



Banyule
CITY COUNCIL

BANYULE RIGHTS OF WAY STRATEGY 2014-2024

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1. INTRODUCTION

1.1. Purpose

The purpose of the Banyule Rights of Way Strategy 2014 – 2024 is to define and clarify how the Banyule Rights of Way Policy is to implemented and administered.

The Strategy outlines the background and key issues identified in the strategic and operational management of Rights of Way, and identifies the management, implementation and review processes to achieve the vision, principles and objectives set out in the Policy.

Definitions used in the Policy have the same meaning in the Strategy.

1.2. Rights of Way Definition

Rights of Way are generally narrow roads providing access to the rear or side of properties. There may be a right to use land for road or access purposes or land set aside on a plan of subdivision as a 'road' but never used or constructed as a 'road'.

Butterworth's Concise Australian Legal Dictionary defines a 'right of way' as –

'A right to pass over public or private land. The public has a right to pass over a highway, which arises by way of statute or as a result of the dedication of the road. A right of way may exist for limited purposes and use for any other purpose may amount to a trespass.'

It also defines a 'highway' as –

'Land set aside by long usage or by government Act as a public carriageway.'

Victorian State Government statutes and regulations provide no categorical definition for a *right of way*. For the purposes of this document, the definition adopted for Rights of Way means those numbered and named in Banyule City Council's Road Register (as amended from time to time).

1.3. Rights of Way Ownership

Prior to the introduction of the Subdivision Act in 1989, legislative requirements for subdividing land did not provide for title to infrastructure assets to be transferred to Council upon registration of a Plan of Subdivision. It was common for allotments on the Plan of Subdivision to be sold to individual owners leaving the infrastructure assets, including title to the Rights of Way, in the name of the subdivider or original owner of the land.

As a result Council is rarely the registered owner of such infrastructure assets, but is the custodial manager. While Council may not be registered as the owner, this custodial managerial role confers on Council legal and regulatory responsibilities, and customer expectations.

2. STRATEGY IMPLEMENTATION

2.1. Vision, Principles and Objectives

This Rights of Way Strategy will be implemented in accordance with the Vision, Principles and Objectives set out in the Banyule Rights of Way Policy.

The Vision is:

To provide well-managed, safe and accessible Rights of Way throughout the City of Banyule that enhance the local and wider community wellbeing, while maintaining and creating new opportunities for pedestrians, cyclists, public safety and community amenity.

In consideration or implementation of this Strategy reference should be made to the following documents and any revisions or updates:

City Plan 2013 - 2017	Banyule Road Management Plan
Banyule Access and Inclusion Policy	Banyule Road Register
Banyule Activity Centre Parking Policy and Strategy	Banyule Safer Design Guidelines
Banyule Activity Centre Structure Plans	Banyule Street Numbering and Naming Guidelines
Banyule Drainage Policy 1998	Building Act 1993
Banyule Environment Strategy, 2003	Emergency Management Act 1986
Banyule Integrated Transport Strategy, 2003-2013	Fences Act 1968
Banyule Local Law No. 1 (2005) General Local Law	Geographic Place Names Act 1998
Banyule Municipal Strategic Statement	Local Government Act 1989
Banyule Neighbourhood Character Strategy	Planning and Environment Act 1987
Banyule Planning Scheme	Road Management Act 2004
Banyule Public Open Space Strategy 2007 – 2012	Victorian Building Regulations

The following Acts of Parliament, associated guidelines and regulations also prescribe the use and management of Rights of Way:

Building Act 1993	Planning and Environment Act 1987
Emergency Management Act 1986	Planning Scheme Decision Guidelines
Fences Act 1968	Road Management Act 2004
Geographic Places Names Act 1998	Victorian Road Regulations
Local Government Act 1989	
Metropolitan Fire Brigade Act 1958	

3. BACKGROUND, ISSUES & ACTIONS

3.1. Existing Rights of Way Assets

Rights of Way support and complement the existing road network throughout the municipality by providing direct and/or alternative access to properties abutting them and as alternative access to other streets and community facilities. They are used by a variety of vehicles, pedestrians and cyclists and often contain utility services. With over 30km and 260 individually identified Rights of Way throughout the municipality, a clear strategy is essential to manage these valuable community assets.

The majority of Rights of Way in the City of Banyule were created as part of original subdivisions of land in the late 19th and early 20th centuries. Land development at that time usually resulted in the creation of Rights of Way at the rear of properties for access by night carts and sometimes for drainage purposes. Given the age of the Rights of Way – with the majority over 80 years old, many of them are in need of maintenance and/or renewal.

Unconstructed and constructed Rights of Way exist in the municipality with a mixture of surfaces varying from concrete through asphalt, brick pavers, bluestone and sprayed seal. The majority of constructed Rights of Way are concrete and approximately 3.1m in width and are located in the southern half of the municipality. However, the widths of the Rights of Way which vary from 1.8m up to 9.9m govern their usefulness for future purposes.

Approximately 25% of all Rights of Way in the municipality are classified as unconstructed (8km) and have a gravel (1km) or dirt surface (7km) and minimal drainage infrastructure. The unconstructed Rights of Way create maintenance and access/safety issues for people of limited ability, pedestrians and cyclists. A number of Rights of Way have bluestone elements (drainage channel and/or edging) which have heritage value.

3.2. Key Issues

The key issues in the management of Rights of Way identified in the Rights of Way Policy are:

Identification

- *Identification and categorisation of Rights of Way*
- *Naming and numbering of Rights of Way*

Clarification

- *Heritage*
- *Illegal occupancy and encroachment*

Maintenance

- *Maintenance, cleansing and infrastructure*
- *Drainage infrastructure and stormwater overland flow paths*

Improvement

- *Construction of Unconstructed Rights of Way*
- *Activation of Rights of Way within Activity Centres*
- *Rights of Way abutting existing or proposed Development*
- *Transport, parking and loading in Rights of Way*

Closure

- *Temporary or Permanent Closure*
- *Discontinuance*

The key issues are closely interrelated and should be viewed in context with each other.

The following sections expand on each of the identified key issues.

3.3. Identification

3.3.1. Identification and Categorisation of Rights of Way

Legislative/political context

Section 205 of the Local Government Act 1989 provides that 'A Council has the care and management of ... all roads that the Council has agreed to have the care and management of'. Section 205 also states that this section is subject to the Road Management Act 2004.

Background

Council's Rights of Way Register lists all Rights of Way as part of the Public Road Register incorporated in the Road Management Plan. The Rights of Way Register contained rudimentary information on each Rights of Way and allows them to be listed as constructed and unconstructed. The Rights of Way data has recently been revisited and data has been collected within a number of categories – constructed/unconstructed, open/occupied, material used in construction, surface type, length and width. The additional data has made identification and categorisation of Rights of Way easier. Additional data in categorising each Rights of Way could include proximity to an Activity Centre or community hub, and the degree and type of usage.

Issue

High-quality information will make it easier for Council to make informed decisions in relation to Rights of Way including:

- determining Rights of Way over which Council has care and management;
- Council's maintenance and management practices; and
- Council's responsibilities.

Objective

To maintain an up-to-date accurate and detailed database of all Rights of Way in the City of Banyule.

To prioritise the use and management of all Rights of Way according to their public need.

To establish classification criterion for all Rights of Way having regard to the Road Management Plan.

Discussion

Council has different data sources for Rights of Way information including asset register databases, infrastructure and cleansing registers, property registers and street files.

Collection of accurate, up-to-date information into an appropriately managed 'one-stop shop' available on a corporate management system will facilitate improved Rights of Way management decisions using a more informative and strategic classification system.

