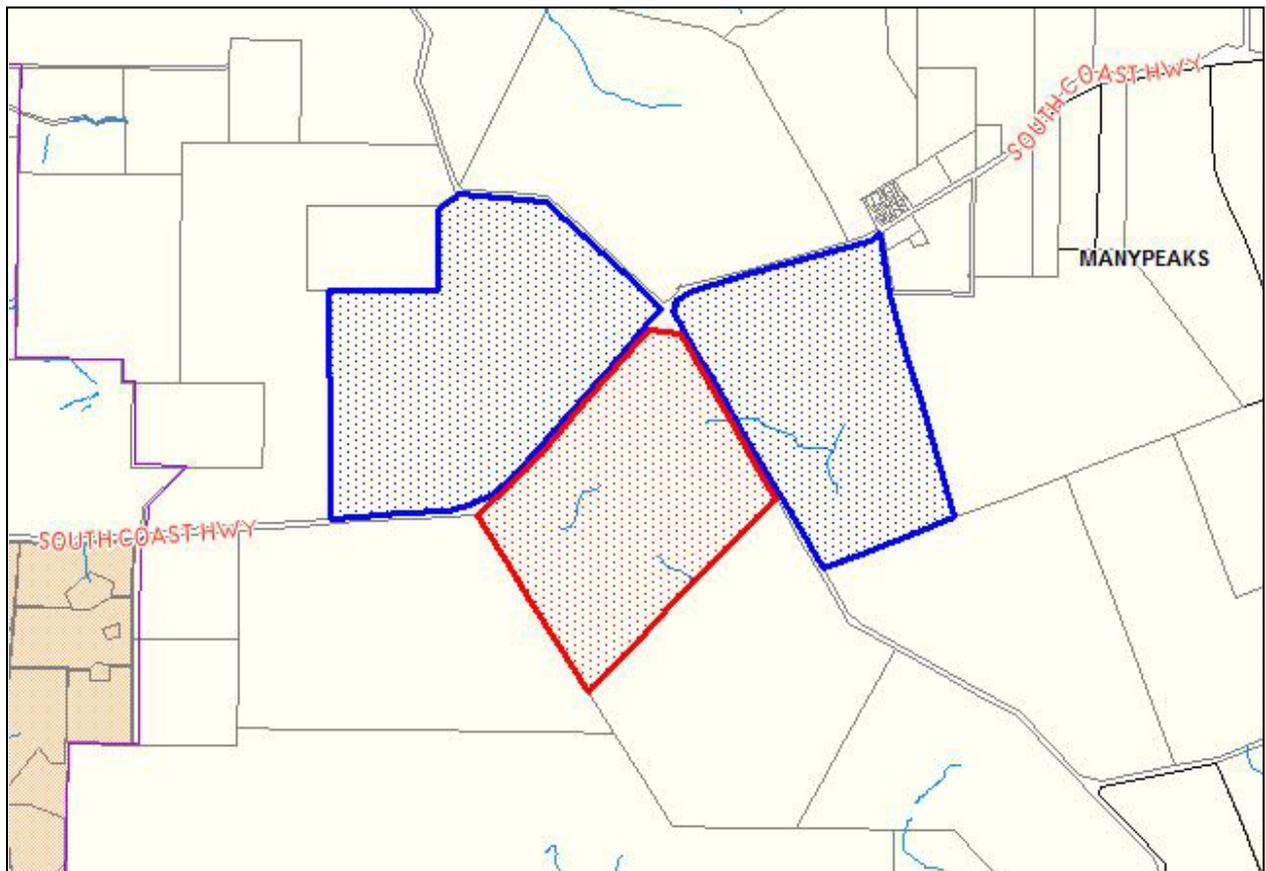


**4.4: RECONSIDERATION OF PAST DECISION–SOUTH COAST HIGHWAY
– MAIN ROADS WA LAND REQUIREMENT FOR ROAD WIDENING**

Land Description	: Lots 5292, 5294 & 5298 South Coast Highway, Manypeaks
Proponent	: Main Roads WA
Owner	: F & G Mountford (Lot 5294) J & J Geddes (Lot 5298) B Critchison (Lot 5292)
Attachments	: 1. Land Requirements Plans (produced by Main Roads WA – Drawings 201101-075, 201101-076-1, 201101-077) 2. Copies of Landowner Consents from Mountford, Geddes and Critchison
Responsible Officer(s)	: Executive Director Corporate Services (G Adams)

