

OFFICIAL

# Council Meeting

## Minutes

23 March 2022 at 6:30pm

Council Chamber, Town Hall, Sturt Street,  
Ballarat



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## 1. OPENING DECLARATION

**Councillors:** *"We, the Councillors of the City of Ballarat, declare that we will carry out our duties in the best interests of the community, and through collective leadership will maintain the highest standards of good governance."*

**Mayor:** *"I respectfully acknowledge the Wadawurrung and Dja Dja Wurrung People, the traditional custodians of the land, and I would like to welcome members of the public in the gallery."*

## 2. APOLOGIES FOR ABSENCE

### 2.1 Present

Mayor Cr Daniel Moloney  
Cr Ben Taylor  
Cr Samantha McIntosh  
Cr Belinda Coates  
Cr Mark Harris  
Cr Des Hudson  
Cr Amy Johnson  
Cr Peter Eddy  
Cr Tracey Hargreaves

Mr Evan King- Chief Executive Officer  
Ms Bridget Wetherall - Director Infrastructure and Environment  
Mr Matthew Wilson - Director Community Wellbeing  
Mr John Hausler - Director Corporate Services  
Ms Natalie Robertson - Director Development and Growth  
Mr Cameron Montgomery - Executive Manager Governance and Risk  
Mr Darren Whitford - Coordinator Risk and Compliance  
Ms Sarah Anstis - Statutory Compliance Officer  
Ms Sophie Constable - Administration Officer Statutory Compliance

### 2.2 Apologies

Nil

## 3. DISCLOSURE OF INTEREST

Nil

#### 4. MATTERS ARISING FROM THE MINUTES

Nil

#### 5. CONFIRMATION OF MINUTES

##### RESOLUTION:

**That the Minutes of the Council Meeting on 23 February 2022 as circulated be confirmed.**

**Moved: Cr Belinda Coates**

**CARRIED**

**Seconded: Cr Mark Harris**

**(R25/22)**

##### RESOLUTION:

**Move a Condolence Motion for Sister Anne Forbes RSM.**

**Moved: Cr Belinda Coates**

**CARRIED**

**Seconded: Cr Peter Eddy**

**(R26/22)**

Sister Anne Forbes RSM sadly passed away on February 17, 2022, aged 92 years, in the 72nd year of her religious profession at Mercy Place Ballarat.

Anne's ministry was primarily in education in the Ballarat Diocese. She was a founding staff member at St Martins in the Pines (1967), now Damascus College. Anne also taught at St Patrick's College Ballarat between 1987-88.

In Ballarat especially, Anne became a champion advocate for the East Timorese for many years. She made a home for many East Timorese students who came to Ballarat for education and created a safe haven for these young people, they treasure her presence in their lives today. Anne was a woman of Justice and Mercy.

On behalf of City of Ballarat Council, we extend our condolences to Sister Anne Forbes RSM family and friends.

#### 6. PUBLIC QUESTION TIME

**QT16/22 Stuart Kelly (read out by a Council Officer)**

##### Question

I understand that some of the advisory committees have not met so far this year. Why is this and in particular when will the Heritage Advisory Committee next meet?

##### Answer

Natalie Robertson, Director Development and Growth responded that the Heritage Advisory Committee meet several times across the year, usually on the first Monday of the month, so the next meeting is scheduled for Monday 4 April 2022.

**Question**

The Heritage Advisory Committee's Terms of Reference lists membership as including 2 elected community representatives and 2 elected representatives 15 to 25 years of age. One community position has been vacant for several years since the previous member resigned - even though the meeting on 1st June 2020 decided that an expression of interest process should be actioned. The positions for the 2 representatives aged 15 to 25 have apparently never been filled. When is it proposed that these positions will be filled?

**Answer**

Natalie Robertson, Director Development and Growth responded that despite a targeted recruitment process via the Universities and other channels, a previous request for members aged 15-25 years to join the Ballarat Heritage Advisory Committee did not result in any applications – meaning those positions are unfilled.

As noted, the community representative positions do also remain formally unfilled, however the Committee has extended the invitation to community observers to be part of the committee for the last few years and we have been pleased that Mr Kelly has taken up that opportunity and attended on a number of occasions.

At the last meeting the Heritage Advisory Committee members agreed to workshop the future format and membership of the committee – to put forward suggestions on how best to give a forum for discussion of heritage matters. We look forward to having those discussions before any call for additional members will be progressed.