This Strategy supports undertaking an audit of all Rights of Way to provide information on current usage, construction, infrastructure needs, maintenance, potential for pedestrian and cyclist use and potential for activation.

This Strategy supports the classification of Rights of Way according to a number of current and anticipated factors and uses to improve their management.

The classification of Rights of Way will consider the following factors:

- Requirement for public use
- If not required for public use, then discontinued
- Location:
 - Within or close to an Activity Centre
 - Within a retail centre
 - Close to a community hub or other activity generator
 - Outside of the above three categories.
- An important conduit for pedestrians and cyclists
- Constructed or unconstructed

In investigating the above factors, a two tier Rights of Way classification scheme is proposed. This would be considered for inclusion in the next iteration of the Road Management Plan following consultation within Council departments and the community.

Classification	Sub-Class	Description
Class 1	1A	Rights of Way within Activity Centre boundaries.
	1B	Rights of Way outside Activity Centre boundaries but serving an important function as connectors to local community hubs and uses, or important from a drainage, cycling and pedestrian perspective.
	1C	Rights of Way other than 1A and 1B that provide access to private property or for public use.
	1D	Rights of Way not having a road function but requiring retention for stormwater overland flow path function.
Class 2	None	Rights of Way not required for public use.

Class 1A Rights of Way

Class 1A Rights of Way are described as required for public access and within the boundaries of an Activity Centre (Principal, Major and Neighbourhood). They are important for transport permeability (vehicular, parking, loading); and sustainable

transport (pedestrians and cyclists). They are most likely to have, or have potential for, new development opening directly onto them. The character and function of these Rights of Way are significant and need to be protected. They may form an important part of the minor or major drainage system (including performing a function as important overland flow path for stormwater). All Class 1A Rights of Way should be constructed and require comprehensive maintenance and cleansing services. Resources will be directed firstly to Class 1 Rights of Way.

Class 1B Rights of Way

Class 1B Rights of Way are the second level of Rights of Way in terms of strategic functionality to Council. While outside Activity Centres and less likely to be required for access to significant development in the future, they serve an important function as connectors to smaller local community hubs, schools, public transport, open space etc. They are also likely to be used by the broader community. Depending on their level of functionality, they may be constructed or unconstructed. They may form an important part of the minor or major drainage system (including performing a function as important overland flow path for stormwater), off-road bicycle network and provide opportunity for open space usage.

Class 1C Rights of Way

Class 1C Rights of Way are those Rights of Way which do not serve the broader community. They most likely exist in isolation to other Rights of Way and likely serve residents who abut them. They are likely to be unconstructed and unsuitable for new development accessing them directly.

Class 1D Rights of Way

Class 1D Rights of Way are those Rights of Way which are not required for a road function but would serve a stormwater overland flow path function and should be retained.

Class 2 Rights of Way

Rights of Way which do not fit the criteria of Class 1A, 1B, 1C or 1D are likely to be no longer required for public use and could be considered for discontinuance and sale. These Rights of Way would typically be unconstructed.

Actions

No.	Action	Priority	Responsibility	Cost
3.3.1.1.	Implement the Rights of Way classification system detailed above and incorporate into the Banyule Road Management Plan.	1	Asset Management	Operating
3.3.1.2.	Survey all Rights of Way and update the Rights of Way Register as part of the Public Roads Register database.	1	Asset Management	\$6,000
3.3.1.3.	Review the Rights of Way Register database to reclassify the Rights of Way assets into the new classification system.	1	Asset Management	\$5,000

3.3.1.4.	Conduct an audit of all available Rights of Way asset information held within Council's information system to determine the extent of information held and identify any gaps.	1	Engineering Services	\$5,000
3.3.1.5.	Review the Rights of Way Register to ensure it captures information about Rights of Way including: <ul style="list-style-type: none"> • Surface Treatment • Carriageway characteristics • Drainage and Infrastructure • Overland flow path (flooding) status • Heritage Issues • Encroachments or obstructions. 	1	Infrastructure Services	Included in 3.3.1.2
3.3.1.6.	Update the Rights of Way Register database on a regular basis to ensure updated Rights of Way information in relation to sales, discontinuances, encroachments and other relevant information.	Ongoing	Asset Management GIS Services	Included in operating costs

Performance measures

- Rights of Way classification system and database established.
- Rights of Way surveyed and Rights of Way Register updated regularly.
- Rights of Way database maintained and updated regularly.

3.3.2. Naming and Numbering Rights of Way

Legal/political context

Clause 5 of Schedule 10 of the Local Government Act 1989 confers on Council the power to name roads and Rights of Way.

In exercising this power Council must act in accordance with the guidelines in force for the time being under the Geographic Place Names Act 1998 and must advise the Registrar of the action it has taken. The Banyule Street Numbering and Naming Guidelines also apply.

Background

With the activation of Rights of Way around Activity Centres and the increasing number of developments directly abutting Rights of Way, there is likely to be an increased number of commercial and residential buildings which have or will have direct access to Rights of Way without the benefit of an alternative access onto a 'main street'.

The naming of Rights of Way brings with it certain community expectations namely:

- level of road maintenance/construction;
- delivery of mail;
- collection of garbage;
- emergency vehicle access;
- security; and
- public lighting.

Issue

The creation of properties having their only frontage to Rights of Way creates issues where the property cannot be readily identified. This could cause issues service authorities including postal access and emergency services access.

Objective

To create an identity of place to Rights of Way where they are required as primary street addresses.

Discussion

Council is empowered under the Local Government Act 1989 to name roads and assign a number to any properties adjacent to any road. Any action by Council to number and name Rights of Way must be in accordance with the Geographic Place Names Act 1998 and the Street Numbering and Naming guidelines. Numbering and Naming of Rights of Way should only be considered when a property cannot be numbered to an existing property.

In considering proposals to name Rights of Way Council must assess:

- the necessity as opposed to desire to provide a street address;
- the physical characteristics of Rights of Way, including the level of construction and width;
- the level of support, or otherwise, of immediately affected property owners;
- possible future development of adjacent and nearby land; and
- the impact on the neighbourhood character.

In selecting names for Rights of Way, Council must have regard to:

- suggestions from developers and immediately affected property owners;
- support of local interest parties;
- indicative local history, flora or fauna and other significant features of the area; and
- whether the suggested name is duplicated within the municipality.

Actions

No.	Action	Priority	Responsibility	Cost
3.3.2.1.	Name and number Rights of Way only when a property cannot be numbered to an existing road, in accordance with Council guidelines.	Ongoing as required.	Governance and Laws. GIS Services.	To be borne by the property developer

Performance measures

- Numbering and naming Rights of Way carried out in accordance with Council's Street Numbering and Naming guidelines.

3.4. Clarification

3.4.1. Heritage

Legal/political context

The Banyule Planning Scheme provides the legislative context for managing heritage issues.

Background

The Rights of Way Register 2009 includes one fully bluestone Rights of Way however a recent audit of that Register has revealed seven fully bluestone Rights of Way comprising a 920m length within the municipality, plus approximately twenty Rights of Way with a bluestone element i.e. drainage channel or edging. Some of these bluestone elements have become 'hidden' under a layer of dirt over the last 50 to 100 years. This has significant implications for future and ongoing maintenance and rehabilitation requirements. In addition to bluestone elements, Rights of Way within the City of Banyule may also have other heritage elements such as pit lids or signage.

