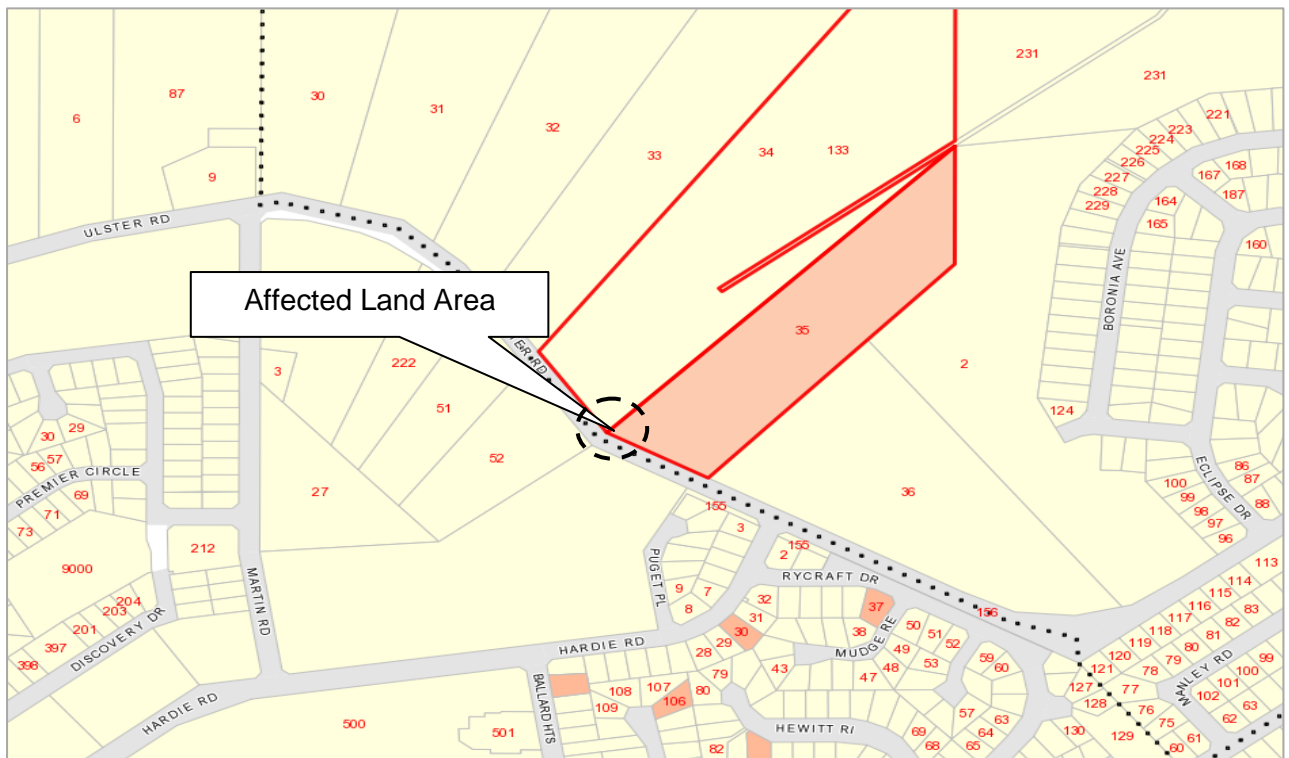


**4.4: PROPOSED LAND RESUMPTION AFFECTING LOTS 34 & 35  
ULSTER ROAD, COLLINGWOOD HEIGHTS**

<b>Land Description</b>	: Lot 34 & Lot 35 Ulster Road, Collingwood Heights
<b>Proponent</b>	: City of Albany
<b>Owner</b>	: R Barker and J & G Manley
<b>Attachments</b>	: Aerial Photography of Lot 34 & Lot 35 Ulster Road, Collingwood Heights showing area to be resumed
<b>Responsible Officer(s)</b>	: Executive Director Corporate Services (G Adams)

**Maps and Diagrams:**



**IN BRIEF**

- Council is requested to consider the resumption of a 45m<sup>2</sup> portion of land from Lot 34 Ulster Road, Collingwood Heights and a 40m<sup>2</sup> portion of land from Lot 35 Ulster Road, Collingwood Heights. The subject land currently contains a portion of the constructed Ulster Road in freehold title and it is proposed to bring this existing road into land title that is under the control and management of the City of Albany.