**QT17/22 Penelope Greenslade****Question**

I assume council will make another plan, can council consider the different regions around the lake and the different needs they have for lighting, three regions should have different levels of lighting, fairy land and lily lake, where the tram travels, northern gardens, boatrace start. So that needs three different levels of lighting

**Answer**

Bridget Wetherall, Director responded that yes, the masterplan identifies 13 different precincts, and plans identify key issues and site specific recommendations for improving each precinct. Precinct plans do not recommend different light types or solutions. 2 precincts which reference existing lighting and also noted that lighting may need to be replaced to match the proposed lighting scheme. Precinct plans did recommend improvement for pedestrian safety. A full review of masterplan was included in the plan for lighting.

**Question**

Have Council further considered monitoring the effect of the lights on wildlife before the lights are installed?

**Answer**

Bridget Wetherall, Director Infrastructure and Environment responded that at this point there has not been any further consideration or monitoring of wildlife and inspects etc.

**QT18/22 Bernadette Cheesman****Question**

When will I have the courtesy of a response to my letter sent to Councillors on 24 February 2022?

**Answer**

Bridget Wetherall, Director Infrastructure and Environment responded that a response will be provided to Ms Cheesman in the next few days.

**QT19/22 Lachlan MacDonald (read out by a Council Officer)****Question**

Considering the current flood disaster in NSW and Qld. Could I ask each individual Councillor if they are confident they can assure ratepayers in their Ward, who have recently built, purchased, or plan to build a dwelling in areas known to flood, they are confident there will be no possible damage to their dwellings due to heavy rain events, and historic flooding can be ignored?

**Answer**

Natalie Robertson, Director Development and Growth responded that Councillors cannot not reassure any ratepayers in any location as this recent disaster would show that none of us can anticipate what damage these events might produce. Some of these areas were in recognised flood prone areas with dwelling built appropriately. I can't speak for Councillors but in context to the location you raise, the subdivision development received approval from CCMA which was developed in accordance with those conditions as set out in the planning permit. Single dwellings do not require a planning permit and an independent building surveyor approves dwelling design and construction including what floor level to build to. Council's property reports will indicate that the area is subject to flooding even if it does not have a flood overlay and this should assist the owner if deciding floor levels were appropriate and this should be supported by a process through the building surveyor.

**Question**

Considering the damage and suffering caused in the NSW and Qld. flood events, would each individual Councillor support conducting an independent report on the affects if historic flood levels, or higher, were again seen in the flood prone areas of their Ward?

**Answer**

Natalie Robertson, Director Development and Growth responded that Council already has historical information on flood prone areas together with extensive information from the CMA. This informs the work currently undertaken to develop the Flood work done by our engineering team and is part of our flood overlay work that is currently in train.

**QT20/22 Scott Gallop****Question**

In relation to Lake Lighting, the CEO stated in yesterday's Courier that the funding agreements for this project have a whole lot of milestones in them.

In the interest of good governance and Council being open, could you please advise the public what the milestone agreements between the Council and the State Government are for the lighting project and what exact dates these milestones must be met by for this Lake Lighting project?

**Answer**

Evan King, Chief Executive Officer responded that this question would have to be taken on notice as it will require clarification with the State Government on the specific conditions and confidentiality/privacy of the agreement and milestones. If this can be made public, Evan stated that he would be more than happy to provide information on the specifics such as payments and key dates for these milestones.

**Question**

Is Council aware that a member of the community wrote a letter to the Wadawurrung traditional owners after reading in the 23 February 2022 Council Meeting Agenda on page 165, that the cultural heritage management plan for the project has been approved by the Wadawurrung Traditional Owners Aboriginal Corporation. The CEO of the Wadawurrung Traditional Owners Aboriginal Corporation replied saying that the decision in relation to these poles quote the Council 'was supported by the traditional owners' is absolutely false and misleading. The City of Ballarat has never appropriately engaged with the traditional owners or to seek views from the traditional owners in relation to such. Can the Council please advise if this is true, yes or no and are there reports that can be accessed as to what consultation was carried out with the traditional owners?

**Answer**

Bridget Wetherall, Director Infrastructure and Environment responded that the Lake Lighting project initially received the Cultural Heritage Management Plan on 23 November 2018 which at that time included an assessment relevant to explorative excavation and testing on site. The initial design was 140 light fittings at 4.5 metres high. During the design phase, that obviously changed with the updated Australian Standards for public lighting which meant that the number of lights had to be increased to accommodate that new standard. The City of Ballarat flagged that the traditional owners. This was also updated in the Cultural Heritage Management Plan. Council Officers and Heritage Advisors then met with Wadawurrung to discuss the changes to the project scope. Wadawurrung elders and Heritage Advisors were present for this meeting and following the meeting the Wadawurrung confirmed that no further complex assessment was required and the administrative amendment to the Cultural Heritage Management Plan 2018 was provided. We have a document dated 25 October 2021 which is signed off by the CEO and the Heritage Advisor on that plan.