Issue

Rights of Way constructed from bluestone are by nature quite uneven and are an access impediment for most Rights of Way users with the exception of motor vehicles, although in the case of ambulances, patient ride quality is compromised. In particular, the bluestone surface is an issue for pedestrians, cyclists, mobility scooter users and people with disabilities. Maintenance of the bluestone Rights of Way is also an issue, with bluestone pavers expensive and difficult to source. Additionally, specialist skilled labour is required to rehabilitate bluestone Rights of Way. Whilst it is understood that a number of Rights of Way contain bluestone elements, the age of Rights of Way within Banyule means that they may also contain other varied heritage elements such as pit lids and signage, which need to further investigated for heritage value.

With bluestone Rights of Way approaching 100 years old, rehabilitation is a significant issue with a decision needed on the form and type of replacement surface, to be used. This will be dependent on whether the Rights of Way is affected by a Heritage Overlay control in the Banyule Planning Scheme.

The method of construction of Rights of Way varies dependent on the existing/expected users of the Rights of Way and whether it currently has a bluestone element and/or lies within a Heritage Overlay area. Generally a concrete surface treatment would be best for Rights of Way expected to have high pedestrian and cyclist usage. The current practice of replacing bluestone and other heritage elements in Rights of Way is not defined, a program is required to identify the location and elements of the bluestone and other heritage element Rights of Way within the municipality and clarify appropriate maintenance and service standards and rehabilitation practices for heritage Rights of Way. Any review should be taken in consultation with Council's heritage advisor.

Objective

- To preserve the heritage value of Rights of Way that have a heritage element (including bluestone) or that are located in areas affected by a Heritage Overlay control in the Banyule Planning Scheme.
- To contribute to the preservation of existing streetscapes.

Actions

No.	Action	Priority	Responsibility	Cost
3.4.1.1.	Develop a program to expose and assess the condition of bluestone elements of Rights of Way which are covered with layers of dirt and gravel.	2	Operations	\$5,000
3.4.1.2.	Prepare a heritage management plan identifying appropriate maintenance, service standards and rehabilitation practices for Rights of Way with bluestone and other heritage elements both within and outside areas affected by a Heritage Overlay in the Banyule Planning Scheme.	1	Engineering Services – resources to be determined – Strategic Planning input	\$10,000
3.4.1.3.	Consider using asphalt/concrete when Rights of Way with high pedestrian and/or bicycle usage need rehabilitation or upgrading.	Ongoing	Operations	Capital Works Program

Performance measures

- Guidelines established identifying appropriate maintenance, service standards and rehabilitation practices for Rights of Way affected by a Heritage Overlay or containing heritage elements including bluestone.
- Maintain Rights of Way in accordance with the Heritage Management Plan, subject to budgetary constraints.

3.4.2. **Illegal Occupancy and Encroachment**

Legislative/political context

Local Law No. 1 2005 General Local Law

Background

Illegal occupancy and encroachments occasionally occur where Rights of Way are unconstructed and under-utilised, and back directly onto residential properties. A recent revision of data indicated fifty four separate incidents of occupation/encroachment within Rights of Way. The encroachment generally occurs when an adjacent property owner plants trees/scrubs within the Rights of Way or erects a gate or fence across it. Encroachments notified by neighbouring residents or Council's Infrastructure, Cleansing and Parks departments are reported to

Council's Local Laws unit which instigate measures to remove the encroachment. Encroachment can also occur where property boundaries are unknown.

Encroachments within Rights of Ways identified as important stormwater overland flow paths can have a dramatic effect on flood levels and inundation to properties. These encroachments must be removed immediately.

Issue

Illegal occupancy and encroachments of Rights of Way are not in the general public interest and should be removed where it is necessary to retain the integrity of the Rights of Way and benefits to the community.

Objective

To maintain Rights of Way free from illegal occupancy and encroachment.

Actions

No.	Action	Priority	Responsibility	Cost
3.4.2.1.	Council will proactively remove unauthorised encroachments or gates are erected in Rights of Way.	2	Maintenance Operations	Include in maintenance costs
3.4.2.2.	Council will conduct an initial audit of all Rights of Way for encroachments and gates as part of its regular maintenance schedule and recheck for encroachments every 2 years to guard against future possible claims of adverse possession.	2	Maintenance Operations	Include in maintenance costs

Performance measures

- Audit undertaken identifying any illegal occupancy or encroachment on Rights of Way.
- Illegal occupancies or encroachments removed promptly.

3.5. Maintenance

3.5.1. Maintenance, Cleansing and Infrastructure

Legislative/political context

Section 205 of the Local Government Act 1989 provides that 'A Council has the care and management of ...all roads that the Council has agreed to have the care and management of'. Section 205 also states that this section is subject to the Road Management Act 2004. Section 40 of the Road Management Act 2004 provides that the responsible authority has 'a statutory duty to inspect, maintain and repair public roads'. However, the statutory duty imposed by subsection (1) does not create a duty to upgrade a road or to maintain a road to a higher standard than the standard to which the road is constructed.

Background

The majority of Rights of Way within the City of Banyule were created as roads within a plan of subdivision and remain in the name of the original subdivider. Council has discretionary powers under the Local Government Act and the Road Management Act for the management of these Rights of Way. The management is undertaken by a number of Council departments including: Asset Management (maintenance of Rights of Way register); Property Services (discontinuance, selling of Rights of Way, valuations, legal matters); Infrastructure and Cleansing; Youth Services (graffiti); and Parks and Gardens (cutting grass, fire hazards etc.).

Council's Infrastructure and Cleansing Departments undertake maintenance and cleansing of all Rights of Way, including cleaning out drainage pits. They maintain both constructed and unconstructed Rights of Way. Generally, cleansing and maintenance is carried out on customer request however Rights of Way within or directly adjacent to shopping centres are cleaned once a fortnight. Expenditure on maintenance and cleansing is generally from the current operating budget with an additional \$50,000 available for further more complex maintenance needs.

Council's Parks Department currently maintains 114 Rights of Way, with a maintenance routine of three to four cycles per year, an increase from the previous cycle of once a year. This is due to the growth season having increased in recent years due to rain and the reversal of drought conditions. This level of maintenance routine involves 12 two-man crews working two days to clear 13 Rights of Way each cycle. The Parks department is responsible for cutting grass, clearing vines and vegetation, removing branches and other green rubbish, and ensuring that a fire hazard does not exist during the spring/summer seasons.

In recent years, Council's Infrastructure, Cleansing and Parks Departments have noticed a trend of increased customer requests due in part to new residents moving in to the municipality, particularly in the Ivanhoe and Heidelberg areas where most Rights of Way are located.

The provision of separate footpaths in Rights of Way in the municipality is not a usual occurrence due to the narrow width of the majority of Rights of Way. However, pedestrians do use Rights of Way as access ways to community facilities and as short cuts between facilities, for example the Rights of Way which runs between Ivanhoe Rail Station at Norman Street to the Ivanhoe Shopping Centre at Upper Heidelberg Road is well used by pedestrians and cyclists as a short and direct route between these facilities. The volume and speed of vehicles using Rights of Way is generally low, which assists in providing safer pedestrian and cycling conditions. Opportunities could be explored for shared road status with a posted lower speed limit of 20kph or less.

Currently, there is no refuse collection provided to properties that front a Rights of Way, mainly due to Rights of Way width generally being 3.1m and Council's side loading waste trucks being unable to operate in roads less than 5m wide. In these instances, rubbish bins need to be either privately collected or placed at the nearest intersection with an adjacent road. Within the City of Banyule, there is an issue with dumped rubbish being placed in Rights of Way by unknown persons; this is generally removed by Council's Cleansing Department on a reactive basis.