Maps and Diagrams:



IN BRIEF

- Council is requested to reconsider its previous decision not to support the proposal by Main Roads WA to widen portion of South Coast Highway to accommodate reconstruction works that are now partly complete. Council's previous decision was based on concerns raised by the adjoining owners, who have now all provided written consent to the road widening.

**ITEM 4.4 RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR HOLDEN**

THAT Council:

- i) **SUPPORTS** the proposal by Main Roads WA to acquire land from Lots 5292, 5294 & 5298 South Coast Highway, Manypeaks (as depicted in Drawings 201101-075, 201101-076-1 and 201101-077) to allow the widening of South Coast Highway reserve, on the condition that Main Roads WA fully complies with the Taking by Agreement provisions of section 168 of the *Land Administration Act 1997*;
- ii) **SUPPORTS** the action by Main Roads WA to seek approval of the Minister for Lands, under section 56 of the *Land Administration Act 1997*, to dedicate the land to be taken for road widening as a public road;
- iii) **INDEMNIFIES** the Minister for Lands, on behalf of Main Roads WA, from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*; and
- iv) **REQUIRES** that Main Roads WA indemnify the Council against all costs and charges, including any claims for compensation that may arise, associated with this dedication action.

CARRIED 12-0

BACKGROUND

1. In August 2011, Main Roads WA sought Council's resolution to take land from three properties near the Manypeaks townsite for inclusion in the road reserve of South Coast Highway to accommodate reconstruction works in the summer of 2011/12.
2. Council, at its meeting held on 20 September 2011, considered this request and the vote on the officer recommendation to support the proposal was lost. It is understood that one of the affected landowners had raised some concerns with the amount of land to be taken from their property.
3. Since this time, Main Roads WA has further negotiated with all affected landowners and now come to a written agreement on the resumption of land for the proposed road widening. Evidence of the written consent from all owners has been attached to this item.
4. Main Roads has now requested Council's reconsideration of the previous lost vote on the following basis:
 - a. Local Council agreement and minutes are required as part of the acquisition process at the time of lodging the Taking Order with Landgate;
 - b. Compensation arrangements with all landowners have been agreed and all landowners have provided their written consent. This includes payment of financial compensation to Mr & Mrs Geddes and fencing / road works for the Mountfords' & Critchisons', who both have pastoral leases and, as such, financial compensation was not considered appropriate;

- c. As the consent of landowners had been obtained, fencing works to the resumption line have now been completed and other pre-construction activities then commenced, including the relocation of services and environmental clearances;
 - d. Once these matters had been addressed, Main Roads WA commenced with the construction of approximately half of the section of new road and these works were completed in April 2012. Main Roads WA have advised that it was imperative that reconstruction work proceeded during last summer's construction season, given the unsafe nature of the existing road, which was rapidly deteriorating and becoming an increasing safety hazard to the Albany and wider communities; and
 - e. The section of road works completed in April 2012 was adjacent to the Geddes property, while the section adjacent to the Mountford and Critchison properties is likely to proceed in the summer of 2012/13.
5. Main Roads WA has requested that Council again consider providing an appropriate resolution for the road dedication, in order to satisfy the requirements of the *Land Administration Act 1997*.
 6. Main Roads WA will indemnify Council against all costs and charges that relate to the dedication action.