Natalie Robertson, Director Development and Growth also responded that there is record of formal meetings which note the attendance of relevant officers, representatives of the Wadawurrung Traditional Owners Aboriginal Corporation and Heritage Advisors and which confirms the administrative amendment to the Cultural Heritage Management Plan 2018.

**QT21/22 Gareth Smith (read out by a Council Officer)****Question**

In relation to the Council proposals for 14 – 16 Boak Avenue, what consultation, discussion and communication was had with the community by council to review the options identified following the drop-in session and survey conducted in 2021 before bringing this agenda item tonight, both for those who lodged formal objections as well as those who provided separate feedback?

**Answer**

Matthew Wilson, Director Community Wellbeing responded that Council conducted the community engagement process on this issue in April and May 2021. This included an online survey plus a drop-in session directly with residents at the site. There was no further engagement with participants in that process or with objectors as referred to in the question. The community input from this engagement process is outlined in the report before Council in tonight's agenda, along with consideration of other information including Council's Open Space Strategy and associated guidelines, a livability score for the Mount Helen area in relation to the provision of open space, the costs associated with options to retain the property, and the proximity of facilities at other parks and play spaces within the local area.

**RESOLUTION:**

**That Council extends public question time in accordance with section 3.7.1 of the City of Ballarat Governance Rules to 7:42pm.**

**Moved: Cr Samantha McIntosh**

**CARRIED**

**Seconded: Cr Tracey Hargreaves**

**(R27/22)**

**QT22/22 Pauline Gleeson (read out by a Council Officer)****Question**

Is the Council aware of that the precise area covered by the Interim Protection Order granted by the Heritage Council based on my application to the Heritage Council is Lake Wendouree and the area from the foreshore to the perimeter of the road surrounding the lake, (formally known as the Steven Moneghetti Track) so that worries about letterboxes, tram tracks, fences and anything else in the area around the Lake but not in the immediate foreshore can be put to rest?

**Answer**

Natalie Robertson, Director Development and Growth responded that the Heritage Council have specifically identified the area of HO163 in their notice stating "the area known as the Lake Wendouree Heritage Precinct (HO163 in the Ballarat Planning Scheme). Whilst the IPO formal process does not distinguish any areas within the HO163 separately but in its entirety. This includes the clarification, the area of the foreshore, any buildings, the Steve Monaghetti track, its reserve, and the road and all works or possible ground disturbance in that area that relate to heritage triggers.

**Question**

Is the Council aware of that the proposed cross path illumination does not have any upward light spill?

**Answer**

Bridget Wetherall, Infrastructure and Environment responded that Council has considered in-ground and low level lighting, both upward and sideways spilling, through the detailed design process. Cross path illumination lighting does not meet the relevant Australian Standards used during the design. The relevant category of these Australian Standards is category PP3 which is specific to designated pedestrian public pathways. This category includes minimum requirements for vertical and horizontal illumination which low level cross path illumination does not meet. If we were to put in bollard lighting we would need triple the number.

**QT23/22 Judith Bailey****Question**

Given that the Victorian Auditor-General's Office determined the Inquiry into Ecosystem Decline in Victoria demonstrated a failure in missing species at risk of being endangered and becoming extinct; and given AS/NZS 1158.3.1:2020 are only guidelines and precedents exist where no lighting has been installed on pathways, streets and highways; and given this Standard does not cover sensitive environments with threatened and endangered species; and given the support from a majority of the community to protect the Lake Wendouree environment from clutter as per the 2017 Masterplan; who prefer no lights but are prepared to compromise with a better design.

Will the Council revisit the light design and follow the National Guidelines for Wildlife 2020, which bridge the gap where AS/NZS 1158.3.1:2020 falls short and install lights as close to the ground as possible, operate at 2200-2700K and less than or equal to 5000 lumens?

**Answer**

Bridget Wetherall, Director Infrastructure and Environment advised that as previously mentioned, although the Australian Standards are only guidelines, the funding agreement with the State Government expects Council to construct the lighting to Australian Standards.

In regards to the National Guidelines for Wildlife 2020, in reviewing these guidelines we note that they relate to the management of artificial light for Environment Protection and Biodiversity Conservation Act (1999) (EPBC Act) for listed threatened and migratory species. The Biodiversity assessment completed for the project noted no EPBC related species within a five kilometres radius of the lake and based on that the guidelines haven't been utilised.

