

4.5: LOTS 1-3 CHESTER PASS ROAD, LANGE – MAIN ROADS WA LAND REQUIREMENT FOR ROAD WIDENING

- Land Description** : Lots 1 – 3 Chester Pass Road, Lange
- Proponent** : Main Roads WA
- Owner** : City of Albany (freehold title)
- Attachments** : Land Requirement Plans (produced by Main Roads WA – Drawings 201201-091; 201201-093) Working Drawings
- Responsible Officer(s)** : Executive Director Corporate Services (G Adams)

Maps and Diagrams:



IN BRIEF

- Council is requested to consider the proposal by Main Roads WA to widen the intersection of Chester Pass Road and Mercer Road to create a left turn auxiliary lane. A resolution of Council is required to enact the road dedication provisions of the *Land Administration Act 1997*. It is noted that, in this circumstance, the land is held in freehold title by the City of Albany and compensation for the land taken must also be considered.
- Main Roads WA have advised that these works are required to improve the safety of this intersection, particularly for heavy vehicles entering onto Chester Pass Road. This improvement will be of benefit to the City, as the City is a primary user of this intersection for heavy vehicle turning, given the location of the depot on Mercer Road.

RECOMMENDATION

**ITEM 4.5: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

- i) **SUPPORTS** the proposal by Main Roads WA to acquire land from Lots 1 – 3 (inclusive) Chester Pass Road, Lange (as depicted in Drawings 201201-091; 201201-093) to allow the creation of a left turn auxiliary lane from Mercer Road onto Chester Pass Road, on the basis that Main Roads be requested to pay compensation to the City of \$10,000 for the taking of 832m² from the subject land, as is payable under Parts 9 and 10 under the *Land Administration Act 1997*;
- ii) **Subject to Main Roads WA consenting to pay the agreed compensation:**
 - a. **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;
 - b. **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*;
 - c. **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; and
 - d. **APPROVES** the works occurring on site prior to finalisation of all matters concerning the land resumption and the creation of new land titles, with an expected start date after 22 October 2012.

BACKGROUND

Main Roads Proposal

1. Main Roads WA has sought Council's support to acquire land from Lots 1 – 3 (inclusive) Chester Pass Road to enable the construction of a left turn lane at the Chester Pass and Mercer Roads intersection. Main Roads have advised that the purpose of the widening is to accommodate a free flow left turn from Mercer Road entering onto Chester Pass Road and the works are scheduled for the summer of 2012/13.
2. Main Roads WA propose to resume the following land areas for road widening purposes:
 - a. Lot 1 Chester Pass Road – 603m²
 - b. Lots 2 and 3 Chester Pass Road – 229m²

This will be a total of 832m² being resumed from land that is held in freehold title by the City of Albany.

3. Main Roads WA has requested that Council provide an appropriate resolution for the road widening, in order to satisfy the requirements of the *Land Administration Act 1997*.
4. Main Roads WA has indicated that it will indemnify Council against all costs and charges that relate to the dedication action.

History of Land Use Considerations

5. These three lots held in freehold title by the City are developed as a public park. This park has a plaque that recognises Archibald Menzies, a Scottish naturalist who accompanied Captain George Vancouver on his visit to King George Sound in 1791. The park is listed on the City's Municipal Heritage Inventory "List of Natural Places" and there are a number of exotic tree species on the subject land.
6. Notwithstanding the historical associations of this park, the Council has considered the redevelopment of these lots for alternate uses on a number of occasions, as follows:
 - a. In 2004 Council considered a proposal by a private developer to purchase this land under private treaty. The item to Council recognised that the existing Rural zoning of the land was inappropriate and it would be better to rezone the land for mixed business uses. Council resolved at this time to sell the land for the market valuation of \$775,000. This resolution has not been acted upon;
 - b. In February 2009, Council supported the preparation of a business plan to develop a Day Hospital in the Brooks Garden Estate, which would include Archibald Menzies Gardens within the development area. This business plan did not proceed because the developer suspended the planning of the area in the wake of the global economic downturn;
 - c. In 2011, the adjoining landowner indicated a renewed interest in the concept of developing aged care accommodation with an associated medical facility on their site and expressed interest in utilising the adjoining City owned land (Lots 1 – 3 Chester Pass Road) as part of this development;

