

OFFICIAL

Council Meeting

Minutes

28 September 2022 at 6:30pm

**Council Chamber, Town Hall, Sturt Street,
Ballarat**



ORDER OF BUSINESS:

1. Opening Declaration	4
2. Apologies For Absence	4
3. Disclosure Of Interest	5
4. Matters Arising From The Minutes	5
5. Confirmation Of Minutes	5
6. Public Question Time	6
7. Chief Executive Officer Report	18
7.1. Chief Executive Officer Report	18
8. Officer Reports	19
8.1. Inflationary Pressures.....	19
8.2. Recommended Budget Carryovers 2021/22.....	20
8.3. 2021-2022 Annual Community Engagement Review Report.....	21
8.4. Annual Community Satisfaction Survey.....	22
8.5. Amendment to Rock Ballarat Strategic Partnership.....	23
8.6. Trial of Reusable Cloth Nappy and Reusable Sanitary Product Scheme	24
8.7. Tender 2021/22 - 753 Her Majesty's Theatre Stage 3 - Awarding Construction Tender.....	25
8.8. Tender 2021/22 - 714 Urban Forest Project	26
8.9. Road Naming Proposal - Kunuwarra Drive, Lake Gardens.....	27
8.10. Road Naming Proposal - Nyaninyuk Road, Glendaruel	28
8.11. Audit and Risk Committee Biannual Report.....	29
8.12. S6 Instrument of Delegation (Members of Staff).....	30

8.13. S11A and S11B Instrument of Appointment and Authorisations	31
8.14. Outstanding Question Time Items	32
9. Notice Of Motion	33
10. Reports From Committees/Councillors.....	34
11. Urgent Business	35
12. Section 66 (In Camera)	35
13. Close.....	35

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

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
Ms Sarah Anstis - Statutory Compliance Officer
Ms Lyndsay Leingang - Administration Officer Statutory Compliance

2.2 Apologies

Cr Tracey Hargreaves

RESOLUTION:

That the apology and the following leave requests be accepted:

- Cr Samantha McIntosh from 29 September 2022 – 26 November 2022
- Cr Tracey Hargreaves from 28 September 2022 – 6 November 2022

Moved: Cr Mark Harris

Seconded: Cr Amy Johnson

CARRIED

(R127/22)

3. DISCLOSURE OF INTEREST

6.1 GENERAL INTERESTS

Cr Samantha McIntosh declared a potential conflict of interest as she is a candidate for upcoming State election.

6.2 MATERIAL INTERESTS

Nil

4. MATTERS ARISING FROM THE MINUTES

Nil

5. CONFIRMATION OF MINUTES

RESOLUTION:

That the Minutes of the Council Meeting on 24 August 2022 as circulated be confirmed.

Moved: Cr Mark Harris

CARRIED

Seconded: Cr Des Hudson

(R128/22)

Condolence Motion

Cr Daniel Moloney, Mayor raised a condolence motion for the passing of Her Majesty Queen Elizabeth II. On behalf of our community, he offered our sincerest condolences to The Royal Family. Ballarat has hosted many royal visits in its history, including two by Queen Elizabeth II. The first of these being on 6 March 1954 and the second in March 2000.

RESOLUTION:

That Council move a condolence motion for Her Majesty Queen Elizabeth II.

Moved: Cr Daniel Moloney

CARRIED

Seconded: Cr Des Hudson

(R129/22)

6. PUBLIC QUESTION TIME

QT5622 - Stuart Kelly

Question

My questions relate to the many and various Council Strategy/Policy documents.

1. What is the current status of the following documents -

- *Our People, Culture & Place: a plan to sustain Ballarat's heritage 2017-2030*
- *Making Ballarat Central - CBD Action Plan 2017-21*
- *The Ballarat Skyline and Views Study*
- *Ballarat CBD Urban Design Framework*

including details of when each was formally adopted as Council policy and how they are now reflected in the Ballarat Planning Scheme?

Answer

Natalie Robertson, Director Development and Growth responded that given the nature of the question and the detail required this question will be taken on notice and a written response will be provided.

Question

The Officer's report to the Council Planning Meeting on 11th May regarding the hotel in Doveton Street South included the following statement:

"The proposal adequately responds to the existing and preferred character of Doveton Street South and this part of the CBD. The overall height will not dominate the skyline, or overwhelm Doveton Street South; and the proposed overall height of 6 storeys will respond to the emerging built form character within Ballarat Central, which includes recent 5 storey approvals for the Quest Hotel as part of the Ballarat Train Station Redevelopment, the GOV Hub development at 300 Mair Street, and the development at 11 Grenville Street North."

