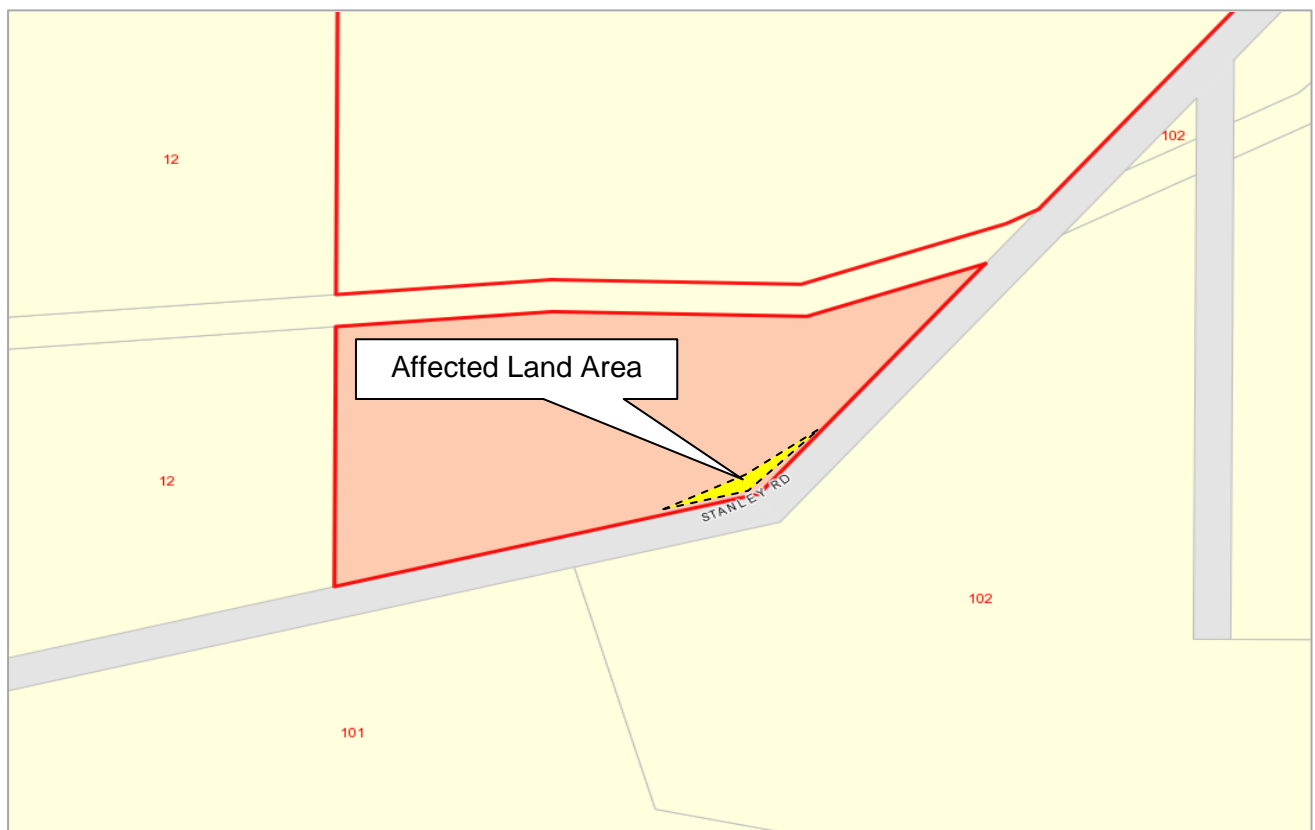


4.7 : PROPOSED LAND RESUMPTION AFFECTING LOT 4559 STANLEY ROAD, YOUNGS SIDING

Land Description	: Lot 4559 Stanley Road, Youngs Siding
Proponent	: City of Albany
Owner	: Andrew Le Fort & Anthony Docherty
Attachments	: Aerial Photography of Lot 4559 Stanley Road, Youngs Siding showing area to be resumed
Responsible Officer(s)	: Executive Director Corporate Services (G Adams)

Maps and Diagrams:



IN BRIEF

- Council is requested to consider the resumption of a 492m² portion of land from Lot 4559 Stanley Road, Youngs Siding. The subject land currently contains portion of the constructed Stanley 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. The City will also be taking additional land in order to upgrade this portion of road, so as to improve the safety of the bend in this location.

