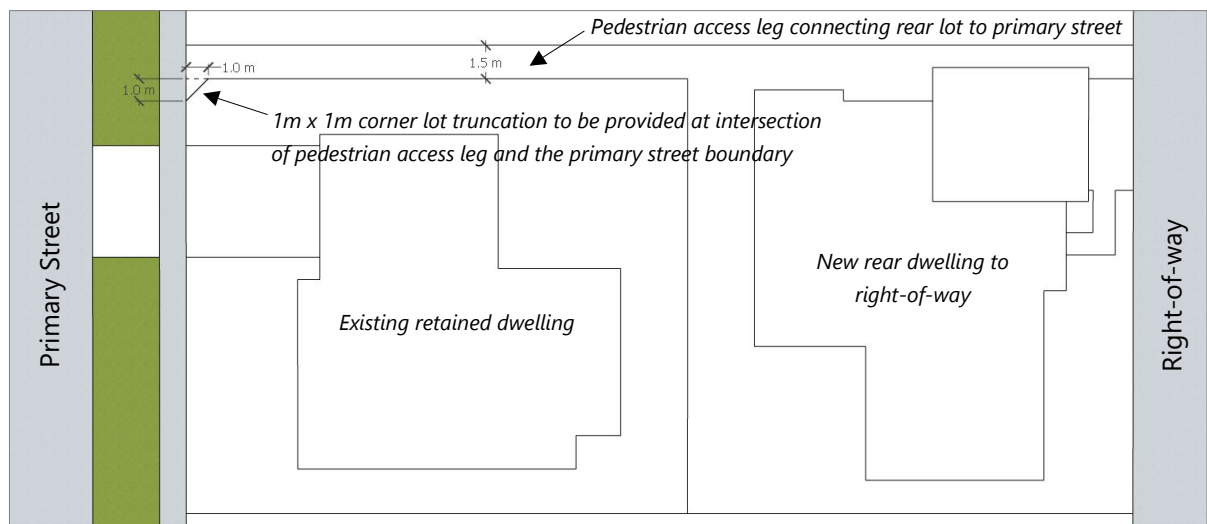
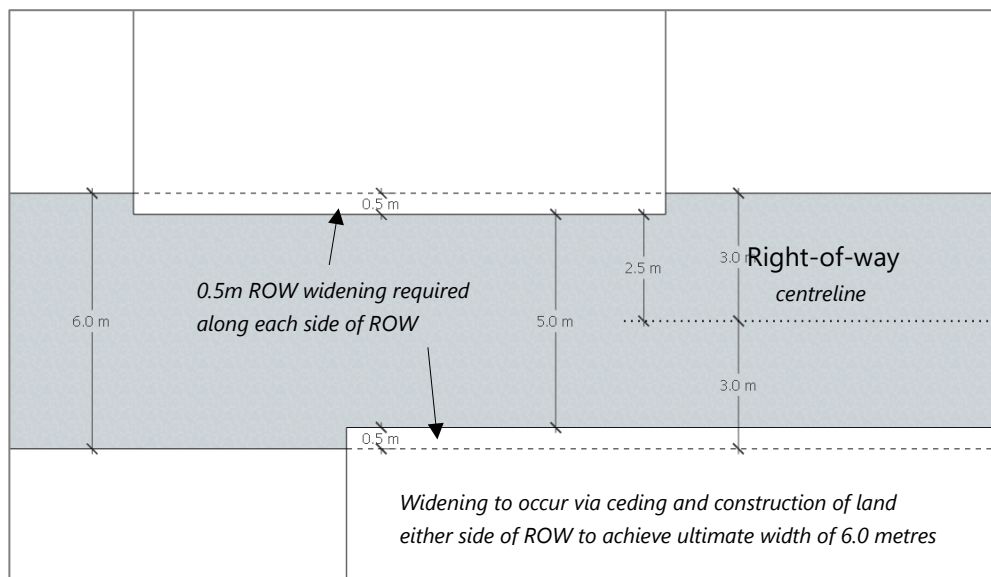


Figure 1: Provision of pedestrian access leg

5. Provision for widening of under-width rights-of-way

- (a) Unless specified to a greater width in an adopted Policy, Design Guidelines or other Council strategy, the Town shall seek the widening and upgrade of the Town's existing rights-of-way to an ultimate width of 6.0 metres;