Where is this reference to the 'preferred character of Doveton Street South and this part of the CBD' to be found within Council's adopted policies?

Answer

Natalie Robertson, Director Development and Growth responded that the preferred character of Doveton Street South referenced in the report relates to the broader vision for the Ballarat CBD, recognising its commercial 1 zoning which encourages growth and development albeit respectful to significant and valued heritage assets and surrounding residential development. When it comes to applying heights in the planning scheme at this stage there is only discretionary height objectives available, however there is technical guidance within the scheme to determine appropriate height for a specific location.

QT57/22 - Evan Milne

Question

I refer to the Proposed Lake Lighting Project.

Cultural consultation with, and approval was provided by representatives of the local First Nations People. The Scope of the project has changed significantly since that approval was granted. The number and height of the lights have been profoundly increased. Has the Council

actively consulted and sought further approval from the Cultural leaders since these changes have been made?

Answer

Natalie Robertson, Director Development and Growth responded that The Cultural Heritage Management Plan went through a review process with the Wadawurrung Traditional Owners in 2021 and was approved on 25 October 2021. This approval was for the same detailed design, including the total number and type of poles and lights, that is being delivered and has been approved by Heritage Victoria. The design has also been through a Native Title assessment as part of the Landowner Consent provided by the Department of Environment, Land, Water and Planning.

QT58/22 - Edith Fry

Question

Would the City of Ballarat join with the Shire of Colac Otway in opposition to seismic testing for oil and gas exploration in the Southern Ocean? Ballarat citizens have holidayed "down the coast" for more than a century: numerous scientific studies show that seismic testing will drastically interfere with the marine ecology of the Otway Basin.

Follow up question: There is currently a petition to the Federal parliament, asking to stop destructive seismic testing in waters surrounding Australia. Can the City inform citizens of this petition? 'Petition EN4404 - Stop seismic testing in Australian waters' can be found on the Parliamentary website under parliamentary business.

<https://www.aph.gov.au/e-petitions/petition/EN4404>

Answer

Cr Daniel Moloney responded that there is no intention to join with Colac Otway Shire in that approach. It's not relative to anything happening in the City of Ballarat. Individuals may wish to pursue that, but as a Council we don't promote third party petitions.

QT59/22 - Amie Jessop

Question

As a resident of Lake Wendouree, I hold strong objections to the lighting project due to the risk to the trees and wildlife. If the council is being 'transparent' in regards to the construction process, why have the new construction ready drawings, construction management plans and tree protection plans not been made publicly available, and can they be made available before construction commences?

Answer

Bridget Wetherall, Director Infrastructure and Environment responded that the Tree Management and Construction Management Plan and the Detailed Design Drawings, both of which have been endorsed by Heritage Victoria as per Heritage Victoria Permits P36523 and P33955, are available on the City of Ballarat's website at:

<https://www.ballarat.vic.gov.au/lakelighting> .

Question

As a Ballarat rate payer, I find it distressing to see how our funds are being spent, especially with talk of a global recession on the horizon. With Ballarat City Council borrowing millions of dollars to fund vital infrastructure projects, would it not be more fiscally responsible in this current climate to put a hold on non-essential projects like the lake lights, in order to spend on more important projects that a greater percentage of the city will benefit from, like the library and the airport?

Answer

Bridget Wetherall, Director Infrastructure and Environment responded that the Lake Wendouree and Victoria Park Link Lighting Project is receiving \$2,500,000 from the State Government, in line with the 2018 State Election Commitment. These funds, administered through a Funding Agreement with the State Government which sets out milestones and delivery dates, are specifically for delivering the this project and cannot be reallocated to other infrastructure projects.

QT60/22 - Scott Gallop**Question**

My question is in regard to the lake LED lights that are proposed. The proposed lights must be on a timer to come on at 5am and off at 10pm however what will determine the lights turning off at sunrise and on at sunset as these obviously change all year round? Who will continuously adjust them or are they to be operated by light sensors on each pole or one sensor or numerous sensors for the whole lake? And why are older LED style lighting chips being used when there are more modern and efficient styles available?

Answer

Bridget Wetherall, Director Infrastructure and Environment responded that the lights are programmed with a wireless PE Cell sensor and astronomical time clock which are centralised to four locations around the Lake Wendouree Foreshore. The lighting will turn on at 5:30 am via the astronomical time clock and then once day light is detected, the PE Cell sensor will turn the lighting off once day light has taken over. The lighting will come on in the evening again via an astronomical time clock with the PE Cell sensor monitoring the day light levels and the lighting coming on when darkness is detected.

