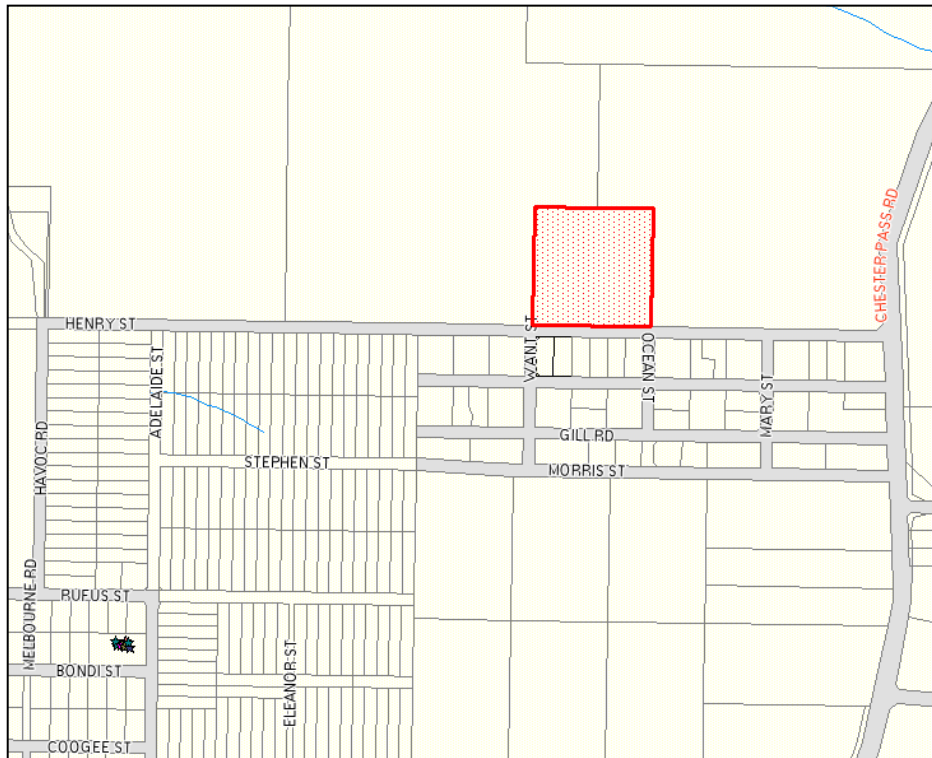


3.5: WIDENING OF HENRY STREET FROM LOT 6821 HENRY STREET, MILPARA

Land Description : Lot 6821 Henry Street, Milpara
Proponent : Department of Regional Development and Lands / City of Albany
Owner : Crown
Responsible Officer(s) : Executive Director Works & Services (K Ketterer)

Maps and Diagrams:



IN BRIEF

- Council previously considered the proposed management orders for Lot 6821 Henry Street, which is to be created two reserves for 'Recreation and Landscape Protection' and 'Respite Facility'. As part of this process, Council requested that Henry Street be widened to create a 40m road reserve;
- The Department for Regional Development and Lands has requested that Council formally resolve to seek the road widening under the provisions of the *Land Administration Act 1997* and indemnify the Minister for Lands accordingly.

CEO:	RESPONSIBLE OFFICER:
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**3.5: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council formally:

- i) SEEKS the Minister for Lands approval, under section 56 of the *Land Administration Act 1997*, to acquire a 20m wide strip of land from Lot 6821 Henry Street, Milpara, for the purposes of widening Henry Street to create a 40m road reserve;**
- ii) INDEMNIFIES the Minister for Lands from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*; and**
- iii) REITERATES its previous advice to the Department for Regional Development and Lands that its preference is that Henry Street be widened to create a 40m road reserve to reflect the significance of this transport route as a major linkage and bypass road, diverting traffic from the city centre and network, noting the encroachment onto the reserve is only 20 m.**

BACKGROUND

1. Lot 6821 Henry Street is currently unallocated Crown Land and in January 2010, the Department of Regional Development and Lands wrote to the City regarding their decision to dispose of the land. On advice received from the Department of Environment and Conservation, it was then determined the land had environmental value and should be reserved to protect native vegetation and associated fauna.
2. During this time, the Department for Regional Development and Lands was also approached by Alzheimer's Australia WA and it was decided that the north-east corner of Lot 6821 Henry Street may be suitable for the development of a new respite facility.
3. The Department of Regional Development and Lands proposed an area of 7300m² of Lot 6821 Henry Street be reserved for the purpose of Respite Facility, which is to be managed by Alzheimer's Australia WA. The remainder of the reserve is to be for the purpose of 'Recreation and Landscape Protection'.
4. At its ordinary meeting held on 16 November 2010, Council resolved to:
 - a. ACCEPT the management order for the portion of Lot 6821 Henry Street (as per DRDL letter dated 13/10/10), for the purpose of "Recreation and Landscape Protection", managed by City of Albany;
 - b. SUPPORT the management order for the north eastern portion of Lot 6821 Henry Street (as per DRDL letter dated 13.10.10), for the purpose of 'Respite Facility,' managed by Alzheimer's Australia WA Ltd;

