



Mildura Rural City Council

## Road Discontinuance and Sale Policy

### Policy – CP042

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#### 1. The purpose of this policy is

To provide clarification for landowners, developers, the community and Council as to the circumstances under which roads may be considered for discontinuance.

This policy applies to all roads as defined in the Local Government Act 1989 located in the Mildura Rural City Council municipal area.

The sale component of this policy does not apply to roads located on Crown Land.

#### 2. Policy Statement

Retaining roads in the CBD, residential and township areas provides an opportunity for flexibility and innovation for future development of the adjoining private land parcels. The discontinuance and sale of roads is generally discouraged in these areas.

Council acknowledges that under certain circumstances, the need may arise to consider on its merit, discontinuance of a road in the overall interests of the broader community. Any process that Council undertakes to discontinue a road must be consultative and accord with the provisions of the Local Government Act 1989 and any relevant legislation.

Any request for road discontinuance and subsequent purchase by landowners, developers or the community must be supplied in writing, addressed to Manager Asset Services and include:

- A plan clearly outlining the extents of the road to be discontinued
- Current copies of titles and deeds (from Land Use Victoria/Registrar General's Office) of the road and all lands abutting the road, including any other land which may have a benefit to the road.
- The written consent of all affected landowners and occupiers with which the road services or may potentially service

### **3. Principles**

#### **Mildura CBD**

- All applications for road discontinuance should be considered on their merit. Notwithstanding this, any proposal to close a CBD road should take into account but not be limited to the attached Mildura CBD decision guidelines (attachment 1).

#### **Residential/Township**

- Residential/Township roads will be considered for discontinuance on individual merit and take into account the requirements of all affected parties.
- Consideration of the principles and concepts detailed in the 'Mildura CBD' section of this policy should be undertaken in determining the merits of any road discontinuance in residential and township areas.

#### **Rural**

- Rural roads will be considered for discontinuance on individual merit and take into account the requirements of all affected parties.
- Rural roads that are inactive (Government Roads) may be declared unused by Council under the Local Government Act 1989 and control reverted back to Department of Environment, Land, Water and Planning, who may choose to sell or issue a grazing licence over the road reserve.
- Rural roads that are inactive (non-Government Roads) and vested in Council, may be discontinued under the Local Government Act 1989 and sold to adjoining landowners.
- Environmental impacts to rural roads which act as a native vegetation corridor must be considered prior to discontinuing the road.

#### **Sale of Land**

- No road or part of a road should be discontinued before:
  - a binding contract of sale of the land has been entered into between Mildura Rural City Council and the purchaser
  - a bank guarantee or security deposit is provided by the purchaser
  - all requirements have been met to the satisfaction of the relevant Council officer
- Any land resulting from the discontinuance of a Council road is to be sold at market value, which will be determined by Council's internal valuers.
- On some occasions, it may be appropriate for an estimated sale price of the proposed land to be sold, to be provided to the applicant to decide if they wish to proceed with the process.

#### **Advertising**

- Upon Council's initial approval of a proposal and satisfactory receipt of the required information from the applicant, Council will advertise its intent to discontinue the road to all potentially affected persons and to the public by newspaper, as per Section 207A and 223 of the Local Government Act 1989.

### **Payment of costs**

- An applicant must meet all of the Council's reasonable valuation, consultancy and legal costs associated with an application, regardless of the outcome.

#### **4. Who is responsible for implementing this policy?**

Manager Asset Services

#### **5. Definitions and Abbreviations**

Road	Road as defined in the Local Government Act 1989, which includes laneways
Discontinuance	The exercise of power under clause 3 of Schedule 10 of the Local Government Act 1989 which is effected by a notice published in the Victorian Government Gazette
Government road	Crown land roads managed by Council unless they are declared unused or discontinued
Applicant	Person/s who applies to purchase a road reserve
Purchaser	Generally the Applicant. Legal purchaser of the road reserve.
CBD	Central Business District

#### **6. Legislation and other references**

##### **6.1 Legislation**

For further information related to this policy see:

- Local Government Act 1989
- Road Management Act 2004
- Crown Land (Reserves) Act 1978
- Planning and Environment Act 1987