The lighting controls are fully programmable, allowing them to be scheduled and also utilise sensors to monitor daylight levels. They are also low power consumption (0.24W) and marine grade factory sealed into the luminaire to ensure durability.

Question

My question is to the mayor regarding an interview he did with WIN news on the 20/9/2022. The mayor referred to the survey having postcodes from all over the country and people registering multiple times. Our group would like an apology as the survey did not register any postcodes and the well known Survey Monkey company that was used does not allow multiple entries as the mayor stated. Can the mayor also please inform the public exactly what he was referring to on the WIN news win interview when this was reported "a move to protect the lake of cultural significance is unlikely to cause delays"?

Answer

Cr Daniel Moloney (Mayor) responded that in the interview he was responding to what he believed to be some misleading comments via that group in relation to there being thousands of people allegedly against the Lake Lighting Project. As best they can tell this comes from past surveys that were referenced in WIN News that he was responding to. In past surveys, for example the 'Get Up' survey, found 191 people with loaded questions; and review of that showed there was a significant number of people from outside of Victoria, only Northern Territory wasn't represented, so it was not very representative of Ballarat. This seemed to be quite misleading. As Councillors we should be allowed to critique any data that comes in front of them. A bigger concern is that the most recent survey done by this group gives the false impression that this project will be reviewed again. It's been reviewed at the last four Council Meetings. It's been voted on five times, and they have a pretty clear position. If anything, they have moved on.

QT61/22 - Judith Bailey**Question**

Considering the research which clearly indicates that feeding certain foods to wildlife is not conducive to maintaining their health and could also encourage further incidents of Rakali approaching visitors and occasionally biting toes when begging for food, will Councillors consider implementing an educational program as per the attached signage example to provide factual information in a positive way to promote social acceptance that hand feeding wildlife is not the best option?

Could funding be made available for A3 signage at least so that the signage is easily visible and located in places where Rakali frequent? See attached map of frequent sightings of Rakali. Also attached Appendix 1 & 2 Reports of Rakali activity. Proposed new signage.

Answer

Cr Daniel Moloney, Mayor noted that there is now interim Heritage protection on the lake and signage would require heritage approval; and will bring it up at the next Lake Gardens Advisory Committee meeting.

Bridget Wetherall, Director Infrastructure and Environment responded that the City of Ballarat are currently working with DELWP to replace the current signs that discourage feeding birds at the lake. Based on the limited interactions that staff have witnessed with people feeding rakali at Lake Wendouree, it has not been considered necessary to date to install signs to prevent feeding. Options to manage rakali feeding will be considered as necessary in the future.

QT62/22 - Joe Boin**Question**

My question is about our city's future liveability and the article in The Courier of 21 September: "Shade short". Lack of trees in residential expansion has clearly been irresponsible in relation to increasing city temperatures. Recent developments in Brown Hill and Delacombe have started by denuding the area, resulting in devastating erosion.

Will Council learn from this for the new development in the North, ensuring preservation of existing trees, and requiring extensive tree plantings?

Answer

Natalie Robertson, Director Development and Growth responded that City of Ballarat strives to achieve a canopy cover in accordance with our Urban Forest Action Plan in streets and parks. Where we have established areas, we have a street tree planting program to enhance tree coverage where there is a shortfall. In combination with the Open Space Strategy and the Urban Forest Action Plan, and through the planning process, City of Ballarat seeks to improve outcomes and effectiveness of tree planting across new developments. This includes an assessment through the precinct structure planning process in our growth areas that identifies specific flora and fauna that should be protected.

Question

In addition to the lack of trees in Ballarat's developing suburbs, I notice that the vast majority of roofs are dark in colour, which contributes to the increasing temperature of the areas. Though the Council probably can't dictate the colour of citizen's roofs, will you vigorously educate home builders about the benefits of light colours?

Answer

Bridget Wetherall, Director Infrastructure and Environment responded that at the October Council meeting, the Ballarat Net Zero Emissions Plan (for community emissions) will be presented for adoption. The Draft Plan currently proposes the commitment to a number of actions that will include educating homeowners and builders about the benefits of light colours amongst other sustainability initiatives including the promotion of sustainable outcomes with building renovation or new building construction. In addition, there are a number of proposed actions aiming to influence the planning scheme to improve sustainability outcomes. These are related to the Environmental Sustainable Design Standards and advocacy to State and Federal Governments.

RESOLUTION:

That Council extend Public Question Time for a period of 30 minutes.

Moved: Cr Belinda Coates

CARRIED

Seconded: Cr Samantha McIntosh

(R130/22)

QT63/22 - Penelope Greenslade**Question**

Regarding the Lake Wendouree proposed lights and recommendations in the Biosis report. What plans have been made by the Council to monitor the effects of these lights on wildlife, especially insects and other invertebrates, crime rates and increased, if any, use?