- d. A report was presented to the September 2011 Audit Committee to further discuss this renewed interest in the land and to consider the proposed development of a 120 bed frail aged accommodation facility, with an associated medical centre for day surgery, within the Brooks Garden Estate. Council, at its meeting held on 11 October 2011, supported the Audit Committee's recommendation, as follows:

“THAT in respect of Deposited Plan - D020956 and Lots (Lot 1 – 1710m2, Lot 2 – 1875m2, Lot 3 - 1872m2), Corner of Chester Pass and Mercer Roads, Lange WA 6330 adjoining land (Lot 1004 Viastra Drive Lange WA 6330) Council:

1. *Request the Chief Executive Officer to investigate possible issues relating to the land title of Lots 1, 2 and 3 (Deposited Plan - D020956) and possible covenants' over it.*
2. *Recommend the Chief Executive Officer commence negotiations with a possible proponent regarding a proposed development in the Brooks Garden Estate including possibly:*
 - a) *Preparing a scheme amendment document for Council's consideration to rezone Lots 1, 2 and 3 Chester Pass Road, Lange from the 'Rural' zone to 'Mixed Business' zone (with additional uses of medical centre and aged persons village);*
 - b) *Seeking an independent land valuation of City of Albany owned land (Deposited Plan - D020956 and Lots (Lot 1 – 1710m2, Lot 2 – 1875m2, Lot 3 - 1872m2); and*
 - c) *Subject to 2 (a) and (b), preparing a further report to a future ordinary Council meeting, advising Council of the benefits and risks of disposing of City of Albany owned lots, potentially through entering a private treaty with the adjoining land owner (Lot 1004), in accordance with the provisions of the Local Government Act 1995, Section 3.58 (3) & (4).”*

DISCUSSION

Historic Associations

7. Previous items to Council have recognised that this park is not a popular active or passive recreation area. It has been previously suggested that the City manages other natural bushland reserves that may more appropriately recognise Mr Menzie's contribution to Albany botany.
8. With regard to possible covenants over the title, it can now be confirmed that the land was purchased outright without restriction by the City. Lots 2 and 3 were purchased in 1968 and Lot 1 in 1985. The City paid for these land parcels and own them in freehold title. There are no encumbrances or covenants on these titles, other than a previous taking orders lodged by Main Roads WA for improvements to South Coast Highway (Chester Pass Road).

Planning Considerations

9. At present, this land is zoned Rural under Town Planning Scheme No 3 and it is currently shown as a Reserve for Parks and Recreation under the draft Local Planning Scheme No 1.
10. All of the previous items to Council regarding the potential to redevelop this land for commercial purposes, in conjunction with the adjoining private land, mentioned the need to initiate a scheme amendment to change the zoning of the three land parcels. The item to the September 2011 Audit Committee also discussed the potential to rezone this land as part of the finalisation of the draft Local Planning Scheme No 1.
11. The review of the structure planning for this area (the Catalina Central Planning Framework) is ongoing and the City is awaiting further advice from the owners of the adjoining land parcel on their future intentions. Notwithstanding, the City expects that the structure planning of this area to be further considered over the next 18 months. It is noted that further action on Council's October 2011 resolution was also held pending the advice of the adjoining developer on the current status of their proposal.
12. Concerns regarding the use of the subject land as Public Open Space have previously been brought to Council's attention, given the proximity of major roads that carry high traffic loads. In addition, it has been noted that some financial investment would be required to make this land a useable park. Given the land's location at the junction of two major roads, its use as parkland may not be maximising the development potential of this location.
13. Should Council consider the redevelopment of this land, it may be appropriate to seek the relocation of the Archibald Menzies plaque to a more suitable natural bushland area.

