

# MINUTES

for the Special Meeting of Council held in the COUNCIL CHAMBER - 104 HOVELL STREET WODONGA, VIC on MONDAY, 6 DECEMBER 2010

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## Present

Cr M Byatt (Mayor)

Cr A Collins

Cr C Ferguson

Cr E Foulston

Cr A Speedie

Cr R Wangman

## In Attendance

Mr G Cator

Chief Executive Officer

Mr T Ierino

Director Business Services



**LIVE  
WORK  
INVEST**

**1. Calling To Order**

The Mayor, Cr Mark Byatt, called the meeting to order at 6.00 PM.

**2. Statement Of Acknowledgement**

The Mayor read the following:

*We acknowledge the traditional owners of the land on which we are meeting. We pay our respects to their Elders and to Elders from other communities who may be here today.*

**3. Apologies And Requests For Leave Of Absence**

An apology was received from Cr Lisa Mahood.

It was also noted that Cr Ed Foulston would need to leave the meeting at approximately 6.40 PM.

**4. Declaration Under Acts, Regulations, Codes Or Local Laws**

Nil.

**5. Declaration By Councillors Of Any Conflict Of Interest**

**6. Officer Reports For Determination**

6.1 SECTION 223 HEARING - INTENTION TO SELL LAND - STANLEY 3 STREET, SMYTHE STREET, AND ELGIN BLVD.

**7. Confidential Business**

Nil.

**8. Close Of Meeting**

There being no further business the meeting closed at 7.01 PM.

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**Chairperson**

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**Date**

**SECTION 223 HEARING - INTENTION TO SELL LAND - STANLEY STREET, SMYTHE STREET, AND ELGIN BLVD.****PURPOSE OF REPORT**

This special meeting of Council is being held to hear from persons who have requested to be heard in support of a submission under section 223 of the *Local Government Act 1989* (the Act) on the intention to sell land. This report explains the process to be followed.

**BACKGROUND**

At its meeting of October 18, 2010 Council resolved to give public notice of its intention to sell land encompassing properties in Smythe Street, Stanley Street, and Elgin Boulevard.

The resolution read:

That:

1. In accordance with Sections 189 and 223 of the *Local Government Act 1989* ("the Act"), Council give public notice of its intention to sell, by Public Auction, Expression of Interest or Tender, the following properties:

Site 1

10 Smythe Street - vacant land being Lot 6 on LP 18383/Volume 7313 Folio 569  
8 Smythe Street – vacant land being Lot 7 on LP 18383/Volume 7313 Folio 569  
12 Smythe Street – land with improvement being Lot 1 on TP 220280/Volume 8071 Folio 034  
14 Smythe Street – vacant land being Lot 2 on TP220280/Volume 8071 Folio 034  
14 Smythe Street (Part Lot 4) – being vacant land on LP18383/Volume 8098 Folio 756  
24 – 26 Stanley Street – being part of the land with improvements in plan of consolidation 354165 /Volume 10131 Folio 177 totalling an area of 11,311sqm but excluding the preschool area of 1,629sqm.( proposed PS641640L)

Site 2

41 Elgin Boulevard – vacant land being Lot 1 & 2 on PS311368/Volume 10033 Folio 597 (proposed PS641640L)  
43 Elgin Boulevard - vacant land being CA 6B Volume 10844 Folio 762 in the Parish of Wodonga (proposed PS641640L)

2. The public notice stipulate that persons may make a submission on the proposed sale in accordance with Section 223 of the Act and that written submissions must be received within 28 days of publication of the notice;
3. Council authorise the Chief Executive Officer to undertake the administrative procedures necessary to enable council to carry out its functions under section 223 of the Act in relation to this matter;
4. That if submissions are received under section 223 of the Act:
  - a. a special meeting of council be convened on Monday, December 6, 2010 at 6.00pm to hear from any person or persons who request to be heard in support of a section 223 written submission
  - b. a report on any section 223 submissions received by council be provided to the next available ordinary council meeting.
5. If no submissions are received within 28 days of the notice,
  - a. Council resolve to sell the land by Expression of Interest, Public Auction, or Tender.
  - b. The Chief Executive Officer be authorised to commence the sale process, set the Sale price or Auction reserve at the valuation figure, execute a Contract of Sale and all

**SECTION 223 HEARING - INTENTION TO SELL LAND - STANLEY STREET, SMYTHE STREET, AND ELGIN BLVD. (cont'd)**

necessary documentation pertaining to the transfer of the land, on terms and conditions agreed between council and the purchaser, without further resolution of Council.

