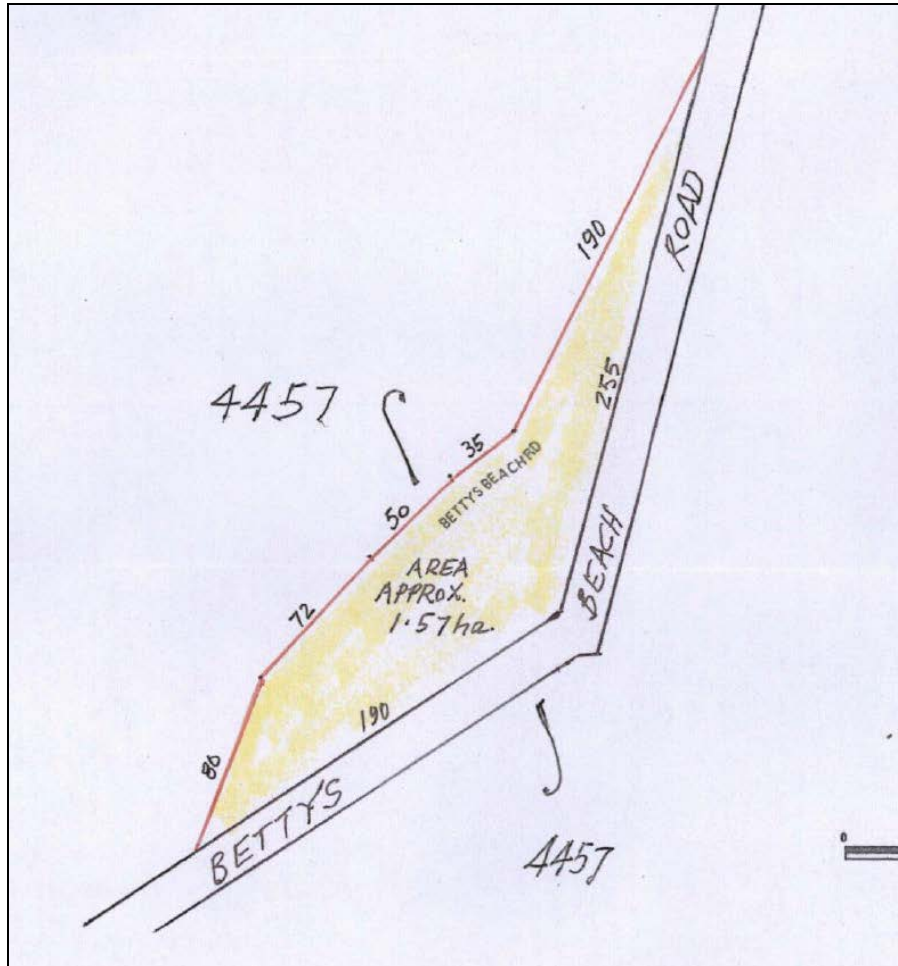


**5.1: PROPOSED ROAD WIDENING OF BETTY'S BEACH ROAD AFFECTING 905 HOMESTEAD ROAD, MANYPEAKS**

**Land Description** : Lot 4457 No 905 Homestead Road, Manypeaks  
**Proponent** : City of Albany  
**Owner** : E & L Stone  
**Responsible Officer(s)** : Executive Director Works & Services (K Ketterer)

**Maps and Diagrams:**



**IN BRIEF**

- Council's resolution is required to take a 1.57ha portion of land from Lot 4457 No 905 Homestead Road, Manypeaks to accommodate the section of Betty's Beach Road that has been constructed outside of the dedicated road reserve.

**ITEM 5.1: RESPONSIBLE OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

- i) **SUPPORTS** the Taking by Agreement, under section 168 of the *Land Administration Act 1997*, of a 1.57ha portion of land from Lot 4457 No 905 Homestead Road, Manypeaks to allow the widening of the Betty's Beach Road Reserve;
- ii) **SEEKS** approval under Section 168 of the *Planning & Development Act 2005* to dedicate the 1.57ha portion of land to be taken from Lot 4457 No 905 Homestead Road, Manypeaks as a public road, through the lodgement of a subdivision application; and
- iii) **INDEMNIFIES** the Minister for Lands from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*.