Proposed Works

14. The proposed widening of this intersection will facilitate the creation of a left turn auxiliary lane onto Chester Pass Road. These works are proposed because of the number of trucks using this intersection. It will provide a longer deceleration lane to the intersection, with a merge lane into Chester Pass Road.
15. Some concerns have been raised that these works will restrict access to the adjoining park, as Main Roads would not permit the construction of a crossover in the vicinity of the left turn auxiliary lane. In the discussion of these concerns, the potential to create an easement through the adjoining land to provide for access to the park was raised as an option. The landowner's consent would be required if this option is to be pursued.
16. While it is recognised that the works will restrict vehicle and pedestrian access to the parkland, the current configuration at this intersection also does not provide for safe access, particularly given that there is a road entry to Viastra Drive only 50m from the Chester Pass intersection. Even if the improvement works were not to proceed, the City's Works and Services are not likely to support a crossover to Lot 1 Chester Pass Road, given the traffic load and high use by heavy vehicles.

17. In terms of an easement through the adjoining land, there is an existing easement over the drainage sump on Lot 1004 Viastra Drive and it was mentioned that this could be expanded to accommodate access to the park.
18. While access to this land is important to consider, it is dependent upon its future use, which is currently under consideration as part of the structure planning of the area. Any access arrangements should be held pending the resolution of the future planning of this location.

Valuation

19. Under Part 9 and 10 of the *Land Administration Act 1997*, the City is due compensation for the land taken (being 832m²). Main Roads WA has not entered into any negotiations with the City in this regard and has not presented a valuation for the land. When the issue of compensation was raised with this agency, it was advised that it had been assumed that the land would be given up as a matter of good will to allow the improvement of this intersection.
20. Given the location of the depot along Mercer Road, the City would be a high user of the intersection and it is not recommended that the improvement works be discouraged. However, should the City consider the redevelopment of the park for commercial purposes, this would be a financial gain for the City. Any land lost through the resumption process may result in less income if the parkland is to be disposed through a future land sale to commercial developers.
21. It is difficult to estimate the valuation of the subject land, because it would need to be based on the current Rural zoning, rather than any future development potential. It is recommended that professional advice is required in this circumstance and it is usually standard practice for Main Roads, as the proponent of the land resumption, to obtain this valuation.
22. Main Roads WA has advised that they would like to commence works on the ground at the end of October 2012 and seek Council's support to undertake works prior to the finalisation of land matters. Should Council wish to pursue the option of a market value compensation, the proposed works will need to be deferred to allow these negotiations to occur.

GOVERNMENT CONSULTATION

23. The Department for Regional Development and Lands has previously confirmed 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 of the consultation, costs and charges associated with this action.
24. No consultation with government agencies has occurred on this matter, however the road widening would be taken by way of the subdivision process administered by the Western Australian Planning Commission. As part of the process, relevant Government agencies are invited to comment.

PUBLIC CONSULTATION / ENGAGEMENT

25. No public consultation by the City of Albany is required on this proposal under the statutory provisions. Main Roads WA, as the body progressing the land acquisition and road widening processes, are responsible for all negotiations with affected landowners.

STATUTORY IMPLICATIONS

26. 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.
27. 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.
28. 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

29. 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 more overpassing lanes on Albany Highway and improvements to South Coast Highway

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

31. 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 upgrade of the Mercer Road / Chester Pass Road intersection.</i>	<i>Possible</i>	<i>Moderate - The intersection will remain in its current condition.</i>	<i>Medium</i>	<i>Council supports Main Roads WA request and comply with the provisions of the Land Administration Act 1997. This includes the payment of appropriate compensation to the City, as the affected landowner.</i>

FINANCIAL IMPLICATIONS

32. 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, as the body progressing this matter.
33. In this circumstance, the landowner is the City of Albany, and as such, Main Roads WA should be making a compensation payment to the City for the taking of 832m² of land from Lots 1 – 3 Chester Pass Road. It is usually the proponent's responsibility to have a valuation of the land prepared in order to make an appropriate offer for the compensation payment. Main Roads have not yet undertaken this action.
34. It is considered that Council has the following options with regard to the payment of compensation for the taking of the subject land, as follows:
- a. No compensation;
Council recognises that the upgrading of the intersection will be for the greater benefit of the whole community and does not seek a compensation payment for the resumption of 832m² from the adjoining land titles.
 - b. Nominal compensation; or
Council recognises that the upgrading of the intersection will be for the benefit of the whole community, however acknowledges that some of the actions resulting from the resumption may represent a cost to the City. This would include the preparation and lodgement of an access easement and the relocation of the Archibald Menzies plaque. It is estimated that an amount of \$10,000 would cover these costs.
 - c. Market value compensation.
Council recognises that the upgrading of the intersection will be for the benefit of the whole community, however the loss of 832m² from the adjoining land parcels may represent a significant loss of income for the City. In this regard, a valuation for the land to be resumed should be prepared at Main Roads expense.

