

4.8: PROPOSED PERMANENT CLOSURE OF PORTION OF DAY STREET, PORT ALBANY & DISPOSAL TO ADJOINING OWNERS

Land Description	: Day Street Road Reserve, Port Albany
Proponent	: M. Young of No 32 Lot 770 Brunswick Road, Port Albany
Owner	: State of WA
Appendices	: Map of Day Street Road Reserve
Responsible Officer(s)	: Executive Director Corporate Services (G Adams)

Maps and Diagrams:



IN BRIEF

- Council is requested to consider a ratepayer application to close the unconstructed road reserve adjoining their property at No 32 Lot 770 Brunswick Road, Port Albany, so that they may purchase portion of the resultant land and amalgamate it with their freehold title.

**ITEM 4.8: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DUFTY
SECONDED: COUNCILLOR BOWLES**

THAT Council:

- i) INITIATES the advertising of the proposed road closure of portion of the Day Street road reserve between Brunswick Road and Ellicoe Street (undeveloped road reserve), Port Albany; and**
- ii) SEEKS a further item to Council, following the completion of the advertising period, for determination of the road closure application.**

CARRIED 10-2

Record of Vote

Against the Motion: Councillors Bostock and Stocks

BACKGROUND

1. The Day Street road reserve adjoining No 32 Lot 770 Brunswick Road, Port Albany, which runs between Brunswick Road and Ellicoe Street (undeveloped road reserve), is currently under the management of the City of Albany.
2. The City has received a request from the owners of No 32 Lot 770 Brunswick Road, Port Albany, to close the road reserve adjoining their property. These owners wish to purchase a portion of the land currently forming part of the road reserve and amalgamate that land with their freehold title.
3. No 32 Lot 770 Brunswick Road, Port Albany has an area of 845m² and is fundamentally a corner block with frontage to Brunswick Road and two undeveloped road reserves, namely Day Street to the west and Ellicoe Street to the north. The owners have advised that they would like to purchase the road reserve to increase the useable area of their land.

DISCUSSION

Nature & Use of Subject Land

4. There is no constructed road within this portion of the Day Street road reserve at present and there are no plans to construct this road at any time.
5. The subject road reserve is on a steep slope and the nature of the land means it is unlikely that a road or pedestrian access way will ever be constructed in this location. Any proposal to construct a road or pathway will likely involve substantial earthworks, making it a costly venture.
6. There is no existing services or drainage infrastructure within the subject road reserve and it is unlikely that the road reserve will be required for future drainage works. Works and Services have advised that the Day Street road reserve does not support the optimal

placement of drainage infrastructure and such infrastructure would only be required if the land to the north was to be developed, which is unlikely. In this circumstance, land further east along Brunswick Road would be a better location for drainage infrastructure.

Tenure of Surrounding Land

7. The land tenure of these unconstructed road reserves and the unallocated Crown land north of Brunswick Road and fronting Burgoyne Road has been discussed on a number of occasions over the years. It has previously been proposed to freehold the lots fronting Burgoyne Road, allowing the development of this area for residential purposes.
8. It is noted that the City previously opposed the disposal of this land, preferring the option of transferring the land to the Port Authority and closing the public road reserves, thereby preventing the further development of this land. In this way, the City wished to minimise the issues that have previously arisen with sensitive land uses adjoining the Port.
9. It is considered that further review of land use and tenure is needed in this locality, though the closure of portion of Day Street will be considered independently to prevent further delays for the ratepayer making this request.

Planning Considerations

10. The Day Street road reserve is currently zoned Parks and Recreation under the City's Town Planning Scheme No 1A, however it is proposed to be zoned Residential R25 under the new Local Planning Scheme No 1. As such, if the land is to be disposed to adjoining owners, under the new Local Planning Scheme it will be have the same zoning of the land titles to which it would be amalgamated.