RECOMMENDATION

**ITEM 4.7: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR DUFTY**

THAT Council:

- 1. SUPPORTS the Taking by Agreement, under Section 168 of the *Land Administration Act 1997*, of a 492m² portion of land from Lot 4559 Stanley Road, Youngs Siding to allow for the widening of the Stanley Road reserve .**
- 2. SEEKS approval under Section 168 of the *Planning & Development Act 2005* to resume the 492m² portion of land to be taken from Lot 4559 Stanley Road, Youngs Siding as a public road through the lodgement of a subdivision application; and**
- 3. INDEMNIFIES the Minister for Lands from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*.**

CARRIED 12-0

BACKGROUND

1. It came to a City of Albany officer's attention that a portion of the Stanley Road reserve was found to be owned in freehold title as part of Lot 4559 Stanley Road, Youngs Siding.
2. The southeast corner of Lot 4559 Stanley Road extends into what is currently a public road reserve, namely Stanley Rd. This land needs to be resumed so that the constructed road is contained in land title designated for this purpose.
3. The landowners of Lot 4559 Stanley Rd were contacted on 8 December 2012 and informed of the land issue. They were advised of the City's intent to rectify the situation by resuming a small portion of the freehold property to ensure that the road was wholly contained within the road reserve.
4. A valuation of the subject 345m² portion of land was sought and valued at \$1000, with the affected landowners being offered compensation of this amount. This sum was acceptable to the landowners and they signed a Consent to Taking by Agreement form on 24 December 2012.

DISCUSSION

5. Since initiating the land resumption action, concerns have been raised about the safety of the bend in the road in this location and upgrading road works have been identified to improve road safety, including providing adequate forward visibility to road users along Stanley Road.

6. The existing signs and guideposts of this section of Stanley Road are old and quite worn and a number of the guideposts are missing. Sight observations by staff have determined that the visibility for vehicles travelling around the bend is below the safe stopping sight distance recommended in the *Austrroads Guide to Road Design*. From these discussions, the City revised its initial land resumption requirements from 345m² to 492m².
7. A revised valuation of the subject 492m² portion of land was sought. The additional 147m² of land did not appreciatively add to the original valuation of \$1000 and the affected landowners were re-offered compensation to this amount. In addition, the City offered to assume responsibility for the relocation of any fencing that may be required to undertake these works.
8. The affected landowner advised that they did not think it equitable that an additional 147m² of land was to be taken without a commensurate increase in the amount of compensation offered. Following further negotiations with this landowner, a compensation amount of \$1350 was agreed, in addition to making good any fencing that may be impacted by the proposed works. A Consent to Taking by Agreement will be signed to this effect.
9. The upgrading works will be scheduled into the 2013/2014 Capital Works Program. As such the Consent to Taking by Agreement form also includes permission for works to progress before the land resumption process has been completed.
10. It is noted that City officers have delegated authority to negotiate on compensation for road widening 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

11. 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

12. 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 landowner 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

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 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.
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 on a diagram or plan of survey as a new road or road widening will be dedicated as a road.

STRATEGIC IMPLICATIONS

17. 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

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 Rating	Mitigation
<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

20. The proposed land resumption will cost approximately \$10,000 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

21. The resumption of land containing the public infrastructure located on Lot 4559 Stanley Road, Youngs Siding will legitimise the current use of the land.