- c. SUPPORT The creation of a 40 metre road reserve along Henry St, excising portion of Lot 6821 and;
 - d. SUPPORT the request from Alzheimer's Australia WA Ltd to enter into a Memorandum of Understanding with the City of Albany for the group to maintain the bush reserve subject to point 1 of the Responsible Officer Recommendation.
5. Council's resolution was forwarded to the Department for Regional Development and Lands. This agency has since responded and advised of the following:
- a. In order to comply with setback and fire safety requirements, it is proposed that the area allocated to the Respite Facility reserve be increased from 7300m² to 1.33ha. This increased requirement is partly because of the vulnerable nature of some of the people that will reside in the proposed facility;
 - b. The access leg has increased from 12m wide to 20m wide, again to meet hazard protection requirements;
 - c. The Department of Environment and Conservation has suggested that the road widening be limited to 10m, as opposed to the original 20m excision from Lot 6821 Henry Street previously sought by Council; and
 - d. The Department for Regional Development and Lands requires a formal resolution of Council for the proposed road widening, under the provisions of the *Land Administration Act 1997*, and indemnification of the Minister for Lands.

DISCUSSION

- 6. The Department for Environment and Conservation has objected to the excision of a 20m wide portion of land from Lot 6821 Henry Street for road widening and recommends that only a 10m wide strip be taken at this time to reduce the amount of good quality vegetation that may be lost through road works.
- 7. The Department for Environment and Conservation maintain that the road widening is being sought for long term road planning and is not required in the short term, however should it be required at some point in the future; it could easily be taken at this time.
- 8. While it is recognised that the vegetation on Lot 6821 Henry Street is of some significance, the widening of Henry Street has been identified in the City's future road planning as a necessary action.
- 9. Henry Street is proposed to form part of a major transport route, linking the areas at the entry to town through to Lower King Road. This provides traffic and resident an alternative to routes passing through the city centre and links the areas of residential expansion occurring along Lower King Road to CPHW and AHW. A 40m road reserve is considered the best width to accommodate a 4 lane road (2 lanes in each direction) and all of the associated infrastructure, including median strips, utilities, dual use paths etc.

10. While the City could agree to a 30m road reserve and take the additional 10m wide strip at some point in the future, it is noted that each road widening action is a cost for the Council and that there is no guarantee that in the future the processes will be available to acquire the land.

GOVERNMENT CONSULTATION

11. This process is being driven by the Department for Regional Development and Lands in consultation with a number of other government agencies, including the Department for Environment and Conservation.

PUBLIC CONSULTATION / ENGAGEMENT

12. Lot 6821 Henry Street, is currently unallocated Crown land, which is controlled by the Department of Regional Development and Lands. The Department has sought Council comment on its proposal to create two reserves, for the purposes of "Recreation and Landscape Protection" and "Respite Facility", in accordance with State legislation. Any decision to seek public consultation regarding this process would be handled by the Department.

STATUTORY IMPLICATIONS

13. Section 56 of the *Land Administration Act 1997* provides that, where land is acquired for use by the public as a road, the local government may request the Minister for Lands to dedicate that land as a road. In doing so, the Local Government must indemnify the Minister against any claim for compensation.
14. The creation of a road occurs through the subdivision process detailed under Part 10 of the *Planning and Development Act 2005*. Section 168 of this Act states all land shown on a diagram or plan of survey of a subdivision shown as a new road or road widening will be dedicated as a road.

STRATEGIC IMPLICATIONS

15. There are no strategic implications relating to this item. It is a legislative requirement to have this report presented to Council.

POLICY IMPLICATIONS

16. There are no policy implications related to this item.

RISK IDENTIFICATION & MITIGATION

17. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Rating	Mitigation
If not successful on acquiring land for road widening, Council will subsequently be required to pay for land acquisition	Possible	Moderate – widening required for transport route in City's future road planning.	Medium	To acquire land for future road reserve purposes, at no cost to Council – objective of this item.

FINANCIAL IMPLICATIONS

18. It is not anticipated that the proposed road widening will be a cost for the Council, as the reserve is already being amended by the Department for Regional Development and Lands and the widening has been sought as part of this process.

LEGAL IMPLICATIONS

19. This item is presented to Council in order to obtain the formal resolution required under the *Land Administration Act 1997* and the appropriate indemnification of the Minister for Lands for the proposed widening of Henry Street

ALTERNATE OPTIONS

20. Council may not support the officer recommendation for the 40 metre widening of Henry St at this point, but this request would then need to be revisited in the future, when alternate road routes for residential expansion are required. To gain the required widening from the creation of the new reserves, at no cost to Council, is an ideal opportunity to maximise the acquisition of land for the proposed major transport route.

SUMMARY CONCLUSION

21. This item has been presented to Council in order to formally meet the requirements of the *Land Administration Act 1997* to achieve its resolution from the November 2010 meeting where a 20m widening of Henry Street was sought from Lot 6821 Henry Street.
22. It is recommended that Council reiterate its previous advice to the Department of Regional Development and Lands that a 40m road reserve for Henry Street is considered to be appropriate, given the significance of this transport route in the City's future road planning.

Consulted References	Land Administration Act 1997
File Number (Name of Ward)	GR.STL.39 (Kalgan)
Previous Reference	Item 3.5 OCM 16/11/2010