**Question**

Can you trust that the data from the EP body is factual and current, as there is definitely endangered species that visit Lake Wendouree?

**Answer**

Bridget Wetherall, Director Infrastructure and Environment responded that it should be noted that we currently undertake comprehensive survey of flora around the lake, annual bird count, spring and autumn macro invertebrate count, monthly algae and nutrient monitoring to ensure

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that human intervention in the Lake precinct is not having an adverse impact on the environment. We could increase some of these studies to 4 times a year to collect more diverse data, but we are satisfied with the data we are collecting that we are not having a major impact. The biosis study already mentioned that the artificial light present in the precinct would mean that the new lights would not be exacerbating any existing issues.

**QT24/22 Jason Gross (read out by a Council Officer)****Question**

There are three issues being discussed tonight regarding the council not listening to what the ratepayers have to say, Buninyong, Mt Helen, and lake lighting. Many submissions objecting to them were put in by the public and all have been ignored. Do you think this is a sign of good governance or a clear indication that there is something amiss with the councils community consultation program and will you look at improving your systems?

**Answer**

Mayor, Cr Daniel Moloney responded that the challenges we sometimes face is that consultation doesn't mean consensus and we receive such a wide variety of feedback from across the community with quite a lot of competing views. Council always does its best to listen to the diverse range of views. We usually ran a MySay process and multistage process for many of these plans/projects. This often includes information gathering exercises which sometimes requires expert reports. All of this comes together to inform an officer's recommendation. Consistent improvement in community consultation is always an aim of Council.

**QT25/22 Ann Beggs-Sunter****Question**

Will the City commission a report into alternative engineering solutions for the Gong wall in Buninyong, in light of very significant community concern about the detrimental impacts of the proposed works on the cultural heritage significance of the Buninyong Botanical Gardens, which are listed by Heritage Victoria?

**Answer**

Bridget Wetherall, Director Infrastructure and Environment responded that alternative engineering solutions to dam designs are very challenging. Meeting the relevant Australian National Committee on large dams incorporated guidelines which are in place to mitigate structural failure risk, means that that alternatives to the current dam wall design may be challenging. However, there may options to review the landscaping components of the dam design but ultimately, we cannot have tree roots in a dam wall, so the trees currently in the dam wall need to be removed. We can place trees along the side of the dam wall if this does not compromise the dam wall structure itself.

**QT26/22 - Linda Zibell****Question**

In relation to the Boak Avenue item, does the sale of an existing council asset actually serve the residents of Mount Helen? When will we be consulted on our actual needs which also include an identifiable and attractive town centre as part of the 2008 Canadian Valley Masterplan?

**Answer**

Matthew Wilson, Director Community Wellbeing responded that a shopping precinct would be a private market response.

Natalie Robertson, Director Development and Growth responded that the outlined development plan (2008 Canadian Valley Masterplan) does talk about what we would like for our local areas such as a town centre for Mount Helen. We hope that we can get on with the work the housing strategy such as a character assessment for this area. This work is most likely a few years away. However, this is an important strategic document that will help us set out development of these goals.

Evan King, Chief Executive Officer also responded that should Council approve the officer's recommendation for Boak Avenue tonight, the idea is that the proceeds of the sale be reinvested back into the Mount Helen Community, then go back to the community for priority projects that this can be invested into. There has been a lot of analysis and there is sufficient childcare and kinder facility, which is why this has become surplus to Council needs.

**RESOLUTION:**

**That Council extends public question time in accordance with section 3.7.1 of the City of Ballarat Governance Rules.**

**Moved: Cr Mark Harris****CARRIED****Seconded: Cr Samantha McIntosh****(R28/22)****QT27/22 - Sharon Upham****Question**

Why is Council persisting in putting lighting around the lake contrary of the majority of Ballarat resident's view. Results of surveys show that the majority of Ballarat are against this type of lighting – and this question is directed to Cr McIntosh?

**Answer**

Mayor, Cr Daniel Moloney stated that it is not appropriate for this question to be directed to a singular Councillor. A single Councillor does not get to determine if a project goes ahead, we have a vote of this Council as a whole. As part of the recission motion that forms a notice of motion in the meeting later tonight, we cannot really discuss this question until there is an outcome.

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**Question**

When the Council was free to design Eastwood car park beyond the Australian Standard, why did Council choose a design that is in line with the out-of-date Australian Standards when they could have provided bigger car spaces?