LEGAL IMPLICATIONS

35. The widening of the Mercer Road / Chester Pass Road intersection will ensure that there is sufficient road reserve available to undertake the proposed works on land legitimately reserved for this purpose.

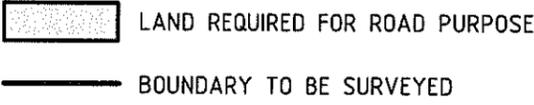
ALTERNATE OPTIONS

36. Council can:
- a) Decline the request and the intersection will remain as is;
 - b) Support the request to allow for the road widening, providing a nominal compensation amount to consider any future costs to the City for related actions (easement requirements; relocation of the Archibald Menzies plaque). If Main Roads WA agrees to this figure, the Council could support the works commencing in October 2012; or
 - c) Support the request to allow for the road widening, however require that further negotiations occur with Main Roads WA with respect to the compensation payable. In this circumstance, the works would need to be deferred to allow further negotiations to occur.

SUMMARY CONCLUSION

37. The proposed widening of the Mercer Road / Chester Pass Road intersection will be undertaken to facilitate the creation of a left turn auxiliary lane onto Chester Pass Road, improving the safety of this intersection and the flow of traffic onto Chester Pass Road.
38. 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.
39. In this circumstance, the City is the owner of the affected land and is due compensation for the area to be resumed. Main Roads WA has not entered into negotiations in this regard.
40. While Council may support the works with no compensation payable or may seek compensation based on the market valuation for the land, it is recommended that to be fair to all concerned, that the City only seeks compensation to recover costs for any actions associated with this land resumption.
41. Should Main Roads agree to an amount of \$10,000 to cover the costs of lodging an access easement and to provide for possible future relocation of the Archibald Menzies plaque, it is recommended that the works commencing at the end of October 2012 could be supported.

Consulted References	:	<i>Land Administration Act 1997</i> <i>Planning and Development Act 2005</i>
File Number (Name of Ward)	:	RD.ACQ.1
Previous Reference	:	OCM 19/10/2004 Item 14.1.2 OCM 17/02/2009 Item 12.2.1 OCM 11/10/2011 Item 1.1.3