Melbourne Fire and Emergency Services Board (MFB) guidelines prescribe requirements for emergency vehicle access to a number of development scenarios from single residential to multi-storey commercial properties. The MFB prefer

secondary access ways to be a minimum 3.5m wide. The width of awnings and encroachment into Rights of Way also need to be considered in assessing development applications proposed to face Rights of Way.

Ambulance Services stop at the closest and safest point of access to their destination. This can include Rights of Way if they are clear of vehicles and it is safe to travel. There are concerns with unmade and bluestone Rights of Way due to the bumpy ride and difficulty in manoeuvring injured or ill patients over these surfaces on trolleys. Similarly, Australia Post vehicles, particularly motorcycles can have minor difficulty negotiating unmade and bluestone Rights of Way.

Identifying Council's responsibility in the maintenance of Rights of Way and accurately defining appropriate maintenance and service standards is problematic for the following reasons:

- the number of Rights of Way within the municipality (260 with varying conditions)
- the responsibility to maintain rests only with those roads over which Council has agreed to have care and management of;
- the level and type of construction is inconsistent;
- constructed and unmade Rights of Way require different levels of maintenance;
- the lack of obligation to undertake drainage or surface works on unmade roads.

Issue

Rights of Way should be maintained according to community amenity, health and safety requirements and other identified Council benefits.

Objective

- *To renew those Rights of Way that show good potential for public use, including pedestrian/cyclist usage.*
- *Ensure that Rights of Way that are important for public use are accessible, safe and appropriately constructed and maintained.*

Discussion

The Road Management Plan details the level of inspection and maintenance service for Rights of Way which are prioritised as category Level 4. The hierarchy classification is used to assist in prioritising works programs and also intervention responses to remedy defects; however the current constructed or unconstructed categorisation of Rights of Way gives little guidance for the prioritisation of Council resources in response to customer requests.

The Strategy recognises the increased level of maintenance, cleansing and costs associated with Rights of Way and the likelihood that this will increase further in future years for Category 1 Rights of Way (particularly for Class 1A Rights of Way which require a high level of maintenance and cleansing in association with their higher public status) with some decrease for Category 2 Rights of Way as they are discontinued and sold. Until such time as Category 2 Rights of Way are sold, Council will assume responsibility to maintain all Rights of Way.

The Strategy proposes a maintenance schedule for each new category of Rights of Way based on the proposed categorisation. The proposed maintenance schedule is detailed below with approximate costs. The maintenance schedule will be included in the consultation around the next iteration of the Road Management Plan and will be subject to budgetary constraints.

Summary of Maintenance Requirements

Classification	Maintenance Requirements	Cost (Approx)
Class 1A	<p>Council to maintain both constructed and unconstructed Rights of Way.</p> <p>For unconstructed Rights of Way, Council will provide 4 maintenance visits annually to remove vegetation aligned to the growing season.</p> <p>For constructed Rights of Way, Council will provide a 2-weekly maintenance check, removing dumped rubbish, removing graffiti, checking drainage, infrastructure etc.</p> <p>A major maintenance pool to be established to cater for the increasing Rights of Way maintenance liability.</p>	<p>\$24,000/annually</p> <p>\$24,000/annually</p> <p>\$75,000/annually</p>
Class 1B	<p>Council to maintain both constructed and unconstructed Rights of Way.</p> <p>For unconstructed Rights of Way, Council will provide 4 maintenance visits annually to remove vegetation aligned to the growing season.</p> <p>For constructed Rights of Way, Council will provide an 8-weekly maintenance check, removing dumped rubbish, removing graffiti, checking drainage.</p> <p>A major maintenance pool to be established to cater for the increasing Rights of Way maintenance liability.</p>	<p>\$24,000/annually</p> <p>\$12,000/annually</p> <p>\$50,000/annually</p>
Class 1C	<p>Council to maintain both constructed and unconstructed Rights of Way.</p> <p>For unconstructed Rights of Way, Council will provide 4 maintenance visits annually to remove vegetation aligned to the growing season.</p> <p>For constructed Rights of Way, Council will provide a 12-weekly maintenance check, removing dumped rubbish, removing graffiti, checking drainage.</p>	<p>\$24,000/annually</p> <p>\$12,000/annually</p>

Class 1D	<p>Council to maintain Rights of Way (not classified as Class 1A to 1C) for stormwater overland flow paths.</p> <p>For all Rights of Way, Council will provide maintenance visits as required to ensure that stormwater overland flow paths are not compromised.</p>	Included in above maintenance costs.
Class 2	<p>Council will maintain both constructed and unconstructed Rights of Way until they are disposed of via a discontinuance and sale process.</p> <p>Council will provide 3 to 4 maintenance visits a year aligned to the growing season for unconstructed Rights of Way to clear Rights of Way of all vegetation and to reduce any fire hazards. Dumped rubbish will also be cleared on these maintenance visits.</p> <p>For constructed Rights of Way, Council will provide 4 visits per annum to clear dumped rubbish, remove graffiti etc.</p>	\$24,000/annually

Actions

No.	Action	Priority	Responsibility	Cost
3.5.1.1.	Maintenance of all constructed and unconstructed Rights of Way in line with the standards for Class 1 Rights of Way as detailed above. This is dependent on the above maintenance schedule being adopted as part of the next revision of the Road Management Plan and subject to budgetary constraints.	1	Asset Management	\$245,000 annually
3.5.1.2.	Maintenance of all constructed Class 2 Rights of Way until discontinued and/or sold. This is dependent on the above maintenance schedule being adopted as part of the next revision of the Road Management Plan and subject to budgetary constraints.	1	Asset Management Operations	\$24,000 annually

Performance measures

- All Rights of Way maintained in accordance with the maintenance requirements schedule.

3.5.2. Drainage Infrastructure and Stormwater Overland Flow paths

Legislative/political context

Section 205 of the Local Government Act 1989 provides that 'A Council has the care and management of ...all roads that the Council has agreed to have the care and management of.' Section 205 also states that this section is subject to the Road Management Act 2004.

Section 163 of the Local Government Act 1989 also provides that 'A Council may declare a special rate, a special charge or a combination of both only for the purposes of—

(a) defraying any expenses; or
(b) repaying (with interest) any advance made to or debt incurred or loan raised by the Council— in relation to the performance of a function or the exercise of a power of the Council, if the Council considers that the performance of the function or the exercise of the power is or will be of special benefit to the persons required to pay the special rate or special charge.'

Background

Many Rights of Way have the dual purpose of not only providing access to properties, but also to service the properties with drainage and other services. The drainage can be provided by open gutters or underground drainage pipes. The stormwater overland flow path function of many Rights of Way also need to be identified and considered.

Issue

Council's drainage policy, dating back to 1998, identifies a lack of or inappropriate infrastructure within the municipality. Some Rights of Way act as drainage outlets for properties situated on either side. Other Rights of Way, whilst not having a road function perform an important stormwater overland flow path function.

In particular, identifying Council's responsibility for drainage within Rights of Way is complicated by:

- the number of Rights of Way within the municipality;
- the level and type of drain construction is inconsistent;
- the lack of community support for Council to implement drainage schemes to undertake drainage or surface works on unmade roads.

Objective

- To preserve the stormwater overland flow path function of Rights of Way in known flood zones.
- To enhance drainage along and within Rights of Way, as required.

Discussion

Council's Drainage Policy has not been reviewed for some time. A revised Drainage Policy should support the development and maintenance of a drainage system which will maximise its efficiency, ensures public safety and protects the environment. Drainage maintenance issues will be addressed as set out in Section 3.5.1, with a new category of Right of Way established which addresses the needs of those Rights of Way which do not have road function but which need to be retained to service an important stormwater overland flow path function.