Answer

Bridget Wetherall, Director Infrastructure and Environment responded that the City of Ballarat Parks and Gardens team undertake regular monitoring and evaluation of ecology and wildlife around the Lake Wendouree Precinct. This will continue throughout the delivery of the project and post completion of works. The City of Ballarat also has pedestrian counters placed around

the Steve Moneghetti Track. Baseline data has been collected and this will be used post completion of the project to track any changes in use.

Question

Could the Council explain why no community consultation was undertaken or surveys done on likely use before the green “pods” were placed in Sturt Street. I would suggest the design is inappropriate in a heritage precinct.

Answer

Natalie Robertson Director Development and Growth responded that the installation of outdoor seating pods in the Ballarat CBD, which have been funded via the State Government’s Covid Safe Outdoor Activation Fund 2021 was a result of an expression of interest in mid 2021 and the locations chosen in order to provide options for outdoor dining (ie takeaway food), in spaces that are underutilised, but have potential for greater activation. The location of those in the Sturt Street Gardens in particular have been chosen to provide outdoor seating options for staff from the health precinct, who have been asking for some time for options to eat outdoors during their lunchbreaks.

The pods have been customised to ensure accessibility requirements and are relocatable. So, whilst we will trial them in these sites, if they don’t seem to be utilised or of benefit we can move them elsewhere. We look forward to seeing them utilised by our community in the warmer months.

QT64/22 - Phillip Mclellan

Question

Why doesn’t Council fix the footpaths in Yarrowee Street properly? They are all cracked. Mr. Mclellan has supplied photos to the Council of the street to show that they have not been fixed properly. What are we going to do to fix the roads?

Answer

Bridget Wetherall Director Infrastructure and Environment responded that in our winter months we are limited with what repairs we can make. This photo is an example of something we can do until the Spring and Summer period to fill the holes the best we can while it’s still raining. We are coming out of the cold period, but it is still a wet time of year. What we are doing is going to tender tomorrow to look at a \$2 million Major Patch Program in which we have 68 different locations around the municipality where we remove the pavement and asphalt and take out an oblong-shaped patch that would incorporate all of these potholes and replace the pavement and the asphalt. That will repair it much better than this. This needs to be done in the warmer months. We also have a \$1 million Asphalt Overlay Program where we have 8 sites across the municipality at this point, more will be added in the future, where we overlay 50 mm of asphalt across the existing asphalt surface, and we have a number of sites where we will do that. We will be going back to the sites that we fixed temporarily and improving these over time.

QT65/22 - Bob Hartman

Question

Currently the City of Ballarat has a planning application for 43 Hames Road, Mount Clear. The property is approximately 5 hectares and contains significant native vegetation including koala habitats and a number of endangered Yarra Gums. Under the development proposal the vast

majority of this vegetation is slated for removal, including the endangered Yarra Gums. Unfortunately, the development is supported by an environmental report that is riddled with errors and various conclusions. The proposed development would seem at odds with the stated objectives of this City's Koala Plans and recent statements provided by Councillors regarding Biodiversity. Will the City of Ballarat convene a roundtable meeting of stakeholders in this area including community members to discuss this development to ensure a more appropriate act is achieved.

Answer

Natalie Robertson, Director Development and Growth responded that this is an application that is still under assessment. It was subject to public notice and we did receive submissions relevant to the question just asked. We also understand the applicant did make some amendments, but objections have been upheld. I am advised by the Planning Officer that this is due for further mediation. That's when there will be a discussion on any issues and will be put to the applicant if there is to be any changes. If you are an objector to that you will receive notice of the date.

Question

What are the current timelines for the proposed new biodiversity policy and when will this be implemented?

Answer

Bridget Wetherall, Director Infrastructure and Environment responded that it's coming this year. There are a few more meetings and we are in the process of finalising the Policy. It will come back to Council for endorsement shortly. Following that we will be providing a Biodiversity Strategy. The Biodiversity Policy is all the principles that need to be enacted, the Biodiversity Strategy is where all the actions will be. There will be some community engagement coming with that Strategy.

QT66/22 - Jeff Rootes

Question

A few weeks ago, I had the pleasure of discussing question time with you when you affirmed your commitment to open up Question Time and your transparency in Council, it was heartening.