**ITEM 4.4: 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 45m<sup>2</sup> portion of land from Lot 34 Ulster Road, Collingwood Heights and a 40m<sup>2</sup> portion of land from Lot 35 Ulster Road, Collingwood Heights to allow the widening of the Ulster Road reserve.
- ii) **SEEKS** approval under Section 168 of the *Planning & Development Act 2005* to resume the 45m<sup>2</sup> portion of land from Lot 34 Ulster Road, Collingwood Heights and the 40m<sup>2</sup> portion of land from Lot 35 Ulster Road, Collingwood Heights 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*.

**BACKGROUND**

1. The southeast corner of Lot 34 Ulster Road and the southwest corner of Lot 35 Ulster Road, Collingwood Heights both extend into what is currently a public road reserve, namely Ulster Road. This land needs to be resumed so that the constructed road is contained in land title designated for this purpose.
2. The landowners of Lot 34 and Lot 35 Ulster Road, Collingwood Heights were contacted on 28 November 2012 and informed of the land issue. They were advised of the City's intent to rectify the situation by resuming a small portion from each of the freehold properties to ensure that the road was wholly contained within the road reserve.
3. A valuation of the subject 45m<sup>2</sup> portion of Lot 34 Ulster Rd and 40m<sup>2</sup> portion of Lot 35 Ulster Rd was sought, in order to commence the land resumption process.

**DISCUSSION**

4. The subject 45m<sup>2</sup> and 40m<sup>2</sup> portions of land were valued at \$500 each and the affected landowners were initially offered compensation at this value.
5. This amount was acceptable to the affected landowners and they have signed Consent to Taking by Agreement forms to this effect.
6. It is noted that City officers have delegated authority to negotiate on compensation for road widenings up to \$100,000, though City officers do not have delegated authority to resolve on the legislative requirements associated with this process. A separate item is included on this agenda to discuss delegated authority in more detail.

## **GOVERNMENT CONSULTATION**

7. No consultation with government agencies has occurred on this matter as yet. As part of the subdivision application, which is the process used to resume the land into Crown land title, the Western Australian Planning Commission will refer the proposal to all the relevant servicing and government agencies for comment.

## **PUBLIC CONSULTATION / ENGAGEMENT**

8. There is no requirement under the provisions of the *Land Administration Act 1997* to advertise this matter for public comment. All engagement with the affected landowners has been kept confidential during the negotiation phase of the land resumption process, as is appropriate. No other landowners are considered to be impacted by the proposed land resumption.

## **STATUTORY IMPLICATIONS**

9. 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.
10. 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.
11. Section 241 of the *Land Administration Act 1997* states that, in determining the amount of compensation to be offered, regard is to be had for the value of the land with any improvements.
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 on a diagram or plan of survey as a new road or road widening, will be dedicated as a road.

## **STRATEGIC IMPLICATIONS**

13. This item relates directly to the following elements of the City of Albany Strategic Plan (2011-2021).

### ***Key Focus Area***

*Organisational Performance*

### ***Community Priority***

*Policy and Procedures*

### ***Proposed Strategies***

*Develop clear processes and policies and ensure consistent, transparent application across the organisation.*

## **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.

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Rating</b>	<b>Mitigation</b>
<i>If the land resumption is not supported, public infrastructure will remain in freehold title, creating concerns about public liability and the City's rights to maintain these works.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>To support the proposed land resumption and allow the public infrastructure to be contained in appropriate land title under the control and management of the City.</i>

**FINANCIAL IMPLICATIONS**

16. The proposed land resumption will cost approximately \$13,000 in total, providing for the compensation payment and all costs and fees associated with the creation of new titles (i.e. survey charges, creation of plans, Landgate fees, settlement etc). These costs will be accommodated in the budget allocation for Land Administration.

**LEGAL IMPLICATIONS**

17. The resumption of land containing the public infrastructure located on Lot 34 and Lot 35 Ulster Road, Collingwood Heights will legitimise the current use of the land.