- (b) Widening and upgrading shall generally occur as the properties abutting a right-of-way are developed and/or subdivided by individual property owners, with the land required for the widening of the right-of-way being ceded as Crown land as a condition of freehold (green title) subdivision or amalgamation, survey strata or built strata subdivision approval;
- (c) The land required to be ceded by properties abutting a right-of-way shall generally be an area equal to half the required width of widening required for the right-of-way to reach an ultimate width of 6.0 metres, for the full length of the property boundary abutting the right-of-way. This allows for the full widening of the right-of-way to be shared by the properties either side of the right-of-way (Refer Figure 2 below);



**Figure 2: Provision for construction and ceding of land for widening of right-of-way**

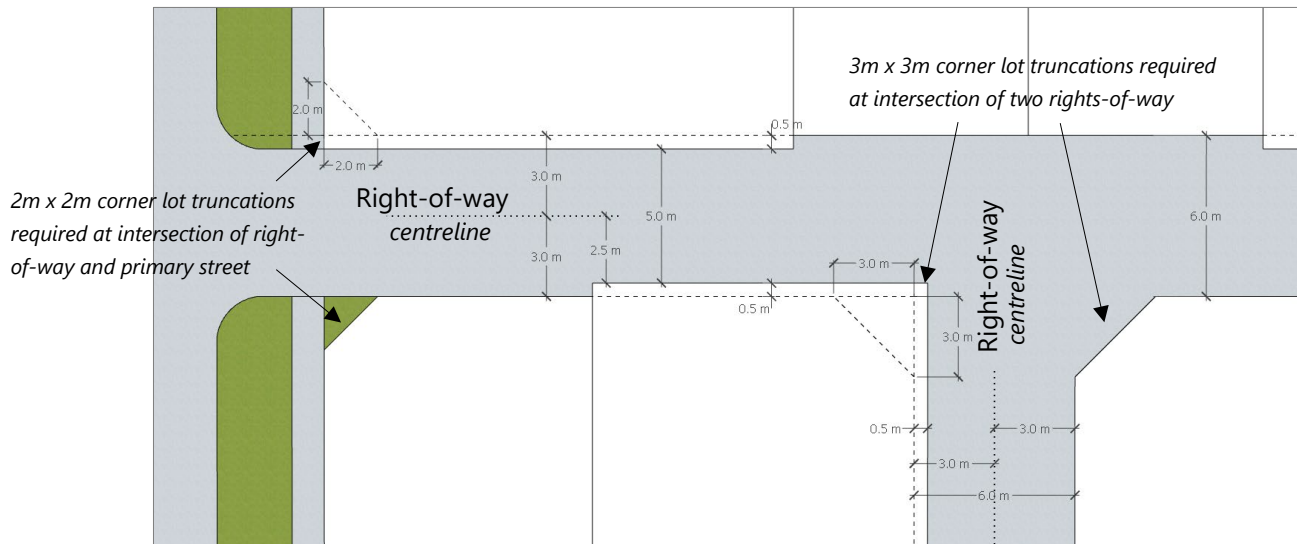
- (d) No new building works, landscaping, fencing or other obstructions are to be located in the area of a property abutting a right-of-way that is required for the widening of the right-of-way.

## 6. Truncations

- (a) Development of properties abutting a right-of-way, including the installation of new or replacement fencing and landscaping, is to make provision for corner lot truncations as follows:
  - i. a minimum 3.0m x 3.0m corner truncation at the intersection of two rights-of-way (Refer Figure 3 below);
  - ii. a minimum 2.0 x 2.0m corner truncation at the intersection of a right-of-way and a street (Refer Figure 3 below); and
  - iii. a minimum 1.0m x 1.0m corner truncation at the intersection of a pedestrian access leg and a street (Refer Figure 1 above); and
- (b) Provision of truncations shall occur after taking into account any required right-of-way widening, with such areas to be ceded as Crown land as a condition of freehold

(green title) subdivision or amalgamation, survey strata or built strata subdivision approval; and

- (c) Corner lot truncation areas at the intersection of two rights-of-way are to form part of the widened and constructed right-of-way (including paving, sealing and drainage requirements).