 LAND REQUIRED FOR ROAD PURPOSES

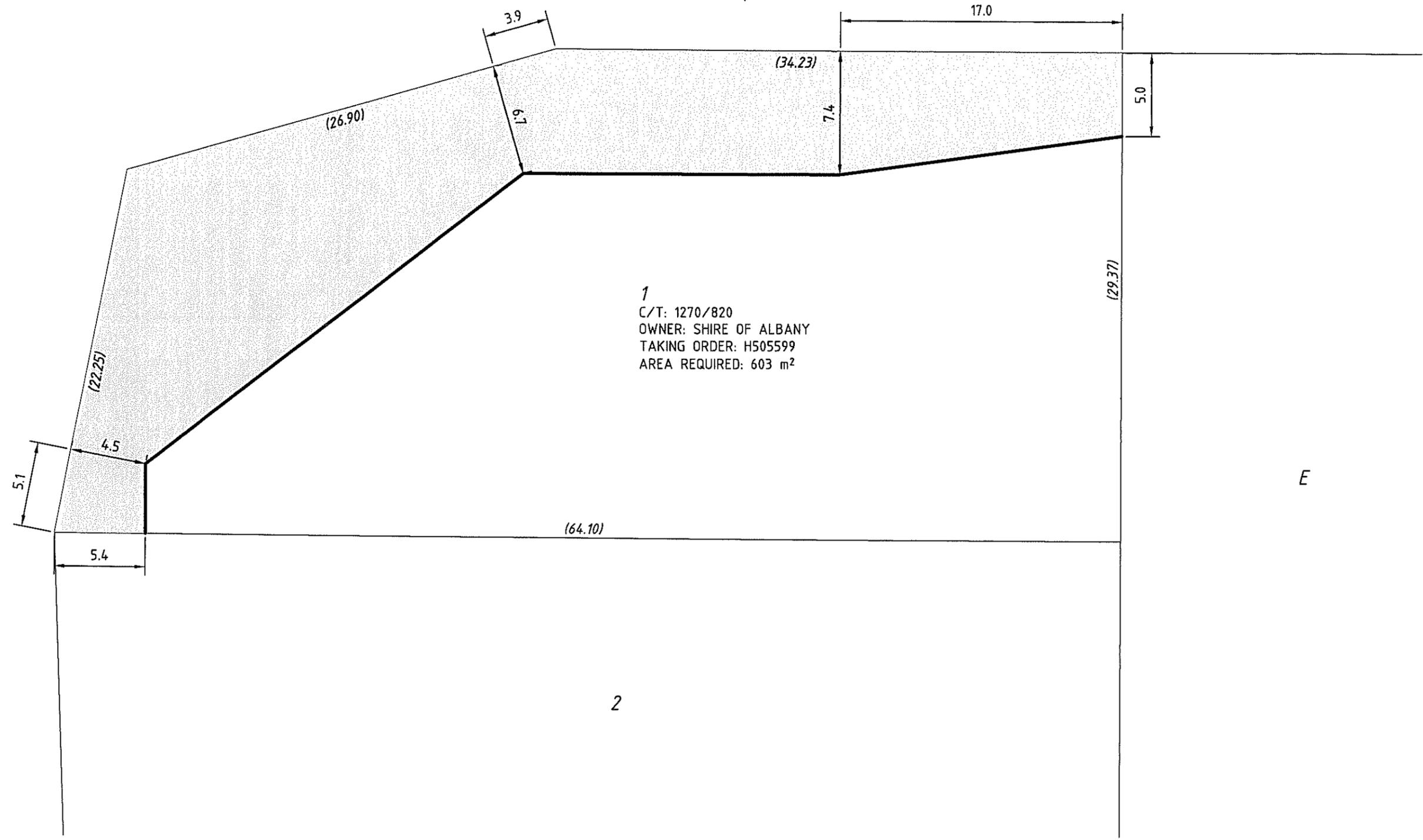
 BOUNDARY TO BE SURVEYED

 GRAPHIC PRESENTATION (ONLY) AUDITED IN ACCORDANCE WITH STANDARD 67-08-48 IN THE ROAD AND TRAFFIC ENGINEERING MANUAL.

H008
 HIGHWAY
 SOUTH
 COAST

MERCER

ROAD



1
 C/T: 1270/820
 OWNER: SHIRE OF ALBANY
 TAKING ORDER: H505599
 AREA REQUIRED: 603 m²

2

E

SCALE 1:250
 MICROFILM DATE
 A3

No.	DESCRIPTION	APPROVED & DATE	No.	DESCRIPTION	APPROVED & DATE
	AMENDMENTS			AMENDMENTS	

METADATA

GROUND SURVEY STANDARD:
 DATE OF CAPTURE:
 MAPPING SURVEY STANDARD:
 DATE OF CAPTURE:
 MAIN ROADS PROJECT ZONE:
 HEIGHT DATUM:



REGIONAL SERVICES DIRECTORATE
 GREAT SOUTHERN REGION
 CHESTERPASS RD ALBANY 6332
 Telephone 9892 0555 Fax 9841 8213

SOUTH COAST HWY - H008
 MERCER ROAD INTERSECTION
 2.20 SLK
LAND REQUIREMENT PLAN
 LOT 1
 LOCAL AUTHORITY CITY OF ALBANY (302)