Disposal of the Land

11. The Department for Regional Development and Lands will only close a road reserve when it can be disposed to the adjoining landowners. While the application to close this road has come from the owners of No 32 Lot 770 Brunswick Road, they have advised that they only wish to purchase 10m of this 20m wide road reserve. As such, the City also contacted the owner of No 34 Lot 769 Brunswick Road to see whether they are interested in purchasing the remaining portion.
12. This owner initially advised the City that they could not determine their interest until the cost of the land was known. Unfortunately, the cost of the land only becomes available once the road closure request is progressed and forwarded to the Department for Regional Development and Lands. Officially this land is owned by the State of WA and, as such, the disposal to adjoining owners is a transaction managed by this Department.
13. The owner of No 34 Lot 769 Brunswick Road has since verbally advised that they would like further time to consider this matter. However, it was agreed that the matter could be publicly advertised so when Council determines this request, they do so knowing the wishes of all of the adjoining community. This advertising period also provides an opportunity for the subject landowner to consider their position on the future purchase of this land.

14. This is a variation from the City's usual procedure for dealing with road closure requests, however in this instance, a more moderate approach is considered warranted to allow all affected landowners to have input into land tenure changes in this location.

GOVERNMENT CONSULTATION

15. A preliminary conversation with the Department for Regional Development and Lands has occurred to clarify the process for disposal of the land, if the road is to be closed.
16. As part of the road closure advertising requirements specified by the *Land Administration Act 1997*, public utility service providers must be contacted directly and invited to comment on the proposal.

PUBLIC CONSULTATION / ENGAGEMENT

17. Section 58 of the *Land Administration Act 1997* sets out the procedure for permanently closing roads. It is a requirement of the Act that the proposed road closure be advertised in a local newspaper for a period not less than 35 days. Notification will also be sent to nearby landowners and to relevant public utility service providers.
18. Preliminary conversations have been held with the other landowner (No 34 Lot 769 Brunswick Road) adjoining the road reserve. It is the Department for Regional Development and Lands' policy for all adjoining landowners to be offered for purchase equal share of the closed road, therefore this landowner will be impacted by the proposed road closure. The initial views of this landowner have been reported in the discussion above.

STATUTORY IMPLICATIONS

19. Section 58 of the *Land Administration Act 1997* allows a local government to request the Minister for Lands to close a road.
20. Section 74 of the *Land Administration Act 1997* grants the Minister for Lands the power to sell Crown land.

STRATEGIC IMPLICATIONS

21. 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

22. The Albany Historic Town Design Policy applies in this area. This policy has general design guidelines to ensure that new development complements the townscape character and central streetscapes of central Albany.
23. The Albany Port Buffer Policy applies in this area. This policy requires planning approval for all development, notification on title for noise concerns from the operation of the Port and design considerations to reduce noise impacts on any new development.
24. While the above policies would apply to any future redevelopment of the closed road reserve, they do not have a significant impact on the closure of the road.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
<i>If the request to close the road is refused, the road remains under City management and the inappropriate private use of the land will need to be addressed.</i>	<i>Possible</i>	<i>Minor – the resolution of the private use of the road reserve is considered to be a minor matter only.</i>	<i>Medium</i>	<i>To support the road closure request and allow the land being used for private purposes to be purchased by the adjoining owner/s.</i>

FINANCIAL IMPLICATIONS

26. If Council supports the proposed road closure, the applicant will be required to pay a \$450 fee, in line with the City of Albany's Schedule of Fees and Charges. This fee will cover all costs associated with advertising the road closure, including staff time. Any other costs associated with the disposal of the land will be borne by the Department for Regional Development and Lands and the adjoining landowners.