**Figure 3: Provision of corner lot truncations**

7. Upgrading of rights-of-way

- (a) Where a development gains vehicle access from a right-of-way and the right-of-way is subject to a requirement for widening, the area of widening is to be constructed and drained at the owner/applicant's cost to the Town's specifications prior to commencement or occupation of the development; or
- (b) Dependent upon the existing construction standard of the right-of-way, and any scheduled upgrading works approved to be carried out to the right-of-way, the Town may impose a requirement for the owner/applicant to make a financial contribution to the Town for the upgrade of the right-of-way in-lieu of construction of the area of land required for widening of the right-of-way.

8. Development of properties abutting unsealed rights-of-way

- (a) Where the whole or portion of a right-of-way is unsealed but has no long term prospect for closure (as identified in a Right-of-Way Strategy Plan adopted by Council) due to the fact that it provides essential means of vehicular access to existing development abutting the right-of-way, the owner of the property may be required to make a financial contribution to the future construction and drainage of the right-of-way to an ultimate standard of asphalt or concrete paving, based on a pro-rata contribution;
- (b) The pro-rata contribution is to be based on the cost of constructing half the width of the right-of-way which abuts the total length of the common boundary or boundaries of the lot with the right-of-way and the construction will be on a rate per

lineal metre of construction as determined by the Town and reviewed on an annual basis; and

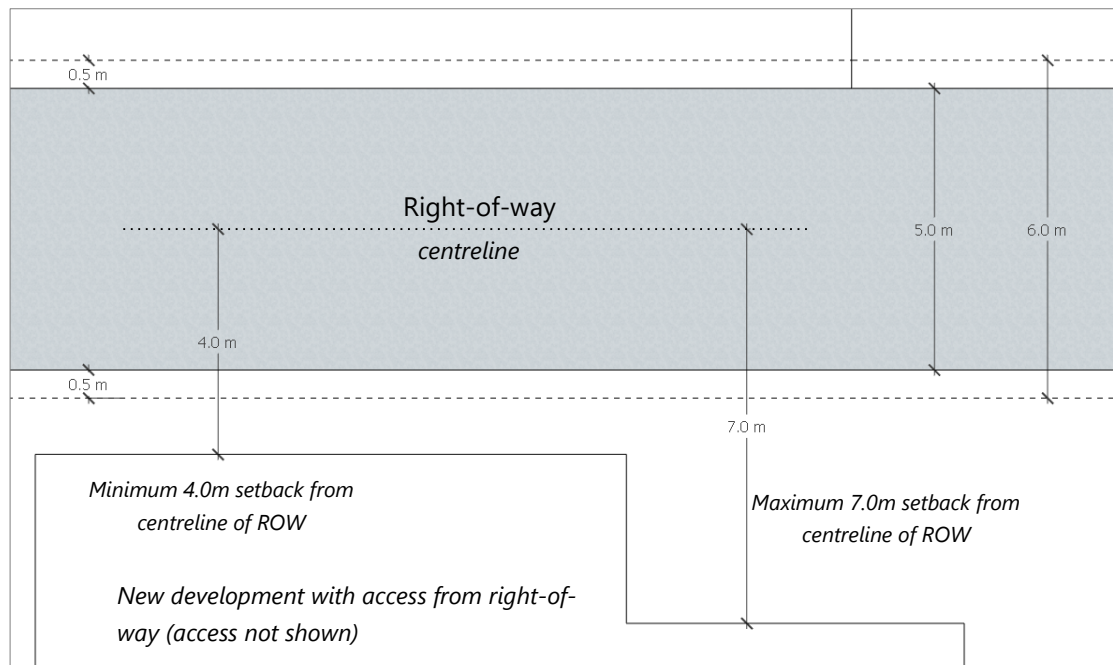
- (c) Contributions made to the Town in accordance with the above will be held in a designated fund for the construction of rights-of-way and in the interim the Town will undertake to maintain or improve the right-of-way to a serviceable and trafficable standard.

9. Standard of construction of rights-of-way

- (a) Where the upgrade or widening of a right-of-way has been authorised, or is required by the Town to be undertaken as a condition of development or subdivision approval, then the construction, sealing, and drainage of the upgraded or widened area of the right-of-way is to be carried out in accordance with the adopted specifications of the Town.