Actions

No.	Action	Priority	Responsibility	Cost
3.5.2.1.	Review and Update Council's Drainage Policy.	1	Engineering Services	Operating Costs
3.5.2.2.	Maintenance of the drainage function of all Class 1 Rights of Way as previously described in Section 3.5.1	1	Asset Management	See Section 3.5.1

Performance measures

- Maintenance and service standards for drainage within Rights of Way implemented in accordance with the Road Management Plan and Council's drainage policy.
- Drainage issues that cause damage to properties and compromise public safety addressed on an as-needs basis in accordance with the drainage policy.
- Special charge drainage schemes implemented as required.

3.6. Improvement

3.6.1. Construction of Unconstructed Rights of Way

Legislative/political context

Clause 1 of Schedule 11 of the Local Government Act 1989 confers on Council the power to construct and maintain roads.

Background

Approximately 75% of the Rights of Way within the municipality are constructed with either a concrete or asphalt surface. The constructed Rights of Way are mainly in Activity Centres and are used primarily as access to properties located along them or access ways for pedestrians and cyclists. The remaining 25% of Rights of Way are unconstructed; the cost to construct them would be approximately \$500 per linear metre based on the average 3.1m width.

Council does not fund construction of unconstructed Rights of Way; the full cost would have to be borne by adjacent property owners and recovered through a special rate/charge scheme as allowed in the Local Government Act Section 163 (7). No such special rate/charge scheme has occurred in Banyule for many years. Other methods of paying for construction could be through developer contributions and planning permit conditions on adjacent development.

Issue

Unconstructed Rights of Way used by the community can pose a liability for Council.

Objective

- *To construct unconstructed Rights of Way, where improved amenity, health, safety and other benefits (including for cyclists and pedestrians) to Council and the community can be demonstrated*

Discussion

Unconstructed Rights of Way which are likely to be categorised Class 1A and Class1B Rights of Way and serve a public need will be identified by Council via auditing and Council will facilitate their construction to remove maintenance issues and improve accessibility, subject to budgetary constraints.

Council will consider initiating a special rate/charge scheme to achieve construction of unconstructed Rights of Way and those property owners that gain a benefit from the construction will be required to contribute to the cost of construction. Developer contributions may be applicable for the development of Rights of Way in Activity Centres where there is a strategic need to construct the Rights of Way and a development contribution plan has been prepared on adjacent development.

Actions

No.	Action	Priority	Responsibility	Cost
3.6.1.1.	Where Council has identified that an unconstructed Rights of Way is needed for public purposes, Council will facilitate its construction to reduce maintenance requirements and improve accessibility. Funding the construction of unconstructed Rights of Way will be either by a special rate/charge scheme or a developer contribution plan.	1	Asset Management/ Engineering Services	Capital Works Program
3.6.1.2.	Council will draw up a series of technical notes and drawings for the construction and rehabilitation of unconstructed Rights of Way.	1	Engineering Services	Operating costs

Performance measures

- Maintenance and service standards for constructed and unconstructed Rights of Way developed in accordance with the Road Management Plan.
- Roads on unconstructed Rights of Way constructed through Special Rate/Charge Schemes as required.

3.6.2. Activation of Rights of Way in Activity Centres

Legal/political context

The Banyule Planning Scheme and Activity Centre Structure Plans provide the legislative context.

Background

Activity Centres are identified areas for growth and activity by the State Government. State Planning Policy obliges Council to consider higher densities, particularly in Principal Activity Centres such as Greensborough and Major Activity Centres such as Ivanhoe and Heidelberg. To plan for Activity Centres, Council has undertaken

structure plans which give Council, local community and other stakeholders a long term plan to guide land use and development in the centres.

Rights of Way within/close to Activity Centres and community hubs are particularly important because these are locations where strategic land use planning is promoting increased dwelling density. In these locations, there is a need for Rights of Way to support activated edges with property developments, easy pedestrian and cyclist access to nearby places, in addition to servicing the needs of motor vehicles. At the same time, Rights of Way close to Activity Centres tend to be quite narrow – approximately 3.1m in width, often with some heritage value.

Activation of Rights of Way close to Activity Centres could take many forms, including the development of residential and commercial dwellings with ground floors opening directly to Rights of Way. Transport options, access for pedestrians and cyclists, carriageway widths, drainage, lighting and public safety all need to be taken into consideration. Activation could also open up Rights of Way for street festivals, street art and other uses. Whilst the City of Banyule does not currently have a ‘laneway culture’, improving laneways to provide interesting and useable community space is important particularly in those Rights of Way which directly abut Activity Centres.

Land use planning for activity centres has established meaning to the term ‘Pedestrian Priority Precinct’. A pedestrian priority precinct is a network of streets around an Activity Centre, where the priority for transport is given over to pedestrians. These streets would typically have wider footpaths, lower speed limits (generally 40kph) and many pedestrian crossing facilities located along them. These precincts could be used as a tool to prioritise those Rights of Way which would be suitable for activation.

Issue

Rights of Way are increasingly becoming important frontages for residential developments. Consequently, consideration of enhanced urban design for the interface between Rights of Way and residential land will help promote activated frontages, permeable edges and Rights of Way that promote safety for all users.

Objective

To activate Rights of Way spaces within and close to Activity Centres and community hubs.

Discussion

The identification and development of a demonstration revitalisation project in one or two Rights of Way in each Activity Centre could offer an opportunity to explore and test different scenarios and have a major long term benefit. Rights of Way in different Activity Centres in Banyule will require different design treatments to meet differing needs and expectations. Priority for activating the Rights of Way will be for the Class 1A category Rights of Way, however, Class 1B Rights of Way will be investigated and supported as they arise.

The preparation of urban design guidelines for physical improvement to Rights of Way should ensure a design focus to prioritise pedestrian needs within Activity Centres over other modes of transport. The remodelled Rights of Way design should be safe to walk along, designed to promote very low traffic speeds and a new design ethos that takes an integrated approach to preferred design outcomes at the interface.

Actions

No.	Action	Priority	Responsibility	Cost
3.6.2.1.	Prepare a map for Ivanhoe, Heidelberg and Greensborough identifying Rights of Way suitable for activation having regard to the established 'pedestrian priority precincts' around Activity Centres.	1	Engineering Services – resources to be determined – Strategic Planning input	\$15,000
3.6.2.2.	Prepare guidelines for preferred design parameters for Rights of Way in Activity Centres behind shops.	1	Engineering Services – resources to be determined – Strategic Planning input	\$15,000
3.6.2.3.	As part of Activity Centre and Structure Plan planning, identify a small number of Rights of Way that could be candidates for revitalisation demonstration projects.	2	Engineering Services – resources to be determined – Strategic Planning input	\$10,000
3.6.2.4.	Advocate for and support community uses such as festivals and events in Rights of Way within Activity Centres.	Ongoing	All of Council	N/A

Performance measures

- Rights of Way suitable for activation within the Principal and Major Activity Centres identified in an appropriate database.
- Guidelines setting out appropriate design parameters for Rights of Way in Activity Centres established.
- Maintenance and service standards for constructed and unconstructed Rights of Way within Activity Centres developed in accordance with the Road Management Plan.

3.6.3. Rights of Way abutting existing or new development

Legal/political context

The Banyule Planning Scheme provides the legislative context.