**ITEM 5.1: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR WOLFE**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 10-0**

**BACKGROUND**

1. In November 2009, the City was approached by Albany Mapping & Surveying Services, on behalf of the owners of 905 Homestead Road, Manypeaks, advising that a significant portion of Betty's Beach Road had been constructed outside of the dedicated road reserve.
2. The proponent requested that this situation be resolved through either re-construction of Betty's Beach Road in the correct alignment or the resumption of land to widen the road reserve and protect the constructed road.
3. This issue is one of a number of outstanding land tenure matters that the City has to work through, pending appropriate resourcing. Now that staff have been engaged in recent months, the backlog of issues are being progressively addressed.

**DISCUSSION**

4. In determining the best option for resolving this matter, the current condition and removal of the existing road was considered. Betty's Beach Road is currently constructed to a gravel standard to a width of 5m and while it may require a re-sheet, its condition is acceptable. It would be considerably more costly to remove the existing road and re-construct in the correct alignment, than to re-align the road reserve.
5. A valuation for the 1.57ha portion of land to be taken from 905 Homestead Road, Manypeaks has been obtained. The land has been valued at \$15,700 and the owners of the land, Mr & Mrs Stone, have accepted this valuation. The City has obtained a signed Consent to Taking by Agreement from the landowners on this basis.

6. The negotiation on the compensation for the Taking by Agreement of this portion of land from 905 Homestead Road, Manypeaks has been dealt with under the Road Widening Delegation (OCM 14/12/10 Item 4.3.21). However, the provisions of the *Land Administration Act 1997* require Council's resolution to indemnify the Minister for Lands from any claims from compensation.

#### **GOVERNMENT CONSULTATION**

7. No consultation with government agencies has occurred on this matter as yet. As part of the subdivision application process, the Western Australian Planning Commission will refer the proposal to all the relevant servicing and government agencies for comment.
8. Depending on Council's resolution, notification will be sent to the Department for Regional Development and Lands at the same time as lodging the subdivision application to advise of the Minister's indemnification and compliance with the *Land Administration Act 1997*.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

9. No public consultation on this proposal is required under the statutory provisions, other than with the affected landowners. The landowner's written consent to the resumption of the land for road widening purposes has been obtained.

#### **STATUTORY IMPLICATIONS**

10. Section 56 of the *Land Administration Act 1997* allows the dedication of land as a road. In doing so, the Local Government must indemnify the Minister for Lands against any claim for compensation.
11. Section 168 of the *Land Administration Act 1997* sets the procedure for acquiring land for public works through a Taking by Agreement. Part 10 of the Act states that every person having an interest in land taken under the Act is entitled to compensation.
12. 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**

13. This item directly relates to the following element from the Albany Insight – Beyond 2020 Corporate Plan:

*"4. Governance...*

*4.2 Manage our municipal assets to endure they are capable of supporting our growing community."*

**POLICY IMPLICATIONS**

14. There are no policy implications relevant to this item.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
If road widening not obtained, Council assets would be contained in freehold title.	Possible	Moderate	Medium	Support the Taking by Agreement of land providing for the widening of Betty's Beach Road.

**FINANCIAL IMPLICATIONS**

16. The payment of \$15,700 for the land to be resumed from 905 Homestead Road, Manypeaks can be accommodated in the current 2010/11 budget.

17. The lodgement of a subdivision application for road widening purposes does not require the payment of fees to the Western Australian Planning Commission.

18. There will be fees associated with the feature survey of the area, the creation of an initial plan for the subdivision application, the creation of a final deposited plan, the lodgement of the plan with Landgate and settlement fees. This is expected to be in the order of \$8,000 and can also be accommodated in the current budget line item for land acquisition.

**LEGAL IMPLICATIONS**

19. The widening of the Betty's Beach Road reserve will legitimise the road infrastructure currently situated in freehold title.

**ALTERNATE OPTIONS**

20. While Council can defer this item, it has remained outstanding for some time. The landowners themselves have requested that this situation be resolved and, as such, it is recommended that this matter be expedited as soon as possible.

**SUMMARY CONCLUSION**

21. The proposed widening of Betty's Beach Road will ensure that Council's road is contained in a dedicated road reserve. The affected landowner of No 905 Homestead Road, Manypeaks has provided their written consent to a Taking by Agreement for the figure recommended by the valuation of the land. Council's resolution to enact the road dedication process is sought to meet the requirements of the *Land Administration Act 1997* and the *Planning & Development Act 2005*.

<b>Consulted References</b>	Land Administration Act 1997 Planning and Development Act 2005
<b>File Number (Name of Ward)</b>	RD.ACQ.1 (Kalgan Ward)
<b>Previous Reference</b>	None