

CLOSURE OF A PEDESTRIAN ACCESS WAY OR RIGHT OF WAY



The City of Kalamunda (City) recognises that pedestrian access ways (PAWs) and rights of way (ROWs) have an important role to play in providing access to community facilities and services and for general ease of movement of pedestrians, cyclists and vehicles within residential areas. However, it is also acknowledged that, in some cases, PAWs and ROWs may facilitate anti-social behaviour and crime.

In considering applications for closure of PAWs and ROWs, the City shall have regard to the following matters (not in order of priority):

Access to Community Facilities and Services

The location of the PAW or ROW in relation to community facilities and services shall be assessed. Community facilities and services include:

- (a) schools;
- (b) shops;
- (c) parks;
- (d) community facilities (churches, libraries, community halls, etc.); and
- (e) public transport such as bus stops and train stations.

Where a PAW is considered to provide an important access route to community facilities and services, closure shall generally not be supported.

Anti-Social Behaviour Considerations Related to the PAW / ROW

The City shall consider the role that the PAW or ROW may serve in facilitating anti-social behaviour including graffiti and the dumping of litter. As such, Applicants seeking PAW or ROW closure for this reason should, where possible, provide evidence to the City that the PAW or ROW serves to facilitate anti-social behaviour by way of photos and/or police reports.

Access for Aged Persons or People living with Disability

The service that a PAW or ROW provides is especially relevant in cases where housing for aged persons is located in close proximity to the PAW or ROW. The City will also have regard to people living with disability in consideration of a closure application.

Availability of Alternative Access Routes

PAW or ROW closure shall only be supported provided a viable alternative access route is available. A 'viable alternative access route' is considered to be an access route which shall not result in a substantially longer walking distance to community facilities and services. Alternative routes need to be safe (for example, with buildings that front streets to enhance overlooking and good footpath design) and shall provide good pedestrian amenity (for example, shade trees).

Importance of the PAW or ROW to the Pathway System and Bicycle Routes

Where a PAW or ROW forms part of the pathway system, the impact of the closure on pedestrian routes shall be assessed. Where the closure would result in a discontinuation of the pedestrian network the closure shall generally not be supported.

Where a PAW or ROW forms part of a bicycle route, and where no other viable alternative exists, closure shall generally not be supported.

Alternatives to the Closure of PAWs or ROWs

As part of the consultation process and assessment of applications for PAW or ROW closures, consideration is to be given to alternatives to improve safety and security through providing lighting, planting, fence treatments and appropriate graffiti removal. Where appropriate, conceptual redevelopment options which increase PAW or ROW widths and provide frontage development for surveillance can also be considered.

Procedure

The Applicant shall lodge an application with the City to request the closure of a PAW or ROW. This process requires internal and external consultation and a resolution of Council. Importantly, the process outlined below is necessary to meet the requirements of the Department of Planning, Lands and Heritage.

The PAW/ROW closure process is as follows:

1. The Applicant lodges a PAW / ROW closure application and pays the application fee. The application fee is set out in the City's Schedule of Fees and Charges (fees are reviewed every financial year). Please note, the Applicant must be an adjoining landowner.
2. The City will carry out an initial assessment of the proposed PAW or ROW closure. The City to have regard to the matters referred to above.
3. The City to contact the owners of land adjoining the PAW or ROW seeking interest in purchasing a portion of the PAW or ROW. There must be enough interest in purchasing a portion of the PAW or ROW from adjoining landowners, so that the whole PAW or ROW can be purchased and closed. The City strongly encourages the Applicant to discuss the proposed PAW or ROW closure with the adjoining landowners before deciding whether to proceed with the PAW / ROW closure application.
4. The City to seek comments from all service authorities (Telstra, Western Power, ATCO Gas and the Water Corporation) regarding their requirements in respect of any services located in or near the PAW or ROW proposed to be closed. The Applicant (and other owners receiving land) will be required to pay all costs of

any service relocations and easements required by the service authorities, as well as any other fees charged by the service authorities. It is recommended that the Applicant contact the service authorities directly to investigate the cost of any service relocations and easements before deciding to proceed. Dial Before You Dig may assist in determining the services affected by the proposed PAW or ROW closure.

5. The City to undertake a public consultation process (for example, a sign in the PAW or ROW, advertisement on the City's website and newspaper advertisement).
6. Following completion of the consultation process outlined in paragraphs 3-5 above, all comments, objections and endorsements to be analysed, and a Council Report prepared in respect of the proposal.
7. Council will then consider the proposed PAW or ROW closure and resolve to recommend or reject the proposal.
8. If Council recommends the closure, the City will write to the Department of Planning, Lands and Heritage requesting that the PAW or ROW be closed. The Department will review the matter and, if it decides to proceed with the closure, the land will be valued and offered to adjacent landowners for purchase. The final process is outside the control of the City and the outcome may or may not reflect the recommendation of Council.
9. The Applicant and any other owners receiving land will be responsible for all costs of the PAW / ROW closure process, including but not limited to the application fee, purchase price for the PAW or ROW land, the cost of surveys, document preparation and lodgement, relocation or modification of services, easements to protect services, removal of concrete path, relocation of fences, etc.

To lodge a PAW / ROW closure application, the Applicant must submit a letter to the City which includes the following information:

1. The Applicant's details including full name, address and contact details;
2. Description of the proposal (for example, proposed closure of PAW between [insert road name] and [insert road name]);
3. Site plan of PAW or ROW and adjoining lots;
4. Payment of the application fee;

5. A statement by the Applicant as follows:
 - a. I/We have read the procedures required to be undertaken to close a pedestrian access way or right of way;
 - b. I/We acknowledge that the land from the pedestrian access way or right of way, if it is closed, must be purchased, at the value determined by the Valuer-General's Office, by adjoining landowners from the Department of Planning, Lands & Heritage and amalgamated with the landowners' lots at the landowners' cost; and
 - c. I/We acknowledge that all costs associated with closure of the pedestrian access way or right of way, including but not limited to the cost of surveys, document preparation and lodgement, relocation or modification of services, easements to protect services, removal of concrete path, relocation of fences, fees, etc. are the responsibility of the owners receiving land; and

6. If you are requesting the closure of the PAW or ROW due to anti-social behaviour, it is recommended that you provide substantial evidence of the anti-social behaviour occurring in the PAW or ROW by way of photos and/or police reports.

For further information, please see the Western Australian Planning Commission's *Procedure for the Closure of Pedestrian Access Ways Planning Guidelines*.

If you have any queries in respect of the PAW / ROW closure process, please do not hesitate to contact the City's Land Services Team on 9257 9906 or email enquiries@kalamunda.wa.gov.au.