Background

Rights of Way within/close to Activity Centres and community hubs are important because these are locations where strategic land use planning is promoting increased dwelling density. There is potential to consolidate a number of backyards on large blocks and provide a development opportunity which might not otherwise exist if access was only permitted from the street. As such, infill developments proposing the use of Rights of Way for access have been permitted by Council. Many developments propose vehicular and pedestrian access solely along Rights of Way.

Issue

Increasingly, developers are proposing both primary and secondary access off Rights of Way which are narrow in width, are not constructed to the appropriate trafficable standard, do not have satisfactory pedestrian and cyclist access, and lack a number of amenities such as lighting, security, appropriate drainage and garbage collection facilities. Currently, Council lacks guidelines which deal comprehensively with this issue. An associated issue is where a development may suggest a 'new' Rights of Way within the site envelope to provide access to all or part of the development. Funding of improvements to the Rights of Way may also be an issue.

In order to accommodate development accessing directly to Rights of Way, a number of issues will need to be addressed for Rights of Way including:

- *Surface Treatment* - it is important to provide a surface suitable for a mixed pedestrian and vehicular environment. As development off Rights of Way are likely to be close to Activity Centres, the surface should be fully accessible to all users and be bicycle friendly. In the majority of instances a concrete surface treatment would be preferred; this should incorporate traffic calming treatments capable of reducing traffic speeds to 20km/hr or less. Attention should be given to the Banyule Safer Design Guide, when mixing pedestrians and cyclists with vehicular traffic. Design involving bluestone would need to ensure that acceptable DDA access is maintained. The cost to construct the surface treatment and any additional infrastructure such as drainage improvements is to be borne by the developer.
- *Carriageway width* – as Rights of Way are typically 3.1m wide or less, consideration needs to be given to widening carriageways to allow unimpeded access, particularly in relation to larger developments, accommodating other residents, emergency vehicle access, Australia Post delivery and waste collection etc. Rights of Way need to be wide enough to safely allow for a mixed pedestrian/vehicular environment. Guidelines relating to preferred surface treatment, carriageway width and infrastructure requirements for developments fronting Rights of Way should be developed to define the optimal environment for all users. The guidelines should consider possible mechanisms for achieving widening Rights of Way, including (but not exclusive of any other means) by negotiation with planning permit applicants in lieu of parking dispensation of proposed developments abutting the Rights of Way.
- *Utility service and drainage provision* – Developers should be responsible for all costs and infrastructure associated with the provision of water, gas, electricity, communications and drainage to the development. Provision must be made for current drainage and legal point of discharge infrastructure in the Rights of Way. Any works required to dig up the Rights of Way surface treatment should be reinstated to Council satisfaction.
- *Street lighting* – Rights of Way can be isolated, hazardous and dark places. Consideration needs to be given to the existing street lighting (if any) and the provision of adequate lighting for the new development to encourage safe use of the Rights of Way. Adequate carriageway width should be provided for positioning of light poles. To provide pedestrian safety and security in Rights of Way, there must be direct lines of sight through the entire Rights of Way.

- *Encroachment into the Rights of Way* – Consideration should be given to the urban form of the development and whether there are encroachments into the Rights of Way such as balconies etc., which would impede vehicular access and or block pedestrian/cyclist movement or create blind spots.
- *Emergency Vehicle Access and Waste Collection* – Proposed developments must comply with the requirements set out in the Metropolitan Fire and Emergency Service Board’s guidelines - GL-27 Planning Guideline for Emergency Vehicle Access and Minimum Water Supplies. On Rights of Way less than 5m wide, Council’s waste collection vehicles are unable to collect waste. As part of the approval for any development to face a Rights of Way less than 5m wide, a waste management plan should be developed to the satisfaction of Council.
- *Traffic Management in Rights of Way* – For any development that is anticipated to change the volume of vehicular traffic or increase the volume of pedestrian and cyclist traffic, a traffic impact statement should be submitted to demonstrate to the satisfaction of Council that the Rights of Way can safely accommodate the increased vehicular/pedestrian movements. Realignment works may be required to provide space for turning circles for vehicles through splayed corners or similar improvements between the development and the broader street network; these should be the responsibility of the developer to design and fund.

Objective:

- *To ensure that any upgrade or improvement of Rights of Way adjacent to existing or new Development occurs in a way that improves the accessibility, connectivity and safety of the Right of Way.*
- *To clarify standards required by Council when a new or proposed development is proposed with its primary or secondary access off either an existing or new Rights of Way.*
- *To ensure landowners and developers contribute financially to the capital and maintenance cost of upgrading Rights of Way.*

Discussion

Broader Council strategies and Activity Centre planning direct a need to provide effective land use and development objectives that meet long term community needs and maintain and enhance infrastructure. Rights of Way, particularly those close to Activity Centres and transport hubs provide an opportunity for a different type of development form, less reliant on vehicular transport and which presents directly to the Rights of Way.

When planning applications for developments adjacent to Rights of Way are received, attention should be given to improvement of the Rights of Way as set out in the proposed Guidelines (3.6.3.1). All costs associated with improvement of the Rights of Way in association with the development as determined by Council should be borne by the developer. This should include the full extent of the Rights of Way from the development to the main road exit, depending on the size and extent of the development. Implementation and funding will be set out in the guidelines to be developed as part of 3.6.3.1

Actions

No.	Action	Priority	Responsibility	Cost
3.6.3.1.	Prepare transport and design guidelines for improvements to Rights of Way to ensure that: <ul style="list-style-type: none"> The proposed 'new' or existing Rights of Way addresses all access issues, including preferred surface treatment, carriageway width, all infrastructure including drainage, lighting requirements. 	1	Engineering Services	\$25,000
3.6.3.2.	Ensure that all criteria set out in the guidelines can be met prior to approving any development accessing existing or 'new' Rights of Way.	Ongoing	Strategic Planning/ Statutory Planning	Include in operating costs
3.6.3.3.	Ensure that issues of urban design such as encroachment into a Right of Way have been considered for developments proposed to face Rights of Way to the satisfaction of Council.	Ongoing	Strategic Planning/ Statutory Planning	Include in operating costs

Performance measures

- Guidelines established for Rights of Way abutting existing or new development.
- Maintenance and service standards for constructed and unconstructed Rights of Way developed in accordance with the Road Management Plan.
- Rights of Way construction and upgrading schemes implemented and funded through Development Contributions/Special Charge/Rate Schemes as required.

3.6.4. Transport, Parking and Loading in Rights of Way

Legal/political context

Parking and stopping vehicles in Rights of Way is influenced by the Road Safety Act (1986), Local Government Act (1989) and Council's Local Laws. The Transport Integration Act 2007 also applies.

Background

Rights of Way support and complement the existing road network within the municipality, by providing direct or alternative access to properties. They are used by a wide variety of transport users, including pedestrians and cyclists.

Issue

Transport movements along Rights of Way take many forms and comprise many issues, including:

- vehicular access and swept paths to properties abutting the Rights of Way,

- pedestrian and cyclist access to nearby Activity Centres and community hubs,
- reduced carriageway width leading to conflict between pedestrians and vehicular traffic, vehicles traveling in opposite directions, difficulty in access for emergency vehicles and the inability to provide footpaths on three metre wide Rights of Way,
- Sight distance at intersections (typically Rights of Ways are not provided with adequate visual splays at intersections)
- Car parking impeding vehicular and emergency vehicle access,
- loading in Rights of Way situated at the back of shops and other facilities in Activity Centres.
- surface treatments not being suitable for general accessibility and smooth ride by cyclists. The surface condition of Rights of Way is important to ensure that it is functional to all users.