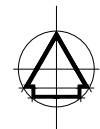
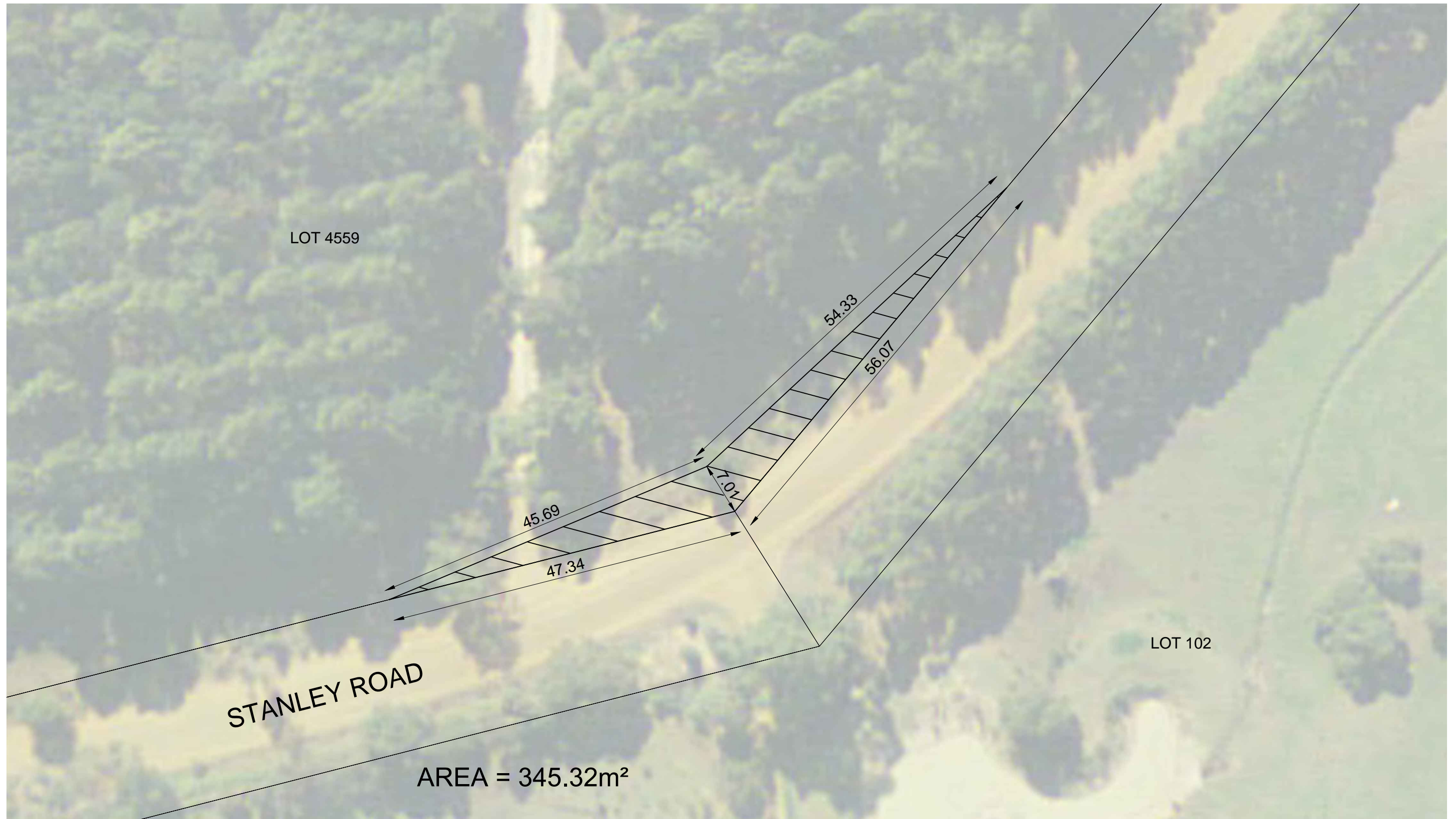
ALTERNATE OPTIONS

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

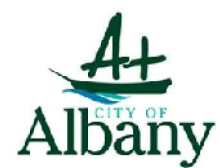
SUMMARY CONCLUSION

23. The proposed land resumption from Lot 4559 Stanley Road, Youngs Siding will allow for much needed safety improvements along this section of Stanley Road and road widening of the Stanley Road reserve, such that all of this road is 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 landowner is 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*.

Consulted References	:	Land Administration Act 1997 Planning and Development Act 2005
File Number (Name of Ward)	:	RD.ACQ.1 (West Ward)
Previous Reference	:	No previous references



SCALE 1:500



102 NORTH ROAD, YAKAMIA WA 6330
PO BOX 484 ALBANY WA 6331
Tel: (08) 9841 9333
Fax: (08) 9841 4099
Email: cityassests@albany.wa.gov.au
Website: www.albany.wa.gov.au

PROPOSED LAND RESUMPTION LOT 4559 STANLEY ROAD