In March this year, Friends of Canadian Corridor made an objection to the proposal at Hames Road. The Council reply letter at that time stated "the application will be either referred to Officers or differed to a Council Meeting. A Planning Officer may contact you." We heard nothing. We got a nice reply telling us very little. We received another letter recently from the Planning Department notifying us of an amended Ecology Report. It simply said "you will be notified in writing of Council's decision, and you have rights for an appeal at VCAT." No rights for consultation, mediation, council discussion or anything. It gave us ten days to reply. In 2020 I was given 14 days to reply to one. Recently we have seen the good and bad side of council planning. Sometimes we have good outcomes and have good officers, other times it's terrible and procedures are forgotten. What we really want to get to is that it's odd that mediations, discussions and utilisation of local knowledge occurred sometimes, and other times its ignored and the outcomes change. It's inconsistent. My question is how do we fix it? Will the Councillors convene an urgent review of the statutory planning consultation procedures in Ballarat? Will you involve all stakeholders in the Ballarat community in an open

review to set in place clear and sensible guidelines designed to put consistency and fairness into the Planning Council process?

Answer

Natalie Robertson, Director Development and Growth responded that Hames Road has been a protected application that has been subject to an amendment. In that time Council reinstated its face-to-face mediation process. The team will be doing a mediation. You will receive notice of a mediation date. The officer has to be absolutely certain that they have enough information to be in a position to move forward to mediation. Or there is an opportunity for Councillors to call the application in, but Councillors will be invited to the mediation as well. In respect to the mediation process undertaken at the City of Ballarat, we did return to the pre pandemic model of face to face around May. The challenge that we have is that sometimes applications choose not to mediate. That puts us in a difficult position because we can't demand a mediation where they may be compliant with planning controls. I am pleased to say that we engaged in the better planning approvals process through DELP, the state authority that looks at better opportunities with how we can engage community consultation on applications. We can adapt the type of application it is and bring in broader community stakeholders. We look forward to the opportunity to brief the community and Council in late 2023.

QT67/22 - Merle Hathaway

Question

Regarding the pods – Her First question was from Ballarat Heritage Watch. Given the 19th Century character and Heritage of Sturt Street, how were these wagon tops able to meet the Sturt Street Conservation and Management plan?

Answer

Natalie Robertson, Director Development and Growth responded that these are a temporary structure. The design went through our Urban Design Team and our Heritage advisor in the context of it being a temporary trial to be able to understand if we have created the right locations for some outdoor dining. They are relocatable. We ask the indulgence to be able to trial these locations to see if people are attracted to the areas, then we can have a discussion around seeing if there's a need for funding that would produce something with a permanent structure.

Question

As a woman, I am careful about what spaces I go into. These are dangerous spaces for women. I hope Councillors will advise officers of better locations to put these wagon wheels, perhaps children's playgrounds or somewhere else they are monitored.

Answer

Natalie Robertson, Director Development and Growth responded that the locations are a direct result of an expression of interest. They asked people to give us an idea as to where the best locations would be. At this point in time, they are monitoring them and engaging the level of interest in them. They would like to have the warmer period to do that. If the pods and locations are not suitable, they'll seek guidance for another location. If they are suitable, they'll seek guidance for a more permanent structure.

QT68/22 - Jay Morrison**Question**

Tonight, more than 150 concerned Ballarat locals protested outside about a recent Tender decision of Council. Will council receive our megaphone petition which currently has over 1,150 online signatures and a stack of physical signatures, requesting Councillors to immediately review the decision to award a \$2 million contract to Pipecon Pty Ltd for the Tait Street reconstruction project, award the Tender for the road reconstruction to another company, and apologise to the community?

Answer

Cr Moloney advised that he will accept the petition at the end of the meeting.

Evan King, Chief Executive Officer responded that after the resolution of the council, which is a lawful instruction to him, the resolution has been enacted and a contract has been signed with Pipecon to deliver that project. There is no legal process at the moment that can rescind this decision of Council.

Question

Despite Council having multiple avenues under the Local Government Act that were presented to Council as options to step back and review this decision, no steps appear to have been taken to do so. The families of those workers feel very fobbed off by Council Officers as a result. Will councils Chief Executive Officer provide a report at the next Council meeting on why council made the decision to continue with the Tender despite having the ability to review it? Will any Councillors apologise to the community now for awarding the Tender to an employer that has been found guilty of the death of two local workers and is currently being investigated for the death of a third?

Answer

Evan King, Chief Executive Officer stated that provided in his first response, the contract has been signed. The Local Government Act is very clear about his role, which is to implement the decisions of Council without undue delay. He has acted on that decision of Council. There is a Notice of Motion in front of Council tonight being placed by the mayor to seek Council consideration for the review of the procurement policy which was used to assess the tenderers of the Tait Street project.