10. Building setbacks

- (a) For development on 'Residential' zoned land, building setbacks from an adjoining right-of-way shall be in accordance with the Town's *Local Planning Policy 25 – Streetscape*;
- (b) For development on non-residential zoned land, building setbacks from an adjoining right-of-way shall be a minimum of 4.0 metres from the centreline of the right-of-way, but no greater than 7.0 metres from the centreline of the right-of-way where the development takes access from and has an interface with the right-of-way (Refer Figure 4 below); and



**Figure 4: Right-of-way setbacks for development on non-residential zoned land**

- (c) The provisions contained within location specific Design Guidelines, Precinct Plan development standards or other Council adopted planning instruments for building setbacks from an adjoining right-of-way prevail over (a) and (b) above.

## 11. Surveillance and building design

- (a) The location of visible multi-storey car parking adjacent to a right-of-way is generally not permitted;
- (b) Upper storeys of residential dwellings adjacent to a right-of-way are to provide at least one major opening from a habitable room that provides surveillance and an outlook on to the right-of-way;
- (c) Non-residential development adjacent to a right-of-way is required to provide at least one significant window (equivalent in size to a major opening to a residential dwelling as defined by the R-Codes) per 10m of frontage to the right-of-way that provides the opportunity for the development occupants to surveil the right of way; and
- (d) Bin stores located adjacent to a right-of-way with residential land opposite should be visually screened, well maintained and managed to limit adverse visual impacts, noise, odour emissions, and pests.

## 12. Lighting

- (a) Lighting for safe access, surveillance and security is to be provided at all points of pedestrian and vehicle access to developments adjacent to a right-of-way;
- (b) It is recommended that lighting be provided by fixed, motion-activated lighting devices adjacent to or above pedestrian and vehicle access points; and
- (c) Lighting devices are to be designed and positioned to avoid light spill and glare into surrounding private properties.

## 13. Landscaping

- (a) The use of soft landscaping treatments to building frontages and setback areas to the right-of-way is strongly encouraged to soften the appearance of developments and contribute to an attractive streetscape environment;
- (b) New development using a right-of-way for primary access is required to provide a minimum of 50% soft landscaping within the building setback area to the right-of-way, excluding areas used for vehicular access (e.g. the internal driveway);
- (c) All landscaping is required to be located within the property boundaries and located behind any required right-of-way widening or corner lot truncation areas;
- (d) Landscaping is permitted within sightline areas provided it is maintained to less than 0.75m in height; and
- (e) Landscaping of non-residential car parking areas is to be provided in accordance with the Town's *Local Planning Policy 23 – Parking Policy*.

## 14. Fencing, gates and retaining walls

- (a) All fencing, gates and retaining walls (including their footings) are required to be located wholly within the property boundaries and located behind any required right-of-way widening or corner lot truncation areas;