**Answer**

Natalie Robertson, Director Development and Growth responded that the Eastwood Street car park, there is a design standard and certain number of car parks in context to an agreement with Coles and Woolworths. The decision was made to follow Australian standards.

**QT28/22 John Barnes****Question**

How did Council determine \$430 million dollars' worth of priority infrastructure projects as listed in the Courier on 8 March 2022? At which Council Meeting were they endorsed by Council, how have members of the public been able to contribute to the setting of these priorities and where can copies of the supporting business cases be found?

**Answer**

Evan King, Chief Executive Officer responded that he is in the process of a preparing a response to Mr Barnes in relation to this request. The priority projects come from strategies, plans, precinct structure plans. We did a number of workshops with Councillors to go through the 140 projects that were in the pipeline at that time. The purpose of that exercise was to priorities those projects and we prioritised them in tier 1, 2 and 3 projects. Tier 1 being projects of state significance, tier 2 projects being city wide projects and tier 3 being smaller localised projects. As you would understand, we have projects in those priority listings from \$200 million dollar link roads down to smaller local skate park projects. We have a good range of projects to advocate for during the election process. Some will have full business cases and some will have master plans which have been formulated by Council previously.

**Question**

Did Council consider & reject projects such as the quadruplication and electrification of the Melbourne to Melton line, the upgrade of the heritage listed Ballarat Train Station to include all abilities access between platforms and additional funding for airport for which you have sufficient funds to only build half of a runway, if these projects were not considered, why not?

**Answer**

Evan King, Chief Executive Officer responded that by looking at the list of projects there is a certain focus on the core business of Council and Council's asset base in the end. You will see a significant focus on investing into growth areas, existing assets that have deteriorated over time and the need to investment into them. Some of those other projects mentioned are more advocacy items as opposed to items that Council would deliver in the end. We have also been working with key stakeholders in Ballarat in developing a city-wide set of priorities for which the city has obviously put forward its 3 tier 1 projects into that process as well.

Evan King, Chief Executive Officer will take on notice the question in relation to the meeting in which Council endorsed this list of priority projects.

## 7. CHIEF EXECUTIVE OFFICER REPORT

### 7.1. CHIEF EXECUTIVE OFFICER REPORT

**Division:** Executive Unit  
**Director:** Evan King  
**Author/Position:** Evan King – Chief Executive Officer

#### PURPOSE

1. The CEO's Operational Report highlights issues and outcomes affecting the organisation's performance as it delivers services and implements the Council's strategies and policy decisions.

#### RESOLUTION:

**That Council:**

1. Receive and note the CEO's Operational Report.

**Moved: Cr Belinda Coates**  
**Seconded: Cr Samantha McIntosh**

**CARRIED**  
**(R29/22)**

## 8. OFFICER REPORTS

### 8.1. MUNICIPAL EARLY YEARS PLAN

**Division:** Community Wellbeing  
**Director:** Matthew Wilson  
**Author/Position:** Sharelle Knight – Executive Manager Family, Youth and Children’s Services

#### PURPOSE

1. To update Councillors regarding the development of the draft 2022 – 2026 Municipal Early Years Plan (MEYP) and to seek approval to place the Strategy on public exhibition for feedback prior to presenting for adoption at a future meeting.

#### RESOLUTION:

**That Council:**

1. Proceed to public exhibition of the draft report prior to future endorsement.

**Moved: Cr Amy Johnson**

**Seconded: Cr Belinda Coates**

**CARRIED  
(R30/22)**

**8.2. BOAK AVENUE, MOUNT HELEN**

**Division:** Community Wellbeing  
**Director:** Matthew Wilson  
**Author/Position:** Pete Appleton – Executive Manager Engaged Communities

Public Submissions were head by Cassia Drever-Smith, Gareth Smith, Drew Smith, Ashleigh Hughes and Kate Allen.

**PURPOSE**

1. This report provides an assessment on the potential sale of 14-16 Boak Avenue following the completion of community engagement with residents of Mount Helen and a recent building condition report of the old Mount Helen Preschool building.