Objective

- *To enhance transport safety and accessibility of Rights of Way*
- *To provide for the effective integration of transport and land use within Rights of Way*

Discussion

In general, the narrow carriageway width of Rights of Way is seen as a positive as it tends to lead to reduced vehicular speeds, reducing the risk of injury to pedestrians and cyclists, and giving the impression of a more personable and safe space. The volumes and speed of vehicles that utilise Rights of Way are generally low, so having vehicles and pedestrians sharing the same space is considered an acceptable outcome if vehicle speeds can be maintained below 20km/hr. Any carriageway widening will need to preserve the low speed environment and be weighted towards improving conditions for more sustainable transport. Consideration also needs to be given to Council's safer design guide.

Given the narrow nature of the vast majority of Rights of Way, there is little opportunity to park in them. In the event that a Rights of Way is widened in future, consideration needs to be given to the effects of parking, particularly with new development with little parking provided, not blocking the access of other Rights of Way users or emergency vehicles. Generally, a Rights of Way would have to be over 5.5m to allow parking to take place.

Similarly, in commercial areas and behind shops in Activity Centres, many Rights of Way are used as the primary access for delivery and loading/unloading of goods. Again, this needs to be structured either by timing or location to prevent blocking access to the Rights of Way. The delivery and loading of goods shall occur in a manner that does not obstruct the use of the Rights of Way by other users and shall cause minimal disruption in the area.

Actions

No.	Action	Priority	Responsibility	Cost
3.6.4.1.	No parking or stopping of vehicles will be allowed in Rights of Way where through access is impeded by a parked/stopped vehicle.	Ongoing	Local Laws	Operating Costs
3.6.4.2.	The delivery and loading of goods shall occur in a manner that does not obstruct the use of the Rights of Way by other users and causes minimal disruption to the area.	Ongoing	Local Laws	Operating Costs
3.6.4.3.	The design and provision of transport infrastructure in Rights of Way will at all times provide for a safe, effective and accessible area for all users.	Ongoing	Engineering Services Statutory Planning	Operating Costs

Performance measures

- Maintenance and service standards for constructed and unconstructed Rights of Way developed in accordance with the Road Management Plan.
- Rights of Way construction schemes implemented and funded through Special Charge/Rate Schemes as required.

3.7. Closure

3.7.1. Temporary or Permanent Closure

Legislative/political context

The powers of Council over traffic are conferred pursuant to Section 207 of the Local Government Act 1989 and include the powers set out in Schedule 11 of the same Act.

Issue

In certain circumstances there is a need to close a road (either permanently or temporarily) in order to restrict or prevent vehicular traffic movements, or in order to prevent any injury to any person; or damage to any property (including damage to the road itself) or for as long as is necessary for a procession, public ceremony or function.

Situations arise where the closure of the Rights of Way is required in order to restrict vehicular access whilst still providing continued pedestrian access in the context of the legislation. Activation of Rights of Way in Activity Centres may also lead to a need to close a Rights of Way whilst still allowing pedestrian and/or cyclist movement, and/or allowing for street festivals.

Objective

To ensure suitable consultation prior to the temporary or permanent, partial or full closure or discontinuance of Rights of Way.

Actions

No.	Action	Priority	Responsibility	Cost
3.7.1.1.	Consult with the local community when undertaking temporary and permanent closures of Rights of Way.	Ongoing	Engineering Services	Operating Costs
3.7.1.2.	All temporary and permanent closures to be undertaken to Council satisfaction.	Ongoing	Engineering Services	Operating Costs

Performance measures

- Temporary or permanent closure of Rights of Way achieved consistent with Council's community consultation process and is transparent.

3.7.2. Discontinuance

Legislative/political context

Section 206(1) of the Local Government Act (1989) confers on Council the power to discontinue a road and includes the powers set out in Clause 3 of Schedule 10 of the same Act.

Background

The Local Government Act (1989) provides Council with the power to discontinue Rights of Way where the Council forms the opinion that the Rights of Way or road is '*no longer reasonably required for public use*'. In general, this means that Council must be satisfied that adjoining property owners do not reasonably require access to their property via the Rights of Way or road.

Council does not encourage the discontinuance of Rights of Way that are constructed or contain open drains. However, such Rights of Way can be considered for discontinuance in certain circumstances i.e. when all abutting owners agree to meet the costs of removing the existing paving and/or installing an underground drainage system.

There are a number of benefits from discontinuing Rights of Way that are no longer required, including:

- Reduction in Council's financial and legal liability e.g. cleansing, graffiti removal, maintenance, cleansing, drainage.
- Increasing security of property and removing derelict and unused parcels of land.
- Additional revenue from land transfer funds and possible rateable land.

Objective

To discontinue and sell off Rights of Way no longer reasonably required for public access (Class 2 Rights of Way).

Discussion

The power to discontinue a road, and sell the resultant land, is conferred on Council pursuant to Section 206 (1) of the Local Government Act (1989) and includes the powers set out in Clause 3 of Schedule 10 of the Act.

As discussed previously, Class 2 Rights of Way, that is any Rights of Way which does not fit the criteria of the Class 1 categorisation, are considered to be no longer required for public use and can be discontinued and sold. These Rights of Way would typically be unconstructed. Many Class 2 Rights of Way could be defined as unsightly, unused Rights of Way and the sale of these would remove unnecessary security risks and risks to public health and safety.

Class 2 Rights of Way are to be identified and collated as part of the Rights of Way categorisation process discussed earlier. All Class 2 Rights of Way have the potential for discontinuance and sale. Once the Rights of Way has been assessed as suitable for discontinuance, the statutory process can begin. Council will not commence statutory procedures to discontinue Rights of Way until it is satisfied the Rights of Way is no longer required as a road by abutting owners or the public generally by reason of its:

- existing vehicular and/or pedestrian access utilisation/needs;
- future road network expansion needs and/or its role in the linkage of bicycle and pedestrian networks.
- Function as an important path for the flow of overland stormwater

Council will not support the discontinuance of Rights of Way and sale of the resultant land where a 'landlocked' situation would be created. Council's City Valuer will value the resultant land at current market value taking into consideration the locality, siting, area and whether or not the land is, or is to become, encumbered.

In selling off Rights of Way, consideration needs to be given to the current drainage infrastructure and the function of the Rights of Way as a path for the flow of overland stormwater.

In most instances, each individual property that abuts a Rights of Way, has an equal carriageway entitlement for the use of land, with purchasers of the resultant land from the Rights of Way sale are encouraged to integrate the land in a manner which does not detract from the visual amenity of the neighbourhood, or areas of environmental, heritage or landscape significance.

Actions

No.	Action	Priority	Responsibility	Cost
3.7.2.1.	Review and Update Council's Discontinuance Guidelines and Procedures. Assess and prioritise all Class 2 Rights of Way for possible discontinuance and sale, having regard to existing property Legal Point of Discharge (LPOD) within Rights of Way.	2	Property Services	\$25,000

3.7.2.2.	Council to recover all costs it incurs in the discontinuance and sale of Rights of Way to adjacent owners. Capital raised from sale of unwanted rights of way to be placed in a separate Rights of Way budget.	Ongoing	Property Services	N/A
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Performance measures

- Rights of Way discontinued where it is demonstrated that the Rights of Way is no longer required for public use.
- The discontinuance of Rights of Way and sale of the resultant land is achieved consistent with Council's community consultation process and is transparent.
- The existing streetscape is retained by the integration/development of the resultant land abutting the streetscape in character with the surrounding neighbourhood.
- Removal of crossovers.