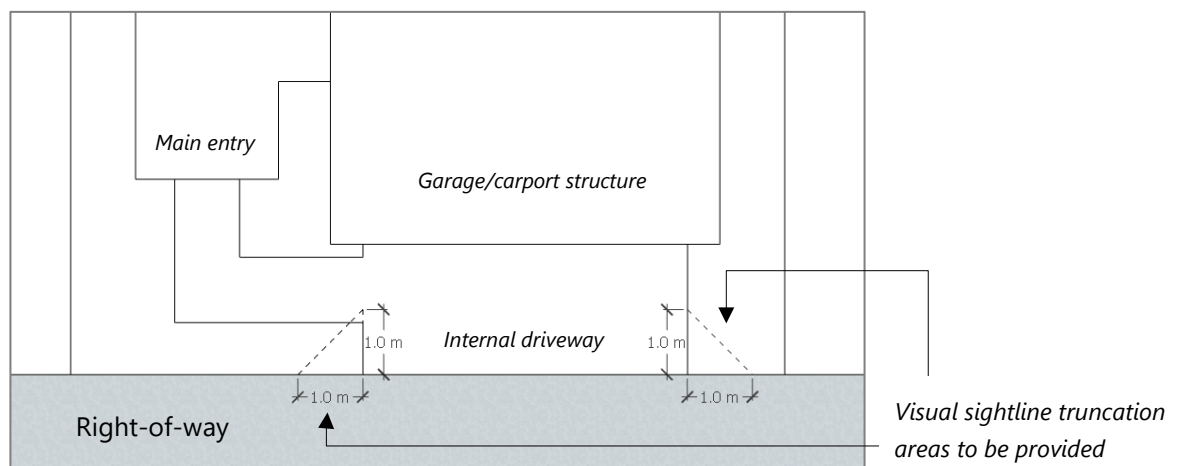




- (b) Fencing and gates to residential properties are to be designed in accordance with the requirements of the Town's *Local Planning Policy 25 – Streetscape*;
- (c) Fencing to non-residential development adjacent to a right-of-way should be suitably designed to provide appropriate access, privacy, safety and security, whilst maintaining adequate levels of passive surveillance (minimum 50% visually permeable) and having a visually interesting appearance; and
- (d) Areas of solid walls or screening visible from the right-of-way should be of high quality materials and be articulated/visually interesting. Soft landscaping should also be used to reduce the visual dominance of solid portions of walls or fences and soften their appearance from the right-of-way.

15. Visual sightlines and vehicle manoeuvring

- (a) A minimum 1.0m x 1.0m visual sightline truncation to be provided at the intersection of a wall or fence with a vehicle driveway or vehicle entry point to a development accessed from a right-of-way (Refer Figure 5 below).



**Figure 5: Visual sightline truncation areas**

- (b) Structures may be permitted within the sightline truncation area provided that:
  - i. the structure has a maximum height of 750mm, or 600mm in the case of a solid portion of wall/fence; or
  - ii. is a fence with wrought iron (or similar) open style infill incorporating one pier (not higher than 2.0m) not exceeding 350mm x 350mm; or
  - iii. is a fence with pickets or horizontal rails with gaps equal to at least the width of the picket or horizontal rail
- (c) Developments provided with vehicular access from a right-of-way shall be designed to ensure sufficient reversing and manoeuvring area for vehicular access/egress to the satisfaction of the Town (as per Australian Standard AS2890). Generally, a minimum manoeuvring distance (i.e. reversing aisle) of 6 metres between a car parking bay or car parking structure and any other obstruction/property boundary on the opposite side of the right-of-way (e.g. a light pole or fence on opposite side of right-of-way) is required.



16. Development approval conditions

- (a) Where a development gains vehicle access from a right-of-way and/or the right-of-way is subject to a requirement for widening, the Town may impose conditions on any development approval to ensure compliance with the requirements of this policy, including the:
- i. setting back of all building works and development (including fencing) to ensure adequate provision for the unobstructed widening of the right-of-way, inclusive of any required corner lot truncations;
  - ii. the removal of any redundant crossovers and reinstatement of the verge to an appropriate standard;
  - iii. the construction and drainage of the required area of widening of the right-of-way, inclusive of any required corner lot truncations; and
  - iv. the construction and drainage of any required pedestrian access legs connecting the development to the primary or secondary street.

17. Built strata subdivision approval conditions

- (a) When considering an application for built strata subdivision for a property abutting a right-of-way, the Town may impose conditions on its approval to ensure compliance with the requirements of this Policy, including the matters listed under clause 16 above, as well as:
- i. the ceding of land free of cost as Crown land for the purposes of widening the right-of-way, inclusive of any required corner lot truncations; and
  - ii. the owner/applicant making a financial contribution to the Town in lieu of construction of the area of land required for widening of the right-of-way, where considered appropriate by the Town as per Clause 7(b) of this Policy.

18. Freehold subdivision/amalgamation and survey-strata subdivision approval conditions

- (a) When considering an application for freehold (green title) subdivision or amalgamation, or survey strata subdivision of a property(ies) abutting a right-of-way, the Town will recommend that the WAPC impose conditions on any approval to ensure compliance with the requirements of this Policy, including the matters listed under Clauses 16 and 17 above.

Date Initially Adopted :	Former Policy 3.10 'Vehicular Access to Dwellings Via a Right-of-Way' adopted 30 September 1998
Date(s) Amended:	1. Amended to Policy 3.10 'Vehicle Access to Properties Via a Right-of-Way' as part of Amendment No. 4 to Town Planning Scheme No. 1 gazetted 4 May 2001. 2. Adopted as Local Planning Policy 7 at Ordinary Council Meeting 9 February 2016. 3. Amended by Council resolution at Ordinary Council Meeting 17 March 2020.