##### **6.2 Documents**

This Policy is implemented in conjunction with the following documents:

- Mildura CBD Plan
- Relevant planning scheme plans
- Mildura CBD decision considerations (Attachment 1)

## Risk Assessment Reference

Risk Category		Risk Category	
Asset Management	✓	Financial Sustainability	✓
Committees		Human Resource Management	
Compliance – Legal & Regulatory	✓	Leadership & Organisational Culture	
Contract Management		Occupational Health & Safety	
Contract Tendering & Procurement		Organisational Risk Management	✓
Corporate Governance		Project Management	
Environmental Sustainability	✓	Public Image and Reputation	✓

## Attachment 1 – Mildura CBD decision consideration guidelines

### Background

The historic settlement pattern forms part of the inheritance of the community, and has been in place for over 100 years. Use of the lanes has evolved, as in all cities, from the original imperatives defining the pattern, and responds to the benefits provided as appropriate to the time. These benefits remain both the providence and legacy of the community. No mandate exists to transfer benefits wholly and exclusively to any individual landowner without due consideration of community benefit.

The existing streetscape generally reflects the original pattern and contributes positively to the pedestrian, vehicle traffic efficiency and historical legacy of the grid road network, further supported by mid-block lanes. Legible permeability exists currently via the street and laneway network, and development should respond appropriately, by preserving this network as key to convenient pedestrian access and overall 'walkability' of the CBD.

The *Mildura CBD Plan* has identified the laneway network as part of the identifiable character and an enduring strength of the Mildura CBD, and has framed its protection within the vision together with actions including a program of upgrades to enhance all existing lanes and arcades to provide an interesting, active, accessible and safe environment.

### Best Practice Urban Design

#### *Permeability*

Established best practice urban design ensures both pedestrian and car users are presented with the greatest possible choice of access to land within an environment, and is defined as achieving greater permeability. Council's urban design framework, the *Mildura CBD Plan*, responds to the issue of permeability with respect to Mildura CBD grid pattern, acknowledging that the CBD is well served by the laneway network running mid-block and parallel to the avenues. It does however identify the need for greater permeability mid-block running parallel to streets, including Gallagher's Lane, and recommends initiatives to achieve this aim.

This provides many benefits as part of an approach which also sees convenience, safety, variety, richness, robustness and legibility as important qualities for the creation of an environment which provides interaction with all users. The greatest threat to achieving greater permeability is recognized to be the increasing number of large and needlessly monolithic developments and missed opportunities to provide attractive pedestrian shortcuts via arcades and attractive 'walks' mid-block, as part of new development proposals.

### *Use of Lanes*

Numerous examples exist, where a fine-grained permeable settlement pattern, particularly with respect to existing laneways, has provided cities with the potential to respond to further development via fostering an improved urban character. Where successfully recognised, these have been established as vibrant public places providing both social and economic benefits to the community.

In Melbourne CBD, where the grid settlement pattern closely resembles Mildura CBD in layout, the numerous arcades and Hardware Lane stand as particular examples intensifying the active edges involving al fresco dining and smaller business front options. This is in addition to the convenient and safe pedestrian connections they provide intra block and as recommended for Mildura, becoming prominent features of the identified character and amenity of the city.

### **Public Domain**

Both public and private benefit is derived from the current laneway network via a balance of public areas and commercial activities. This balanced outcome should be preserved, not lost in favour of commercial enterprise without due consideration of the implications from lost community access to the laneway from both a social and environmental basis both now and into the future.

### **Decision Considerations**

Any proposal for a road/laneway closure will need to address the issues below and any other matters that may arise as a consequence of the particular circumstance of the proposal

- What is the demonstrated community benefit of the proposal?
- How does the proposal accord with the objectives of the Mildura CBD plan?
- What potential affects will the proposed closure have on:
  - the abutting and nearby urban character and streetscapes
  - other adjacent and nearby property access arrangements
  - the development potential of adjacent and nearby property
  - traffic flows within the vicinity of the proposed closure
  - existing parking or parking within adjacent roads
  - loading and unloading zones
  - access for future infrastructure maintenance
  - servicing authorities assets
  - Police, Fire and other Emergency services operations within the vicinity of the proposed closure