DESIGNED	S.NAD	VERIFIED	24/7/2012
DRAWN	MOL	APPROVED	25/7/12
FILE NUMBER	12/3984		
DRAWING NUMBER	201201-091		
AMENDMENT			

E

LAND REQUIRED FOR ROAD PURPOSES

BOUNDARY TO BE SURVEYED

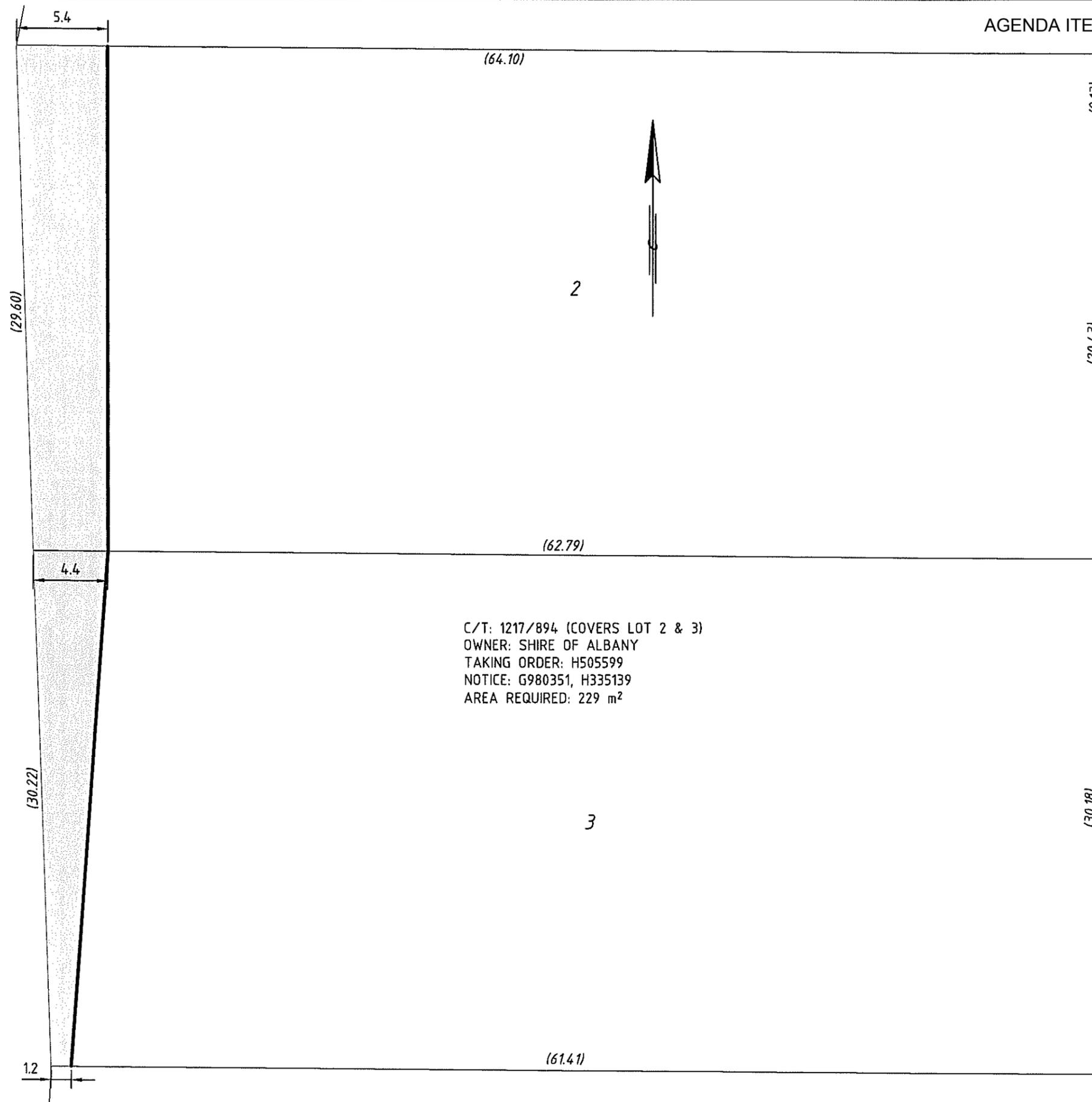
GRAPHIC PRESENTATION (ONLY) AUDITED IN ACCORDANCE WITH STANDARD 67-08-48 IN THE ROAD AND TRAFFIC ENGINEERING MANUAL.