Cr Daniel Moloney, Mayor added that he is grateful that some of the family members visited himself, Cr Mark Harris and Evan King, Chief Executive Officer where he relayed his concerns, sympathies, and his apologies for the disrespectful appearance of the decision. He also raised his concerns with the Councillor group, and is seeking a procurement policy change which he will do through a Notice of Motion later in the meeting. Council Officers will need a clear direction from Council Law to change any policy and will have to work with the policy they are given. At this stage, there hasn't been anything in breach of the policy. If anything, there is a potential weakness in the policy which is why he has flagged it as something to be reviewed.

QT69/22 - Sam McColl

In 2021 the Chief Executive Officer told ABC that Pipecon Applications would be considered like all other Tenders in our process with Occupational Health and Safety performance being one of the factors considered. In relation to the Tender of Tait Street Reconstruction, Council's Governance Review noted that Pipecon has appropriate OH&S systems. Pipecon was

prosecuted and convicted for a breach of the OH&S Act that killed two workers and is currently under consideration for a third death. How did council determine that Pipecon meets the required standard for the appropriate standards for OH&S systems?

Answer

Cameron Montgomery, Executive Manager Governance and Risk responded that there is a process that is outlined in the Procurement Policy that identifies the elements assessed or assessable in relation to the Health and Safety system requirements and there are several elements to that including whether it is a certified or assessed system, versus other elements as a component of that. In relation to that and other criteria that the Tender Review Panel have used as the criteria, in assessing that and providing advice and support of that position to Council to make a determination.

Question

The Chief Executive Officer states tonight that the contract has been signed for the Tait Street Reconstruction with Pipecon. On what date did this take place?

Answer

Evan King, Chief Executive Officer noted that he will take this on notice to find the exact date.

QT70/22 – Sean Mulchay**Question**

In relation to the Tender for the Tail Street reconstruction, Council's Governance Review noted that this does not impact on any human rights identified in the Charter of Human Rights and Responsibilities Act. Did Council consider that Pipecon's previous workplace safety breach that killed two workers might impact the right to life of labourers working on this project?

Answer

Cameron Montgomery, Executive Manager Governance and Risk responded that there is several elements within the charter and are looking at the assessment of that specific criteria for the awarding of the contract for that item. In relation to the right of life, what impact does that have in relation to that tender or that specific work to be done and impact on the right to life. The way these officers have assessed that criteria is in relation to applying criteria to that work to that contract in moving forward and the impact that it has.

Question

Why does Council's Procurement Policy not ban suppliers, contractors, or service providers who have breached the law? Will this be addressed in Cr Moloney's Notice of Motion for a report outlining the Procurement Policy? Has council sought legal advice for exiting this contract?

Answer

Cr Daniel Moloney, Mayor responded that in speaking with the family members, it was clear that we needed to do better and to do better to review and fix our policy. He thinks this view now needs to be put to the whole Council group after they've had the opportunity to go through

and find different way of doing it. We are not the first Council to ever encounter this problem. We will be seeking guidance to see what other Councils and State Departments have done.

Evan King, Chief Executive Officer responded to the second part of the question stating that no legal advice has been sought or requested to be sought for the recission of the Council motion. There has been no request to seek Council advice, so he hasn't looked to go down this path.

RESOLUTION:

That Council extend Public Question Time for a period of 30 minutes.

Moved: Cr Mark Harris

CARRIED

Seconded: Cr Samantha McIntosh

(R131/22)

QT71/22 - Ron Smith

Question

I am very concerned about the redevelopment of Bridge Mall. I've sent a number of emails to nearly everyone on council. I can't see how all these proposed works are going to revitalise that location for the people of the City of Ballarat and visitors. How many concept designs developed by Hassel Limited were considered by Council? Were there any community consultations in regard to the concept designs?

Answer

Natalie Robertson, Director Development and Growth responded that there have been several versions and she can recall two or three in her time in Council, there may have been more.

Cr Daniel Moloney, Mayor added that this has been discussed his entire six years on Council and believes this was going on for a few years before that. He is aware of three or four different designs in his time from concept through to final outcome that came to Council and went out to the broader community through the pop-up shop in the mall and also online and face to face consultations.

Natalie Robertson, Director Development and Growth responded that the concepts have been readily available at the pop-up shop for the last couple of years. There were prior community consultations. The plans are available to anyone any time. At various periods, we have gone out to community for input into these designs.

Question

Have the consultants visited Ballarat and when did they do that?

Answer

Natalie Robertson, Director Development and Growth replied that the consultants have been here numerous times and are here constantly and have engaged with the community who

have taken the time to do so. They are very familiar with the site and have spent many days here in Ballarat. Natalie offered to meet with Mr. Smith one on one to walk him through the plans in the future.