DISCUSSION

7. Main Roads WA have advised that the works on this section of South Coast Highway were necessary for the following reasons:
 - a) The section of road was substandard and in poor condition, creating safety concerns;
 - b) The road did not have the strength required to carry the current level of traffic using the highway;
 - c) Drainage of the road needed improvement, as water was pooling on the highway, creating a hazardous surface. In order to achieve this, the highway was raised 0.5m and wider embankments were required;
 - d) The intersection of Homestead Road, Fish Track Road and South Coast Highway has poor sight lines. This intersection is being realigned to improve sight lines and access/egress onto the highway; and
 - e) This section of the Highway only had a trafficable surface of 9.5m, whereas the standard is 11m and it has been widened to meet this safety requirement.
8. Main Roads WA have advised that the amount of land resumed is determined by considering the following factors:
 - a. Land needed to meet current design and safety standards;
 - b. Land required for a service corridor (Telstra, Western Power etc)'
 - c. Drainage requirements;
 - d. Land necessary to meet Federal requirements for re-vegetation; and
 - e. In general, the amount of land needed to provide a road reserve that has a physical and visual amenity that is representative of a typical inter-regional Highway corridor.

Main Roads WA advise that these reconstruction projects involve replacement of aged and substandard infrastructure to meet current standards and will often involve realignment of substandard curves and improvement to vertical alignment and cross-section width. Though, the land resumed will be the minimum amount needed to meet all of the elements mentioned above.

9. While the project has not changed since Council's previous consideration, the landowners' written consent has now been obtained and works have commenced. The resumption will now legitimise the current use of the land.

GOVERNMENT CONSULTATION

10. The Department for Regional Development and Lands has previously advised that Main Roads WA does not have any power to comply with the provisions of Section 56 of the *Land Administration Act 1997* with respect to road dedication and the Council must do this on behalf of Main Roads WA. However, Main Roads WA is responsible for all the consultation, costs and charges associated with this action.
11. No other consultation with government agencies has occurred on this matter, however the road widening will be taken by way of the subdivision process administered by the Western Australian Planning Commission. This process involves consultation with all servicing agencies.

PUBLIC CONSULTATION / ENGAGEMENT

12. No public consultation on this proposal is required under the statutory provisions, other than with the affected landowners. Main Roads WA, as the body progressing the land acquisition, road widening and road dedication processes, has negotiated with and obtained the written consent of all affected landowners.

STATUTORY IMPLICATIONS

13. 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.
14. 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.
15. Section 212 of the *Land Administration Act 1997* states that a claimant may request that the compensation for taking land be made in a form other than money. This would include works undertaken on their behalf.
16. 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 as a new road or road widening on a diagram / plan of survey will be dedicated as a road.

STRATEGIC IMPLICATIONS

17. This item directly relates to the following elements of the City of Albany Strategic Plan 2011-2021:

Key Focus Area

Lifestyle and Environment

Community Priority

Road Improvements

Proposed Strategies

Advocate to Main Roads for improvements to South Coast Highway.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council does not approve Main Roads WA request to assist with the widening of South Coast Highway.</i>	<i>Unlikely</i>	<i>Moderate – Land being used as part of South Coast Highway would remain in private ownership or pastoral leasehold.</i>	<i>Medium</i>	<i>Council supports Main Roads WA request and comply with the provisions of the Land Administration Act 1997 to permit the road widening to occur.</i>

FINANCIAL IMPLICATIONS

20. Beyond staff time involved in organising the land matters, there are no financial implications relevant to this item, as all costs associated with the land acquisition, road widening, road dedication and any subsequent claims for compensation are to be borne by Main Roads WA.

LEGAL IMPLICATIONS

21. The widening of South Coast Highway will ensure that there is sufficient road reserve available to accommodate the works that have been and are proposed to be undertaken. This action will legitimise the current and proposed use of the land.

ALTERNATE OPTIONS

22. As the landowner consents have now been obtained and works have commenced in part, it is not considered that Council has an alternate option other than to support the request to allow for the widening of South Coast Highway.

SUMMARY CONCLUSION

23. The proposed widening of South Coast Highway has been and will be undertaken to facilitate roads works to improve the safety and standard of this section of the highway. Main Roads has obtained the written consent of the affected landowners and has commenced upgrading works.
24. Council's resolution is sought to comply with the provisions of the *Land Administration Act 1997* relative to the dedication of this land as a road reserve as Main Roads WA do not have any powers under this Act.

Consulted References	:	<i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	RD.DEC.2
Previous Reference	:	Item 5.2 OCM 20/09/2011