H008

HIGHWAY

COAST

SOUTH



C/T: 1217/894 (COVERS LOT 2 & 3)
 OWNER: SHIRE OF ALBANY
 TAKING ORDER: H505599
 NOTICE: G980351, H335139
 AREA REQUIRED: 229 m²

1004

SCALE 1:250

DATE

A3

No.	DESCRIPTION	APPROVED & DATE	No.	DESCRIPTION	APPROVED & DATE
	AMENDMENTS			AMENDMENTS	

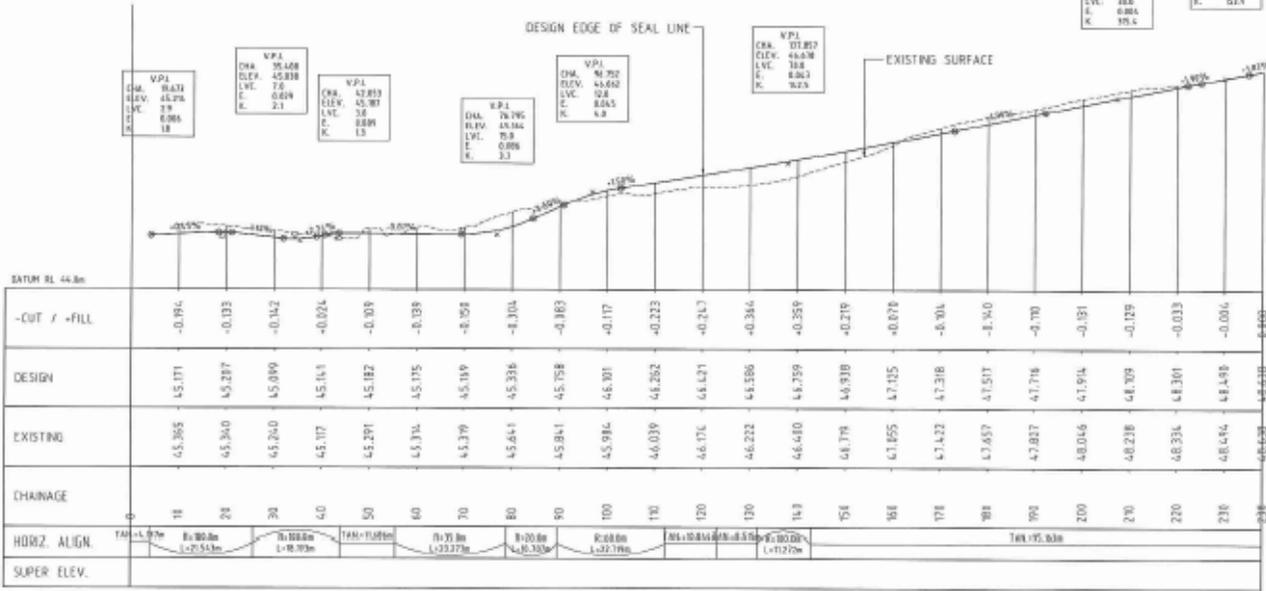
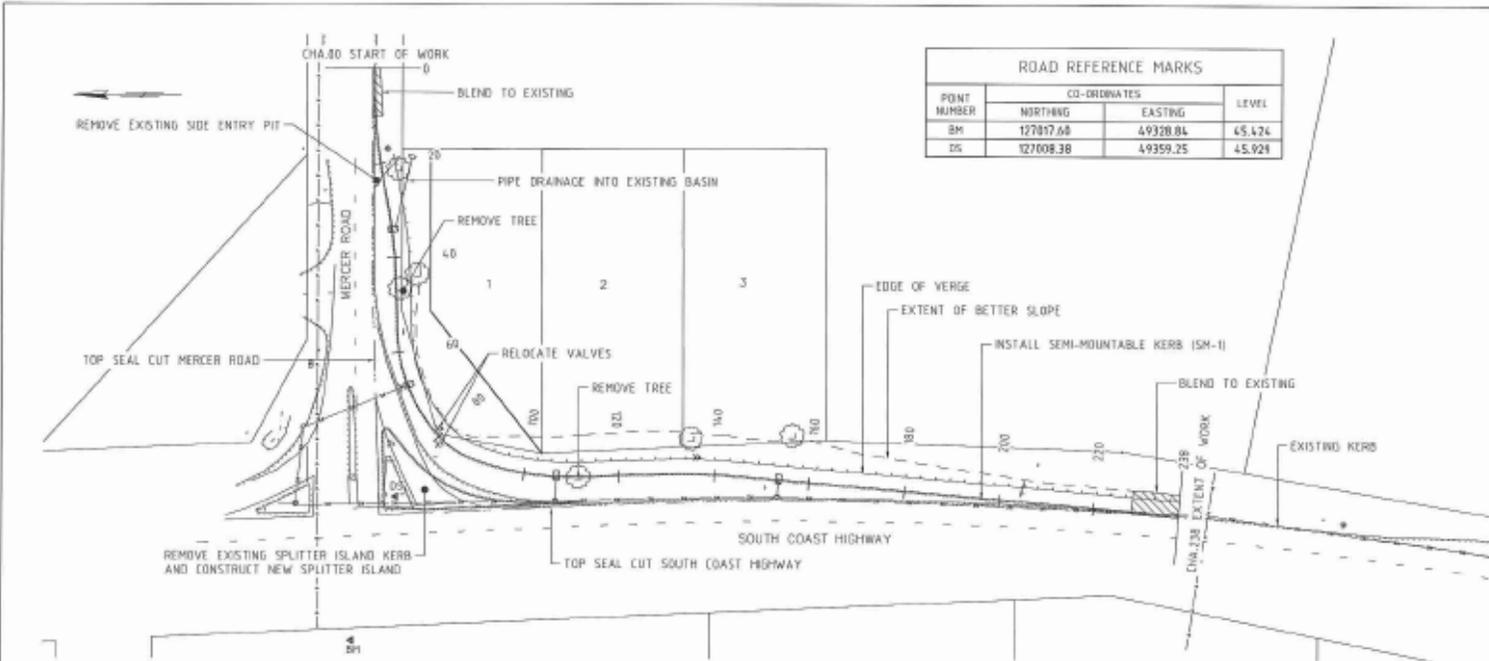
METADATA

