

# MINUTES

for the Special Meeting of Council held in the COUNCIL CHAMBER - 104 HOVELL STREET WODONGA, VIC on MONDAY, 8 NOVEMBER 2010

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## Present

Cr M Byatt (Mayor)

Cr E Foulston (Deputy Mayor)

Cr A Collins

Cr L Mahood

Cr A Speedie

Cr R Wangman

## In Attendance

Mr G Cator

Chief Executive Officer

Ms P Harrington

Director Community Development

Mr J Louw

Director Sustainable Development



**LIVE  
WORK  
INVEST**

**1. Calling To Order**

The Mayor, Cr Mark Byatt opened the meeting at 6.00pm.

**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 Chris Ferguson.

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

Nil.

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

Cr Rodney Wangman disclosed a conflict of interest, being an indirect interest because of conflicting duty (section 78B of the Local Government Act, 1989), for item 6.1 – Section 223 Hearing – Osburn Street. The nature of the interest is that Cr Wangman, as CEO of Albury Wodonga Community College provided a submission on this proposal.

**6. Officer Reports For Determination**

6.1 SECTION 223 HEARING - OSBURN STREET

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**7. Confidential Business**

Nil.

**8. Close Of Meeting**

There being no further business the meeting closed at 6.25pm.

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**Chairperson**

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**Date**

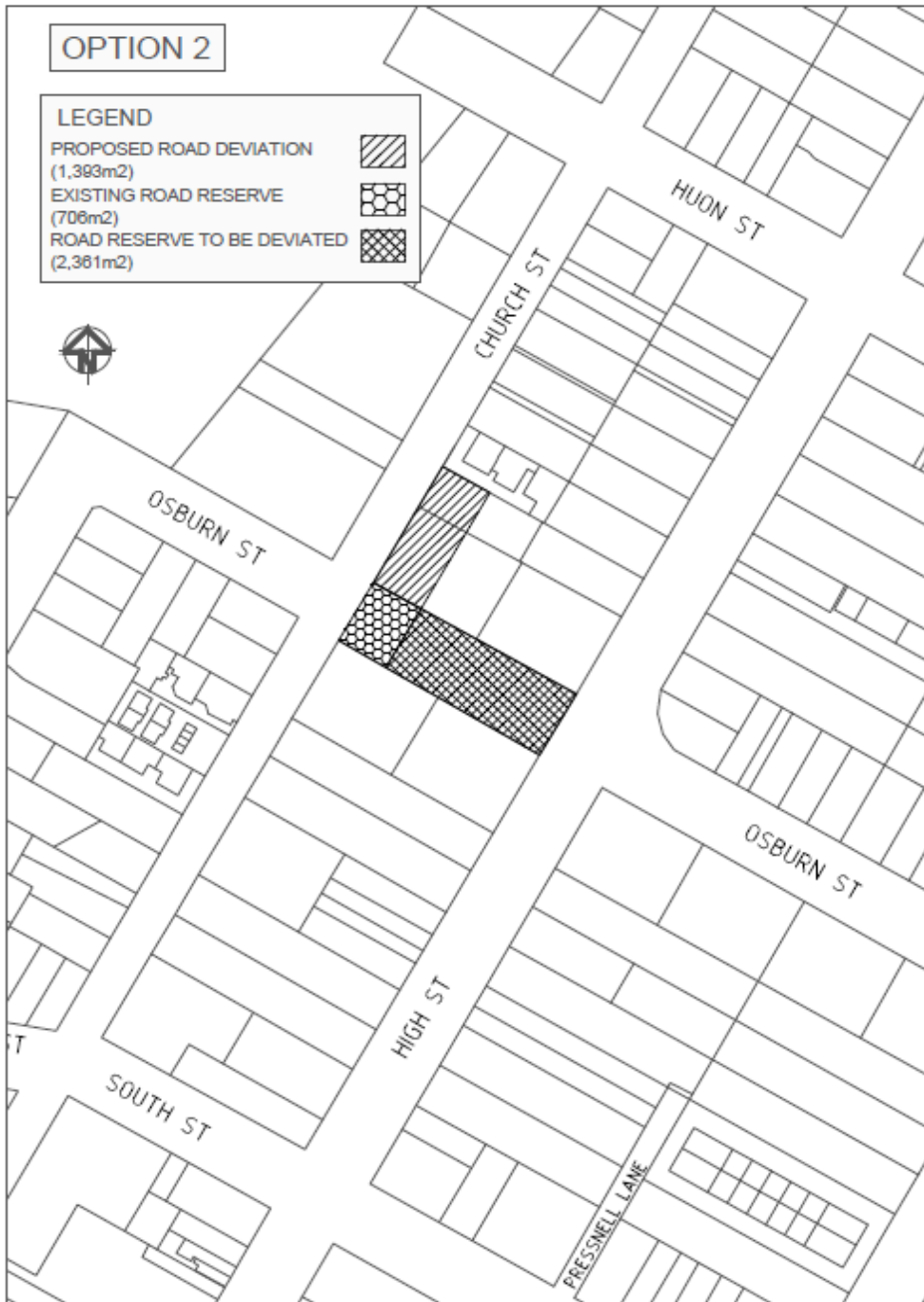
**SECTION 223 HEARING - OSBURN STREET**

**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 proposed road deviation of Osburn Street. This report explains the process to be followed.

**BACKGROUND**

At its meeting of September 20, 2010 Council resolved to give public notice of its intention to deviate the section of Osburn Street shown on the plan below.



**SECTION 223 HEARING - OSBURN STREET (cont'd)**

The public notice was advertised in the Border Mail of Saturday, October 2, 2010. The public notice invited submissions on the proposal in accordance with Section 223 of the Act.

The period for submissions closed on Wednesday, November 3, 2010. One submission was received, being from Trivett Keating, legal practitioners, on behalf of their client, Aussie Superior Car Wash. Separately a copy of the submission has been forwarded to all councillors.