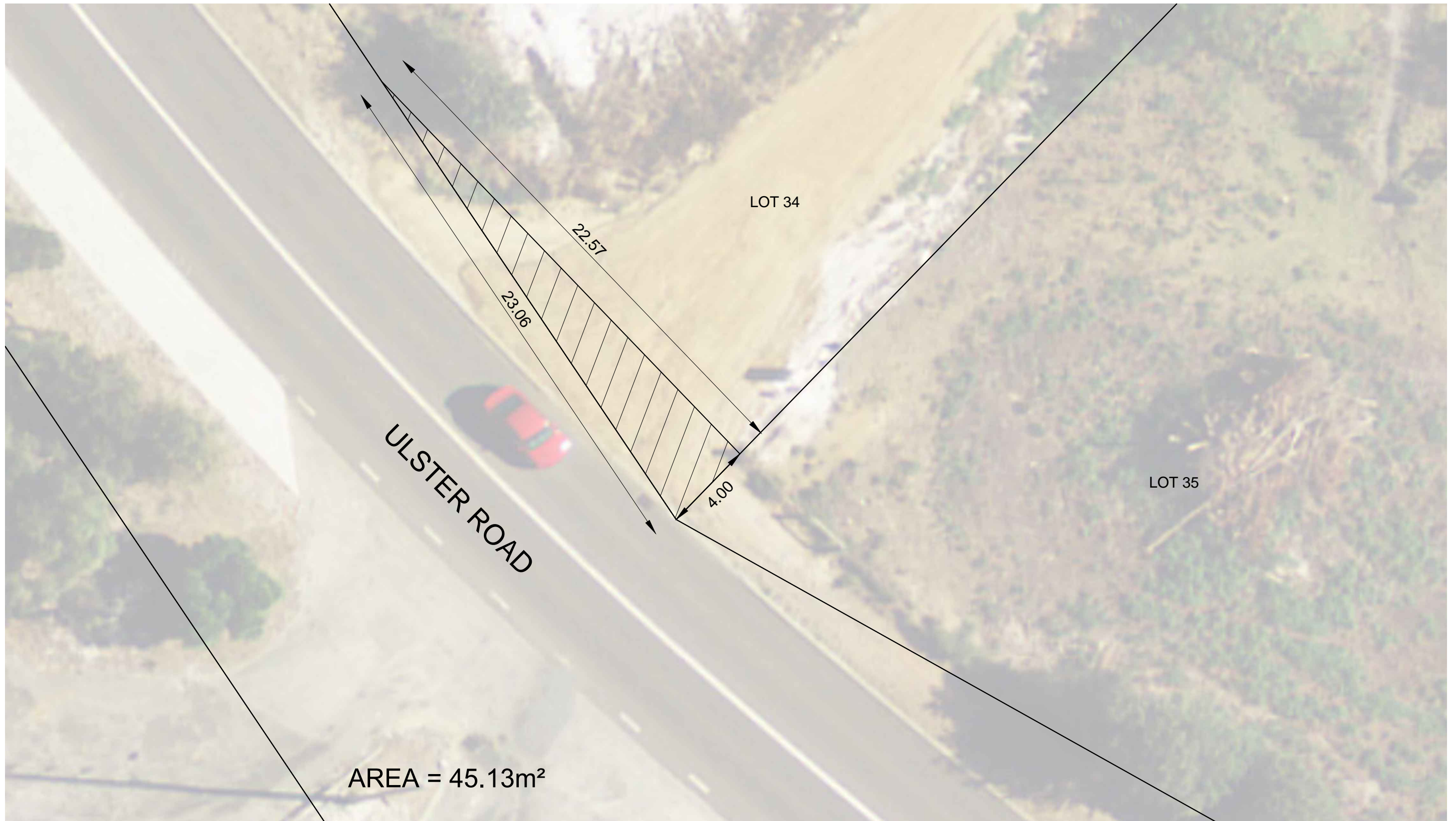
**ALTERNATE OPTIONS**

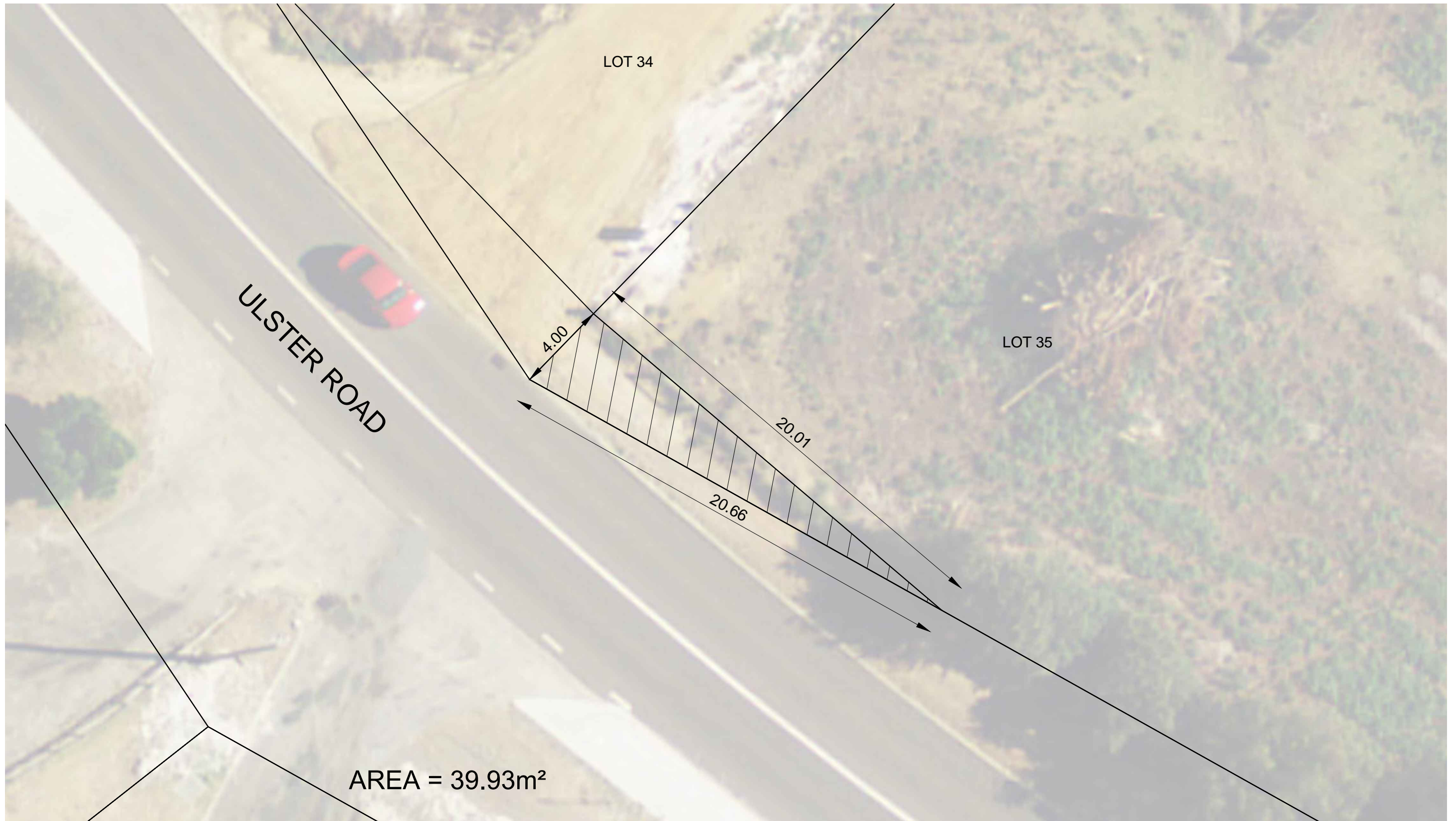
18. While Council can defer this item, this means that a portion of a public road that should be under the control and management of the City will remain in freehold title. As agreements with the landowners have now been effectively reached, it is recommended that this matter be expedited as soon as possible.

**SUMMARY CONCLUSION**

19. The proposed land resumption from Lot 34 and Lot 35 Ulster Road, Collingwood Heights will allow for this entire road to be contained in Crown land title. This land will then come under the control and management of the City, as is appropriate for the City's public infrastructure. As the landowners are now agreeable to the amount of compensation, it is recommended that Council support the proposed land resumption, in line with 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.DEC.2 (Breaksea Ward)
<b>Previous Reference</b>	:	No previous references





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## PROPOSED LAND RESUMPTION LOT 35 ULSTER ROAD