

Policy title	Pathway Construction – Contributions by Property Owners
Responsible manager(s)	Director, Infrastructure Services
Contact officer(s)	Divisional Manager, Works
Directorate	Infrastructure Services
Approval date	9 August 2022
Outcome area	4 Our connected community through reliable and safe infrastructure networks
Strategy	4.1 Provide integrated and active transport networks to enable a connected and accessible Eurobodalla
Delivery Program	4.1.5 Promote active and inclusive transport through the provision and enhancement of the pathway network, as guided by the Pathway Strategy and asset management plan
Operational Plan	4.1.5.2 Build and renew the pathway network

Purpose

Eurobodalla Shire Council’s policy was developed to establish Council’s position in regard to seeking contributions from property owners toward the construction of public pathways along their property frontage.

Eurobodalla Shire has a large number of urban streets without formed pathways, i.e. either a footpath or shared pathway (for pedestrians, scooters and cyclists). Less than one in three urban roads has a pathway on at least one side.

This is a result of the lower standard of infrastructure provided by developers in the 1960s, ‘70s and ‘80s. This deficiency within the urban road network has been identified as a significant issue for our community, from an accessibility, transport and road safety perspective. This is particularly the case with our ageing population.

To provide pathways to all urban streets is well beyond the funding capacity of Council and the local community. To address this network deficiency, Council has developed a Pathways Strategy. This strategy identifies key pathway linkages and provides a mechanism for assisting to determine priorities.

Council has a strong record of working with communities and pursuing grant funding, as well as self-funding a program of works each year. Nevertheless, the funding is insufficient to deliver on the pathway network identified within the Strategy without assistance from land owners benefitting from the pathway works.

Section 217 of the *Roads Act 1993* provides that Council, as the roads authority, may require the owner of land adjoining a public road to contribute up to half of the cost of providing a footway along the frontage of their property. The *Roads Act 1993* defines a footway as including facilities that also provide for cyclists.

For new subdivisions and/or developments above a single residence, the developer is required to provide appropriate pathways along their frontage at their full cost, as well as a Section 94 developer contribution (where a nexus is established).

Policy aims

- Promote an integrated framework for dealing with the recovery of part costs from property owners towards the construction of public pathways along their property frontage;
- Ensure consistency and fairness in the manner in which Council deals with property owners;
- Ensure compliance with legislative requirements under the *Roads Act 1993*;
- Promote awareness of the requirements of the *Roads Act 1993* with respect to contributions from property owners; and
- Make Council's policies and requirements for Pathway Construction Contributions by Property Owners readily accessible and understandable to the public.

Policy statement

1	<p>Application</p> <p>Many older areas of Council do not have constructed pathways within their streets. This is a result of the lower standard of infrastructure required at the time of subdivision in decades past. Council has developed the Pathways Strategy 2010 to assist in identifying and prioritising pathways to be built by Council. This is focussed at high priority areas and linkages in areas of high use, with an emphasis on pathways within villages.</p> <p>Section 217 of the <i>Roads Act 1993</i> provides that Council, as the roads authority, may require the owner of land adjoining a public road to contribute up to half of the cost of providing a footway along the frontage of their property. This includes pathway works to provide a footpath or shared pathway.</p> <p>This Policy outlines when this contribution will be sought from land owners.</p> <p>In new subdivisions, Council requires the developer to provide for public pathways (either footpath or shared pathway, usually in reinforced concrete) as part of the development at their full cost.</p> <p>Similarly, where developers seek to develop land zoned <i>R3 – Medium Density Housing, B1 – Neighbourhood Centre, B2 – Local Centre, B4 – Mixed Use, B5 – Business Development and IN1 – General Industrial development</i>, the developer will be required to provide a concrete pathway at their full cost in conjunction with their development under the provisions of the planning legislation.</p> <p>Where a nexus exists, Council may also require developers to provide links and/or Section 94 developer contributions towards pathways.</p>
2	<p>Legislation</p> <p>Eurobodalla Shire Council will comply with Roads Act 1993</p>