**RESOLUTION:**

**That Council:**

1. **Proceed with Planning Application PLP/2020/348 which seeks to remove the reserve status of 14 Boak Avenue, its consolidation with 16 Boak Avenue, and the removal of the drainage easement bordering blocks; and**
2. **In accordance with resolution R464/17 of December 2017 continues the process to dispose of the property known as 14 and 16 Boak Avenue, Mount Helen with the Chief Executive Officer having delegated authority to finalise the sale including the signing of the Contract of Sale; and**
3. **Commit to invest the total proceeds from the sale of 14-16 Boak Avenue being allocated to implement local community priorities highlighted from the recent engagement process within the public realm in Mount Helen.**

**Moved: Cr Des Hudson**

**Seconded: Cr Tracey Hargreaves**

**CARRIED  
(R31/22)**

**8.3. NEW COMMEMORATION EVENT (BATTLE FOR AUSTRALIA)**

**Division:** Community Wellbeing  
**Director:** Matthew Wilson  
**Author/Position:** Jeff Johnson – Executive Manager Arts & Events

**PURPOSE**

1. This report presents the request by the Air Force Association of Victoria, Ballarat Branch to incorporate the Battle for Australia as an annual commemorative service within the portfolio of commemorative services events currently funded and coordinated by Council.

**RESOLUTION:**

**That Council:**

1. **Endorse the request made by the Air Force Association of Victoria, Ballarat Branch, to include the Battle for Australia as an annual event within Council's portfolio of commemorative services; with the service scheduled at the most appropriate date around the first Wednesday in September each year.**

**Moved: Cr Mark Harris**

**Seconded: Cr Samantha McIntosh**

**CARRIED**

**(R32/22)**

**8.4. BORROWING POLICY**

**Division:** Corporate Services  
**Director:** John Hausler  
**Author/Position:** Jason Clissold – Executive Manager Financial Services

**PURPOSE**

1. To present the proposed Borrowing Policy (attachment 1) to Council for consideration and adoption.

**RESOLUTION:**

**That Council:**

1. Consider and adopt the proposed Borrowing Policy.

**Moved: Cr Des Hudson**  
**Seconded: Cr Mark Harris**

**CARRIED**  
**(R33/22)**

**8.5. AUDIT AND RISK COMMITTEE BIENNIAL REPORT AND ANNUAL ASSESSMENT**

**Division:** Corporate Services  
**Director:** John Hausler  
**Author/Position:** Sarah Anstis – Statutory Compliance Officer

Cameron Montgomery, Executive Manager Governance and Risk advised Councillors that there was an error on page 84 of the Audit and Risk Committee Biennial Report in that there were actually 65 open items in relation to outstanding actions. There was an additional error being the procurement audit being completed in July 2021 not July 2022. This report attachment will be updated to reflect the correct data as part of this resolution.

**PURPOSE**

1. To present Council with the Audit and Risk Committee's Biennial Report for the period 1 July to 31 December 2021; and the committee's Self-Assessment Survey results.
2. Regular reporting to Councillors and the community is a key principle of transparency and good governance.

**RESOLUTION:**

**That Council:**

1. **Receive and note the Audit and Risk Committee Self-Assessment Survey.**
2. **Receive and note that Audit and Risk Committee Biennial report for the period 1 July to 31 December 2021.**

**Moved: Cr Ben Taylor**

**Seconded: Cr Amy Johnson**

**CARRIED**

**(R34/22)**

**8.6. S11A INSTRUMENT OF APPOINTMENT AND AUTHORISATION (PLANNING AND ENVIRONMENT ACT 1987)**

**Division:** Corporate Services  
**Director:** John Hausler  
**Author/Position:** Sarah Anstis - Statutory Compliance Officer

**PURPOSE**

1. The report is to seek Council's endorsement of the S11A. Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* to Claire Pepin and to revoke the Authorisation for Rhett English.

**RESOLUTION:**

**That Council:**

1. **Exercise the powers conferred by s224 of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of appointment and authorisation (the instrument), and that**
  - a. **Claire Pepin be appointed and authorised as set out in the instrument.**
  - b. **The instrument comes into force immediately the Common Seal of Council is affixed to the instrument and remains in force until Council determines to vary or revoke it.**
  - c. **The instrument be sealed.**
2. **Revoke the S11A Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) for Rhett English (R181/20).**

**Moved: Cr Des Hudson**  
**Seconded: Cr Peter Eddy**

**CARRIED**  
**(R35/22)**

**8.7. S11B INSTRUMENT OF APPOINTMENT AND AUTHORISATION (ENVIRONMENT PROTECTION ACT 2017)**

**Division:** Corporate Services  
**Director:** John Hausler  
**Author/Position:** Sarah Anstis – Statutory Compliance Officer

**PURPOSE**

1. The purpose of the report is to adopt the 11B Instrument of Appointment and Authorisation under the *Environment Protection Act 2017* to Michelle Stewart and revoke the Authorisation for Rhett English.