In response to the submission, Trivett Keating has been advised of the following procedure:

“ .....

- *All councillors have received a copy of the submission.*
- *Your client 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 client's 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 your client while he or she speaks to the submission. The Chair or councillors may ask questions once your client has finished speaking to the submission in order to clarify or explore matters raised.*
- *Your client is 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.

**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.

## SECTION 223 HEARING - OSBURN STREET (cont'd)

### 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. It follows an earlier public advertisement, outside of the legislated section 223 process, that was placed in the *Border Mail* of July 17, 2010 and the August 2010 edition of *CityLife*, and which raised the issue of the potential road deviation and invited public comment.

### OPTIONS FOR CONSIDERATION

1. Abandon the proposed road deviation and resolve that no further action be taken. This is not recommended as any decision on the road deviation should await a further report to council on the outcomes of the section 223 process, including this hearing before council.
2. Continue with the section 223 process and conduct the hearing as required. 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 Aussie Superior Car Wash to speak to their submission.

### ATTACHMENTS

Nil.

**SECTION 223 HEARING - OSBURN STREET (cont'd)**

**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 presentation made in support of the Section 223 hearing - Osburn Street, and that a summary of the presentation be included in a report on the section 223 process to the ordinary meeting of Council scheduled for November 15, 2010.

**MOTION**

CRS. EDWARD FOULSTON / LISA MAHOOD

That Council note the presentation made in support of the Section 223 hearing - Osburn Street, and that a summary of the presentation be included in a report on the section 223 process to the ordinary meeting of Council scheduled for December 13, 2010.

(CARRIED)

*Prior to the commencement of item 6.1 Cr Rodney Wangman disclosed a conflict of interest in that item, the details being as set out at item 5 in these minutes.*

*Cr Wangman left the meeting room at 6.03 PM prior to consideration of item 6.1. Cr Wangman did not return to the meeting.*