The public notice invited submissions on the proposal in accordance with Section 223 of the Act.

The period for submissions closed on Monday, November 22, 2010. 27 submissions have been received, and a copy of all submissions has been forwarded to councillors. Four of the submitters have asked to be heard, being:

1. Robert Docherty
2. Ron Elkner
3. Andrea Sinclair (on behalf of the Wodonga Amateur Swimming Club)
4. Jean Whitla

Persons who have requested to be heard have been advised of the following:

- *All councillors have received a copy of the submission.*
- *You will have up to 15 minutes to speak to the submission. The Chairperson may extend the period if it appears that the time allowed is insufficient where there is complexity in the submission.*
- *The comments, or a summary of them, may be included in a report to a future Council meeting at which a report on the section 223 process will be considered.*
- *Your comments should be in support of the written submission.*
- *Other than to clarify procedural matters through the Chairperson, there will be no opportunity to ask questions of the Council.*
- *There will be no questions directed at you while you speak to the submission. The Chair or councillors may ask questions once you have finished speaking to the submission in order to clarify or explore matters raised.*
- *You are requested to observe any directions that the Chairperson may give.*

**COUNCIL PLAN / KEY STRATEGIC ACTIVITY**

Pillar	Outcome	Strategic Action
Pillar Five A democratic and engaged community	Adherence to all legislative requirements and corporate compliance.	Continually review Wodonga City's governance protocols taking into account evolving governance best practice protocols.

**COUNCIL POLICY / STRATEGY IMPLICATIONS**

Council has issued Guidelines on the section 223 process and this special meeting is being conducted in accordance with those Guidelines.

**SECTION 223 HEARING - INTENTION TO SELL LAND - STANLEY STREET, SMYTHE STREET, AND ELGIN BLVD. (cont'd)**
**RISK MANAGEMENT IMPLICATIONS**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Section 223 hearing is not held.	E	4	Moderate	Conduct the hearing in accordance with the requirements in the Act.

**FINANCIAL IMPLICATIONS**

There are no financial implications with holding this hearing, with all costs covered in council's budget.

**ENVIRONMENTAL IMPLICATIONS**

N/A.

**SOCIAL/CULTURAL IMPLICATIONS**

N/A.

**LEGISLATIVE IMPLICATIONS**

This hearing is part of the legislative process by which council considers submissions received under section 223 of the Act.

**CONSULTATION PROPOSED / UNDERTAKEN**

This special meeting is a part of the legislated process involving a public call for submissions, and an opportunity to be heard before council.

**OPTIONS FOR CONSIDERATION**

1. Abandon the proposed sale of land and resolve that no further action be taken. This is not recommended as any decision on the land sale should await a further report to council on the outcomes of the section 223 process, including this hearing before council. A report on that process is scheduled for the council meeting of December 13, 2010.
2. Continue with the section 223 process. This is recommended.

**CONCLUSION**

The request to be heard is a right for any submitter who responds to a public notice on a proposed action by council. This special council meeting will provide the opportunity for four submitters to speak to their submissions.

**SECTION 223 HEARING - INTENTION TO SELL LAND - STANLEY STREET, SMYTHE STREET, AND ELGIN BLVD. (cont'd)**

**ATTACHMENTS**

Nil.

**DECLARATION OF CONFLICT OF INTERESTS**

Under section 80C of the *Local Government Act 1989* officers providing advice to Council must disclose any interests, including the type of interest.

Director Business Services - Trevor Ierino

In providing this advice as Director, I have no interests to disclose in this report.

Governance Officer - Kevin Scully

In providing this advice as the report author, I have no interests to disclose in this report.

**RECOMMENDATION**

That Council note the presentations made in support of the submissions, and that a summary of each presentation be included in a report on the section 223 process to the ordinary meeting of Council scheduled for December 13, 2010.

**MOTION**

CRS. RODNEY WANGMAN / ANGELA COLLINS

That the recommendation be adopted.

(CARRIED)

*Presentations were made in support of written submissions by the following persons:*

- *Robert Docherty - 6.03 PM to 6.16 PM*
- *Ron Elkner - 6.16 PM to 6.27 PM*
- *Mark Eddy (on behalf of the Wodonga Amateur Swimming Club) - 6.27 PM to 6.44 PM.*
- *Jean Whitla - 6.44 PM to 6.59 PM.*

*During the presentation by Mark Eddy, Cr Ed Foulston left the meeting to attend another engagement, the time being 6.40 PM.*