**RESOLUTION:**

**That Council:**

1. **Exercise the powers conferred by s242(2) of the *Environment Protection Act 2017* and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, Ballarat City Council resolved that:**
  - a. **Michelle Stewart be appointed and authorised as set out in the instrument.**
  - b. **The instrument comes into force immediately the common seal of Council is affixed to the instrument and remains in force until Council determines to vary or revoke it.**
  - c. **The instrument be sealed.**
2. **Revoke the S11B Instrument of Appointment and Authorisation (*Environment protection Act 2017*) for Rhett English (R151/21).**

**Moved: Cr Des Hudson**

**Seconded: Cr Samantha McIntosh**

**CARRIED**

**(R36/22)**

**8.8. S6 INSTRUMENT OF DELEGATION - MEMBERS OF STAFF**

**Division:** Corporate Services  
**Director:** John Hausler  
**Author/Position:** Sarah Anstis – Statutory Compliance Officer

**PURPOSE**

1. To review and update the S6 Instrument of Delegation, Members of Staff for Council's consideration.

**RESOLUTION:**

**That Council:**

1. Exercise the powers conferred by the legislation referred to in the attached instrument of delegation at Attachment 2, and that:
  - 1.1. There be delegated to members of Council staff, holding, acting in or performing the duties of the officers or positions referred to in the attached Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that instrument.
  - 1.2. The Instrument comes into force immediately after the Common Seal of Council is affixed to the instrument.
  - 1.3. On the coming into force of the instrument, all previous S6 delegations to members of Council staff are revoked.
  - 1.4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

**Moved: Cr Des Hudson**  
**Seconded: Cr Samantha McIntosh**

**CARRIED**  
**(R37/22)**

**8.9. COUNCILLOR REPRESENTATIONS**

**Division:** Corporate Services  
**Director:** John Hausler  
**Author/Position:** Cameron Montgomery – Executive Manager Governance and Risk

**PURPOSE**

1. The report is for Council to amend the Councillor Representations for 2022.

**RESOLUTION:**

**That Council:**

**1. Endorse the appointments of:**

- Cr Harris to replace Cr Taylor as the appointed Councillor representative for Audit and Risk Committee
- Cr McIntosh and Cr Moloney appointed to Arch of Victory Avenue of Honour Stakeholder Reference Group

2. Ensure that all the Committees, Board, Organisations and Groups are notified of Council's revised representatives.

**Moved: Cr Amy Johnson**  
**Seconded: Cr Ben Taylor**

**CARRIED**  
**(R38/22)**

**8.10. OUTSTANDING QUESTION TIME ITEMS**

**Division:** Corporate Services  
**Director:** John Hausler  
**Author/Position** Sophie Constable – Administration Officer Statutory Compliance

**PURPOSE**

1. This report provides Council with an update of responses to questions taken on notice and outstanding unanswered questions from public question time.

**RESOLUTION:**

**That Council:**

1. Endorse the Outstanding Question Time report.

**Moved: Cr Mark Harris**  
**Seconded: Cr Peter Eddy**

**CARRIED**  
**(R39/22)**

**RESOLUTION:**

**Request for a comfort break at 8:50pm.**

**Moved: Cr Mark Harris**  
**Seconded: Cr Peter Eddy**

**CARRIED**  
**(R40/22)**

**RESOLUTION:**

**Resume from a comfort break at 9:00pm.**

**Moved: Cr Mark Harris**  
**Seconded: Cr Samantha McIntosh**

**CARRIED**  
**(R41/22)**

## 9. NOTICE OF MOTION

### 9.1. RESCISSION MOTION - CONTRACT # 2021/22 – 364 FOR THE PROVISION OF LAKE WENDOUREE AND VICTORIA PARK LINK LIGHTING

Public submissions were heard by Paul Mong, Peter Kervac, and Sharon Upham.

A public submission from Sue Walker was provided to Councillors to read.

#### PURPOSE

1. A Notice of Motion was lodged by Cr McIntosh on 9 March 2022.
2. In accordance with rule 3.8.2 of the Governance Rules, the Notice of Motion was received and assessed by the Chief Executive Officer then approved to proceed to the 23 March 2022 Council Meeting Agenda.
3. Formal notice was provided to Councillors on 9 March 2022 which was then recorded in the Notice of Motion Register by the Governance team.