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:

7. That Council:

7.1 Receive and note the CEO's Operational Report.

Moved: Cr Belinda Coates
Seconded: Cr Peter Eddy

CARRIED
(R132/22)

8. OFFICER REPORTS

8.1. INFLATIONARY PRESSURES

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

PURPOSE

1. The purpose of this report is to provide information on the potential financial impact on Council, of the current inflationary pressures being experienced and action Council can take to minimise the impact.

RESOLUTION:

12. That Council:

12.1 Note the information provided.

12.2 Support the establishment of an inflationary provision to address potential future inflationary pressures, funded by the expected positive result from the 2021/22 financial year.

12.3 Allocate any remaining funds in the inflationary provision to debt repayment, once the provision is deemed unnecessary.

Moved: Cr Mark Harris
Seconded: Cr Des Hudson

CARRIED
(R133/22)

8.2. RECOMMENDED BUDGET CARRYOVERS 2021/22

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

PURPOSE

1. This report sets out those items that are required to be carried forward to the 2022/23 Budget from the previous financial year due to timing issues relating to:
 - a. Funded projects still in progress at 30 June 2022;
 - b. Grants being received in advance; and
 - c. Additional unbudgeted grants received.

RESOLUTION:

18. That Council:

18.1 Approve the \$24.139 million of funds to be carried over to the 2022/23 adopted budget.

18.2 Approve the proposed accounting adjustments totaling \$20.8 million relating to new and unexpended grants as at 30 June 2022.

18.3 Note the \$14.135 million positive variance and approve the allocation of the positive budget variance to the following items:

- Wendouree West \$1.500 million
- Her Majesty's Theatre \$3.637 million (Depending on Council Decision in future report on the agenda)
- Lake Lighting {resolution}.370 million
- Visiting Friends and Relatives project {resolution}.200 million
- Extension of Reusable Nappy and Reusable Sanitary Product rebate {resolution}.030 million (Depending on Council Decision in future report on the agenda)
- DCP Reserve increase \$2.577 million for works beyond 2022/23
- Debt Payment Reserve / Inflationary Escalation Provision \$5.821 million

18.4 Endorse the timing changes of expenditure for capital projects from 2022/23 to 2023/24 of \$19.737 million as per attached.

Moved: Cr Des Hudson

CARRIED

Seconded: Cr Samantha McIntosh

(R134/22)

8.3. 2021-2022 ANNUAL COMMUNITY ENGAGEMENT REVIEW REPORT

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Kate McCluskey – Coordinator Community Participation

PURPOSE

1. To provide a report to Council on community engagement activities undertaken in 2021-2022.

RESOLUTION:

That Council:

Note the City of Ballarat Annual Engagement Report 2021-2022.

Moved: Cr Belinda Coates

Seconded: Cr Mark Harris

CARRIED

(R135/22)

8.4. ANNUAL COMMUNITY SATISFACTION SURVEY

Division: Corporate Services
Director: John Hausler
Author/Position: Peter Donohue - Manager Business Improvement

PURPOSE

1. This report provides Councillors with the 2022 Community Satisfaction Survey results.

RESOLUTION:

11. That Council:

11.1 Receive and note the 2022 Community Satisfaction Survey results; and

11.2 Place the 2022 Survey Report on Council's website for public viewing.

Moved: Cr Peter Eddy
Seconded: Cr Ben Taylor

CARRIED
(R136/22)

8.5. AMENDMENT TO ROCK BALLARAT STRATEGIC PARTNERSHIP

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

PURPOSE

1. To consider the request from SBK Events for an amendment to the current three-year Strategic Partnership funding agreement for the Rock Ballarat event.
2. In recognition of the restrictions on events due to COVID-19, SBK Events has requested that Council extend the term of the existing partnership agreement by one year and reallocate the unspent 2021/22 funding of \$15,000 to the 2022/23 financial year, therefore enabling SBK Events to host the third and final event of the three-year agreement.

RESOLUTION:

8. That Council:

8.1 Amend the current Strategic Partnership funding agreement with SBK Events for the delivery of the Rock Ballarat events; specifically;

8.1.1 Acknowledge the unallocated funding from the 2021/2022 financial year; and allocate funding from Strategic Partnership funding budget in the 2022/23 financial year.