LEGAL IMPLICATIONS

27. There are no legal implications relevant to this item.

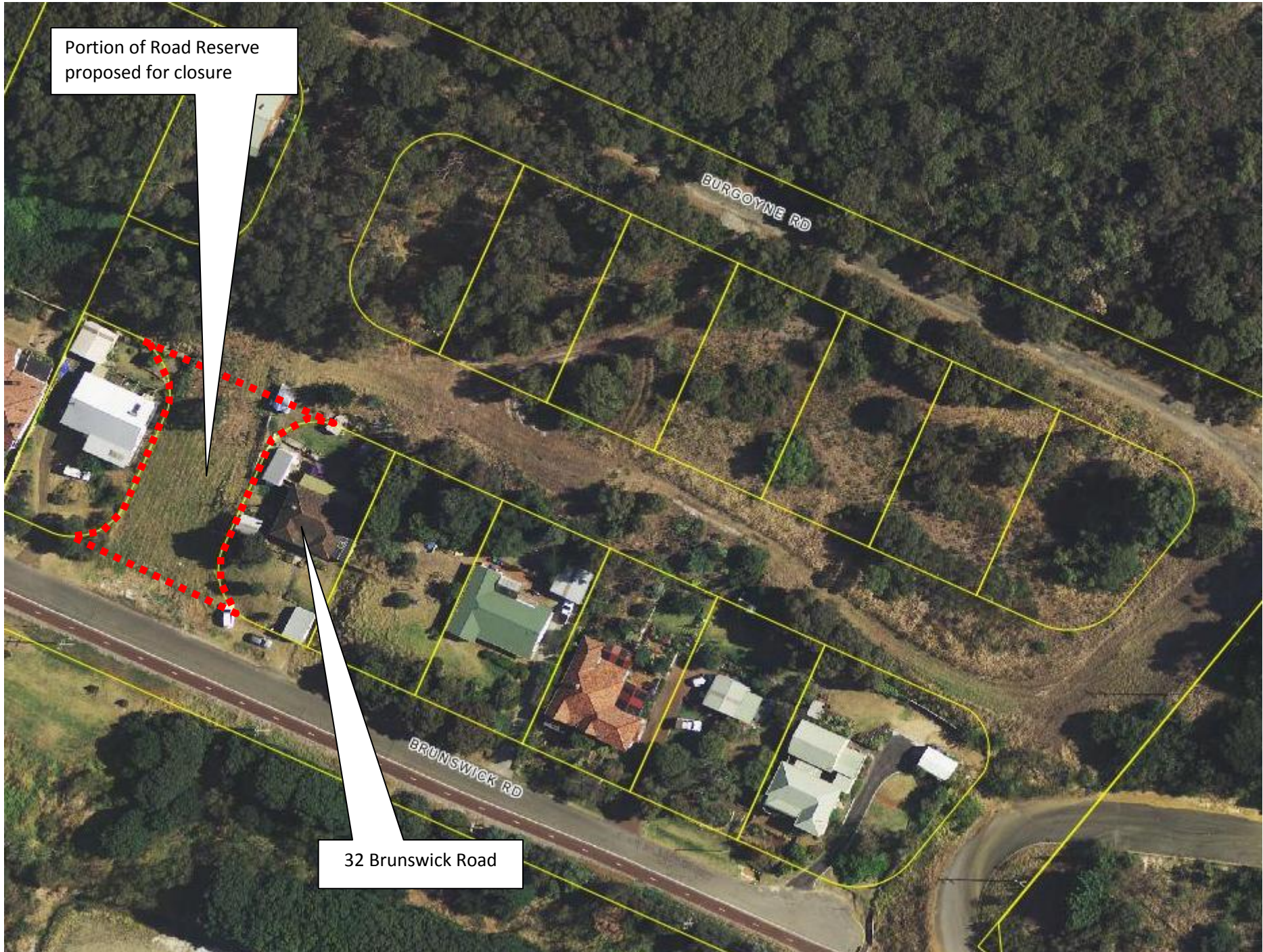
ALTERNATE OPTIONS

28. Council may:
- a. Support the initiation of the advertising period for the proposed closure of portion of the Day Street road reserve between Brunswick Road and Ellicoe Street, to determine the views of the adjoining landowners, prior to making a further decision on the closure of the road; or
 - b. Refuse the request to close portion of Day Street and the land will remain as a road reserve.

SUMMARY CONCLUSION

29. There are no plans to construct this portion of Day Street, no utilities or infrastructure will be impacted by the proposed closure and the steepness of the site makes it unsuitable as a pedestrian or vehicle link. However, one of the adjoining landowners is not certain whether they would like to purchase the land or if they are supportive of this proposal. As such, it is not certain whether the land can be disposed, if this road reserve is to be closed. In the short term, it is recommended that the public advertising process for a road closure be observed to determine the views of the local community, prior to making a decision on the closure of this portion of Day Street.

Consulted References	:	<i>Land Administration Act 1997</i> <i>City of Albany Town Planning Scheme No 1A</i> <i>City of Albany (draft) Local Planning Scheme No 1</i> <i>City of Albany Local Planning Scheme No 1A & 3 Policy Manual</i>
File Number (Name of Ward)	:	RD.RDC.2
Previous Reference	:	No previous references could be located



Portion of Road Reserve
proposed for closure

32 Brunswick Road