#### RESOLUTION:

**That Council:**

1. **Rescind resolution (9/22) made at the 23 February 2022 Council meeting appointing DeAreago & Lea Electrical Contractors as the successful tender for contract number 2021/22 – 364 for the provision of Lake Wendouree and Victoria Park Link Lighting; and**
2. **Request the Chief Executive Officer review alternative options for lake lighting and bring a detailed report to a future Council Briefing.**

**Moved: Cr Samantha McIntosh**

**LOST**

**Seconded: Cr Mark Harris**

Upon being put to the meeting, the Motion was declared lost. Cr Daniel Moloney called for a Division.

**For the Motion were Councillors:** Cr Samantha McIntosh

**Against the Motion was:** Cr Des Hudson, Cr Peter Eddy, Cr Ben Taylor, Cr Belinda Coates, Cr Daniel Moloney, Cr Tracey Hargreaves

## 10. REPORTS FROM COMMITTEES/COUNCILLORS

### GB2/22 – Cr Samantha McIntosh

Cr McIntosh formally presented a joint letter from Ballarat African Association – Cr McIntosh noted that Councillors have access to this letter on Docs on Tap. Cr McIntosh requested that Council Officers consider the six items requested in the letter in relation to supporting the intercultural communities and a collaborative way forward.

### GB3/22 – Cr Belinda Coates

Cr Coates as chair of the Intercultural Advisory Committee, would like to extend a thank you to community members, community groups and the intercultural services team for their efforts in organising Harmony Week and all the great events and activities that have happened so far.

Cr Coates also reported that she had the honour of unveiling Ballarat's first Peace Pole on Friday at Sebastopol Primary School. Cr Coates extended a big congratulations to the primary school and their principal, the local community group who are really passionate about local peace, national and global peace such as 'Let's Talk Peace Ballarat', 'Compassionate Ballarat' and also 'Rotary South' who whole heartily got behind this by funding the project.

### GB4/22 – Cr Peter Eddy

Cr Eddy briefly reported on behalf of the Ballarat Friends of Ainaro Advisory Committee – that last year Council helped the committee with funds for the Timor Leste community after an emerging flood disaster. Cr Eddy acknowledged that the Committee received a report this week from Paul Simons who has come back from Timor-Leste after an assessment of the facilities and projects the Committee contributes to. He was pleased to report that Council's money was out there in the municipality before any other authorities money/funding, so it was great to be congratulated by the Committee on this funding.

### GB5/22 – Cr Amy Johnson

Cr Johnson tabled an informal petition/joint letter to that was provided to her with 387 signatures from Lucas residents in relation the suburbs poor telecommunication and internet reception. Many residents are unable to make or receive calls at all which makes it very difficult for residents working from home or if any residents are in emergency situations It is highly unacceptable. Cr Johnson requested that Council write to Telstra and Optus (the main service providers) to install more towers in this suburb to ensure residents have adequate telecommunication service and internet reception.

Cr Johnson also requested that a briefing come back to Council in relation to the advocacy options that Council Officers may have for this issue.

**11. URGENT BUSINESS****RESOLUTION:**

Council endorses to accept 'Interim Protection Order (IPO) – Lake Lighting' report as an urgent business at this meeting of Council in accordance with section 3.6.4 of the City of Ballarat Governance Rules.

**Moved: Cr Daniel Moloney**  
**Seconded: Cr Des Hudson**

**CARRIED**  
**(R42/22)**

**RESOLUTION:**

1. Note the Interim Protection Order (IPO) issued by the Heritage Council of Victoria on Lake Wendouree on 22 March 2022 and request the Chief Executive Officer seek further direction from Heritage Victoria as to exempt activities (including but not limited to events and maintenance of fixed and natural assets).
2. Note preliminary guidance from Heritage Victoria that the current approved heritage permit covering HO13 (western side of Lake Wendouree in the existing heritage registered section) remains valid and outside the bounds of the newly issued IPO area, or request the Chief Executive Officer seek further direction from Heritage Victoria.
3. Request the Chief Executive Officer to seek an additional heritage permit from Heritage Victoria as soon as possible to cover the full Lake Wendouree precinct as outlined in the newly listed IPO area (identified as HO163) based on the existing, approved rationale.

**Moved: Cr Daniel Moloney**  
**Seconded: Cr Des Hudson**

**CARRIED**  
**(R43/22)**

Upon being put to the meeting, the Motion was declared lost. Cr Samantha McIntosh called for a Division.

**For the Motion were Councillors:** Cr Des Hudson, Cr Peter Eddy, Cr Ben Taylor, Cr Belinda Coates, Cr Daniel Moloney, Cr Tracey Hargreaves

**Against the Motion was:** Cr Samantha McIntosh, Cr Mark Harris