4. IMPLEMENTATION

The City of Banyule Rights of Way Strategy identifies mechanisms to achieve a coordinated approach to Rights of Way issues within the municipality.

Successful implementation of the Strategy requires:

- Commitment of the necessary resources to undertake the collection of information, creation of databases and initial steps in the management actions;
- A strategic approach to the management of Rights of Way within the City of Banyule;
- Ongoing review of the Rights of Way implementation plan in relation to the strategy objectives; and
- A coordinated approach to Rights of Way issues.

4.1. Strategy Implementation

The Strategy will be implemented by pursuing the actions within the Strategy including the following elements:

- Improving the compilation, auditing, accessibility and management of Rights of Way information in the municipality.
- Categorisation of Rights of Way, having regard to the Road Management Plan.
- Establishing a database identifying those Rights of Way suitable for activation within Activity Centres
- Developing guidelines for:
 - Rights of Way directly abutting existing or new development within the municipality, including where a development proposes a new or existing Rights of Way as its primary or secondary access way.
 - preferred design parameters for Rights of Way in Activity Centres behind shops.
- Reviewing the Discontinuance Policy.
- Reviewing the Drainage Policy
- Implementing maintenance and service standards for constructed and unconstructed Rights of Way in accordance with the Road Management Plan.
- Establishing a heritage management plan identifying appropriate maintenance and service standards for Rights of Way with a heritage value.
- Implementing and funding of Rights of Way construction schemes through Special Charge/Rate schemes.
- A regular program of monitoring and review, and adjustment to the policy where needed.

4.2. Timing

In order that the Rights of Way implementation plan can be incorporated within Council's capital works program, the actions have been prioritised in accordance with the following scale:

Priority	Timing	Funding (as below)
1	Short to Medium Term - Address within the next 2 to 5 years, subject to annual budget processes.	\$16,000 (audit, re-categorisation) \$50,000 (guidelines) \$144,000 annually (maintenance costs)* \$125,000 annually (major maintenance pool)**
2	Long Term – Address within the next 6 to 10 years, subject to annual budget processes.	\$5,000 (audit, re-categorisation) \$25,000 (guidelines) \$25,000 (Discontinuance assessment) \$144,000 annually (maintenance costs)* \$125,000 annually (major maintenance pool)**
Ongoing	Action forming the basis of maintenance, evaluation and/or recurring programs. Action that is currently being undertaken and is identified for 'continued' action in each year.	Approximately \$20,000 per annum

* Approximately 80% of this funding is currently funded.

** Currently \$50,000 major maintenance funded.

Whilst a priority for timing has been allocated to each action, the implementation of any action is dependent on the availability of funding resources within the timeframes. Priority firstly will be given to improving the management of Rights of Way.

4.3. Costing and Budget Allocation

Many of the actions required to facilitate the Strategy require funding and will pose a significant additional cost to Council. The cost of implementing the Strategy is estimated to be:

- \$21,000 for the audit and re-categorisation of the Rights of Way network.
- \$100,000 for the preparation of a number of guidelines relating to Rights of Way themes and for engaging urban design professionals to design a small number of demonstration Rights of Way projects.
- \$100,000 per annum for increased maintenance requirements on Class 1A and Class 1B category Rights of Way.

- \$12.8m for the construction of unconstructed Category 1A, 1B, 1C and 1D (assuming that approximately 25% of unconstructed Rights of Way will undergo construction over the longer term).

The timing and funding of specific projects should be determined through the preparation of works programs, which, to be effectual, need to be linked to tangible performance measures and the Capital Works budget.

There may also be further funding opportunities available from the State Government i.e. RoadSafe, Transport Accident Commission (TAC), Australian Greenhouse Office to offset the cost of initiating cycling, walking, DDA compliance and lighting programs in Rights of Way. Grant opportunities may be available through the Department of Transport, Planning and Local Infrastructure (DTPLI) for upgrading urban spaces in its Creating Better Places program. Additionally, it may be possible to elicit and use developer contributions to fund infrastructure improvements, particularly where development is likely to occur around and in Activity Centres.

No.	Action	Priority	Responsibility	Cost
4.3.1	Report progress against actions in the Strategy to Council annually.	Ongoing	Engineering Services	Operating Costs
4.3.2	Identify and seek funding from grants and other sources to assist Council with the implementation of the Strategy.	Ongoing	All Council Units	Operating Costs
4.3.3	Establish a 10-year Rights of Way program within the Capital Works Program	1	Engineering Services	Operating Costs

4.4. Monitoring and Review Process

Monitoring and review of the Strategy is essential to assess whether the implementation of the various actions has improved the use and management of Rights of Way. Monitoring the Strategy on a regular basis will allow for those actions which are successful to be added to over the life of the Strategy and those actions which are not as successful to be reviewed and amended as necessary to achieve the objectives of the Strategy.

5. APPENDICES

Appendix A – Council strategic documents influencing use and decision making for Rights of Way.

Strategic Document	Implication for Rights of Way
Banyule City Plan 2013-2017	<p>Council's City Plan 2013 – 2017 which includes our five key objectives:</p> <p>People - Community Strengthening and Support Planet - Environmental Sustainability Place - Sustainable Amenity and Built Environment Participation - Community Involvement in Community Life Performance - Use our Resources Wisely</p>
Street Numbering and Naming Guidelines	The Guidelines articulate procedures for naming and numbering of properties within Banyule.
Community Inclusion and Access Policy	<p>Specific aims of the <i>Inclusion and Access Policy</i> relevant to this Strategy are:</p> <ul style="list-style-type: none"> To improve the access to and usage of the City of Banyule's resources by community members who are people with disabilities. To remove barriers which presently exist with regard to access and participation.
Municipal Strategic Statement	<p>Planning, land use and development are guided by the <i>Municipal Strategic Statement</i>.</p> <p>Through this vision, the Municipal Strategic Statement supports the need to manage Rights of Way to enhance improved transport and liveability.</p>
Road Management Plan 2009	The <i>Road Management Plan</i> sets out the recommended service levels, inspection regimes and proactive maintenance routines to keep constructed Rights of Way in serviceable condition.
Structure Plans – Heidelberg, Ivanhoe and Greensborough	The Structure Plans articulate the long-term higher order development vision for Heidelberg, Ivanhoe and Greensborough.
Safer Design Guide	The Guide sets out safer design and land use principles which are to be considered by Council, development proponents and the community when proposing or considering changes or additions to the urban environments. Activation of the Activity Centre Rights of Way would be considered within its guidelines.
Neighbourhood Character Guidelines	The Guidelines cover the whole municipality and provide guidance to development on the preferred future characteristics of each designated area. Positive elements of existing character are to be retained and enhanced. This includes streets and Rights of Way in the municipality.
Banyule Residential Vehicle Crossing Policy 2012	<p>This Policy covers the whole municipality and provide guidance to the provision of vehicle crossovers.</p> <p>In particular:</p> <ul style="list-style-type: none"> Where there is a second frontage that is away from the site's main frontage and streetscape, such as at a rear laneway that is a Rights of Way,

	<p>the preferred location for the vehicle crossing will be at the Rights of Way.</p> <ul style="list-style-type: none">• Where a site has laneway access, assessment will have regard to security, manoeuvrability and appropriateness of this alternative location. In some instances that may require laneway widening.• In circumstances where vehicle access is obtained via an unmade Rights of Way, construction of the Rights of Way will be at the responsibility of the landowner unless otherwise agreed by Council.• Assessment of any alternate frontage for a vehicle connection will consider traffic impacts on local roads, arising from identified laneways being used for site access.
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Appendix B – GIS Map of Right of Way within Banyule