Implementation

Requirements	Responsibility
<p>1 Code of Practice</p> <p>This Policy will be implemented by following Council's internal <i>Pathway Construction – Contributions by Property Owners Code of Practice</i>, which specifies in detail the matters for consideration and procedures to be followed.</p>	Council officers
<p>2 Land owner contribution</p> <p>Where Council is constructing a public pathway as part of its annual works program, Council will adopt the following position in regard to seeking contributions from property owners:</p>	Council and developers

	<p>1. <u>Land Zoned R2 - Low Density Residential Areas</u> Council will not seek contributions toward the construction of new pathways in land zoned R2 - Low Density Residential areas.</p> <p>2. <u>Land Zoned R3 – Medium Density Housing; B1 - Neighbourhood Centres; B2 – Local Centres; B4 – Mixed Use; B5 – Business Development; IN1 – General Industrial</u> Where Council proposes to construct a public pathway adjoining land zoned R3 – Medium Density Housing, B1 - Neighbourhood Centres, B2 – Local Centres, B4 – Mixed Use, B5 – Business Development and IN1 – General Industrial, Council will charge a contribution under Section 217 of the Roads Act 1993 being not more than half of the cost of the work. This amount will be set at a flat rate and be subject to annual review. The rate will be advertised with Council’s Current Fees & Charges. <u>For side boundaries on corner lots</u>, Council will charge a flat rate of half the rate set for front boundaries (ie, half the rates as outlined above).</p>	
3	<p>Deferred payments for contributions The General Manager shall have delegated authority to approve an extension of time for the payment of contributions. Prior to commencement of works, Council will write to land owners and offer the option for residents to pay the due amount over a period up to a maximum of two years, subject to receipt of a written request. Subject to strict compliance with an approved arrangement, interest charges that have accrued will be adjusted (written off) on receipt of the final payment.</p>	General Manager
4	<p>Staff Under supervision, and once appropriate training has been received, relevant Council staff will be responsible for ensuring that this Policy is implemented within their work area.</p>	Council officers
5	<p>Concerns Public concerns communicated to Council in relation to this Policy will be recorded on Council’s records system and handled in accordance with Council’s Customer Service or Complaints Policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	Council officers
6	<p>Consultation Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this Policy are invited for consideration during the exhibition period.</p>	As applicable

Review

This policy will be reviewed annually. It may also be reviewed and updated as necessary if legislation requires it; or when Council’s related policies, functions, structure or activities change; or when technological advances or new systems change the way that Council manages pathway construction contributions from property owners.

The policy may be revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council updates or revokes it sooner.

Reviews of the effectiveness of this Policy could include the following:

Performance indicator	Data source(s)
Delivery Program/Operational Plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Customer feedback, survey responses	Surveys
Internal or external audit	Audit

Governance

This Policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Eurobodalla Shire Council <i>Pathway Construction – Contribution by Property Owners Code of Practice</i>	Internal Document for staff only
Related Eurobodalla Shire Council Policy or Code of Practice	Council policies Eurobodalla Council website (nsw.gov.au)
<i>Local Government Act 1993</i>	Local Government Act 1993
<i>Roads Act 1993</i>	Roads Act 1993

Related external references

Name	Link
Office of Local Government (OLG)	www.olg.nsw.gov.au

Supporting documents

Name	Link
Council's Pathways Strategy	Parking, pathways, and traffic Eurobodalla Council website (nsw.gov.au)

Change history

Version	Approval date	Approved by	Minute	File No	Change
1	22 Sep 2009	Council	09/291	E09.3418 E06.0375	'Footpath Construction - Contributions By Property Owners' policy adopted
2	10 Sep 2013	Council	13/278	E13.7095 E06.0375	Reviewed and updated. Name of policy changed from 'Footpath' to 'Pathway'.
3	13 Jun 2017	Council	17/181	E16.0297 E06.0375	Reviewed and updated at start of new Council term.
4	9 Aug 2022	Council	22/190	E16.0297 E06.0375	Reviewed and updated at start of new Council term. GMR22/080

Internal use

Responsible officer		Director, Infrastructure Services		Approved by	Council
Minute	22/190	Report	GMR22/080	Effective date	9 August 2022
File	E16.0297 E06.0375	Review date	Jun 2022	Pages	5