GROUND SURVEY STANDARD:
 DATE OF CAPTURE:
 MAPPING SURVEY STANDARD:
 DATE OF CAPTURE:
 MAIN ROADS PROJECT ZONE:
 HEIGHT DATUM:

SOUTH COAST HWY - H008
 MERCER ROAD INTERSECTION
 2.20 SLK
 LAND REQUIREMENT PLAN
 LOT 2 & 3

LOCAL AUTHORITY CITY OF ALBANY (302)

DESIGNED	S.NAD	VERIFIED	<i>[Signature]</i> 07/7/2012
DRAWN	MDC	APPROVED	<i>[Signature]</i> 25/1/12
FILE NUMBER	12/3984		
DRAWING NUMBER	201201-093		
AMENDMENT			



LONGITUDINAL SECTION - MERCER RETURN

AMENDMENTS		
NO.	DESCRIPTION	APPROVED DATE

- NOTES**
- SERVICE LOCATIONS ARE INDICATIVE.
 - FOR TYPICAL KERB DETAILS REFER TO DRG. 201201-097.
 - FOR DRAINAGE LAYOUT PLAN AND PIPED DRAINAGE SCHEDULE REFER TO DRG. 201201-090.

METADATA

GROUND SURVEY STANDARD
 DATE OF CAPTURE
 MAPPING SURVEY STANDARD
 DATE OF CAPTURE
 MAIN ROADS PROJECT ZONE: ALBANY
 HEIGHT DATUM: AHD



mainroads
 WESTERN AUSTRALIA

REGIONAL SERVICES DIRECTORATE
 GREAT SOUTHERN REGION

Albany Street
 Telephone 080 980 8555 Albany WA 6170
 Fax 080 980 8710

FILE NUMBER: 12/3984
 DESIGNED / DRAWN: T. CURRAN
 CHECKED: [Signature]
 APPROVED: [Signature]

SOUTH COAST HIGHWAY H008
 MERCER ROAD LEFT TURN LANE
 2.26 SLK
PLAN PROFILE
 MERCER ROAD AND SOUTH COAST HIGHWAY

LOCAL AUTHORITY: CITY OF ALBANY
 DESIGN NUMBER: 201201-095

A 1