8.1.2 Extend the term of the three-year agreement by one additional year and adopt the payment schedule;

Year 1 – 2019/20	\$25,000	(event and payment completed)
Year 2 – 2020/21	\$20,000	(event and payment completed)
Year 3 – 2021/22		No Funding provided
Year 4 – 2022/23	\$15,000	

Moved: Cr Peter Eddy

Seconded: Cr Belinda Coates

CARRIED

(R137/22)

8.6. TRIAL OF REUSABLE CLOTH NAPPY AND REUSABLE SANITARY PRODUCT SCHEME

Division: Corporate Services
Director: John Hausler
Author/Position: Lorraine Sendall – Executive Assistant, Director Corporate Services

PURPOSE

1. To provide Council with feedback of the first 6 months of the rebate.
2. Seek Council support for allocating additional funds and continuing the Cloth Nappy and Reusable Sanitary product trial scheme which is finished on 31 August 2022.

RESOLUTION:

9. That Council:
- 9.1 Note the summary of the first 6 months operation of the Reusable Cloth Nappy and Reusable Sanitary Product Scheme;
- 9.2 Endorse the continuation of the scheme to the end of FY22/23 via the allocation of an additional \$30k from the FY21/22 positive variance.

Moved: Cr Amy Johnson
Seconded: Cr Belinda Coates

CARRIED
(R138/22)

8.7. TENDER 2021/22 - 753 HER MAJESTY'S THEATRE STAGE 3 - AWARDING CONSTRUCTION TENDER

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Dan Farrar – Project Manager

PURPOSE

1. To seek Council resolution to enter into Contract Number 2021/22-753 for the provision of Her Majesty's Theatre Stage 3 works with A.W. Nicholson Pty Ltd for the tender sum of \$11,909,623 (ex GST) plus a \$25,000 provisional sum (ex GST) for a total of \$11,934,623 (ex GST). The contract term is for 18 months with the provision of 1 year defects liability period.
2. To advise Council that the budget shortfall for this project will be referred for funding to the budget review process which will occur when the 2021/22 year-end carryover is considered.

RESOLUTION:**11. That Council:**

11.1 Recommends that the identified budget shortfall for this project be funded from 2021/22 year-end surplus (pending approval of the allocation of funds).

11.2 Resolves to enter into Contract Number 2021/22-753 for the provision of Her Majesty's Theatre Stage 3 works with A.W. Nicholson Pty Ltd for the tender sum of \$11,909,623 (ex GST) plus a \$25,000 provisional sum (ex GST) for a total of \$11,934,623 (ex GST). The contract term is for a period of 18 months with the provision of 1 year defects liability period.

11.3 Authorises the Chief Executive Officer to:

- a. **finalise the terms of Contract Number 2021/22-753 with the Contractor, provided that those contract terms are consistent with paragraph 11.2 of this Resolution; and**
- b. **execute Contract Number 2021/22-753 on behalf of Council.**

Moved: Cr Ben Taylor
Seconded: Cr Mark Harris

CARRIED
(R139/22)

8.8. TENDER 2021/22 - 714 URBAN FOREST PROJECT

Division: Infrastructure and Environment
Director: Bridget Wetherall
Author/Position: Luke Ives - Executive Manager Operations

PURPOSE

1. To award Contract Number 2021/22-714 for the provision of Urban Forest Project Street Tree Planting with ELZUK Enterprises Pty Ltd for the sum of \$2,166,000 (ex GST).
2. The contract Term is for three (3) years with the provision of two (2) by one (1) year extensions at Council's sole discretion.

RESOLUTION:**7. That Council:**

7.1 Resolves to enter into Contract Number 2021/22-714 for the provision of Urban Forest Project 2022 Street Tree Planting with ELZUK Enterprises Pty Ltd for the \$2,166,000 (ex GST). The contract Term is for three (3) years with the provision of two (2) by (1) year extensions at the Council's sole discretion.

7.2 Authorises the Chief Executive Officer to:

- a. finalise the terms of Contract Number 2021/22-714 with the Contractor, provided that those contract terms are consistent with paragraph 7.1 of this Resolution; and
- b. execute Contract Number 2021/22-714 on behalf of Council.

Moved: Cr Ben Taylor
Seconded: Cr Belinda Coates

CARRIED
(R140/22)

8.9. ROAD NAMING PROPOSAL - KUNUWARRA DRIVE, LAKE GARDENS

Division: Corporate Services
Director: John Hausler
Author/Position: Rod Leith – Manager Revenue and Procurement Services

PURPOSE

1. This report seeks Council endorsement to name an unnamed entrance road to the Prince of Wales Reserve, off Gillies Street, Lake Gardens as Kunuwarra Drive.
2. This proposal will provide accurate street addressing for the seven sporting facilities within the precinct to ensure effective incident management and public safety.

RESOLUTION:**16. That Council:**

- 16.1 Endorse the proposal to name the unnamed roadway at Prince of Wales Reserve, Lake Gardens, as Kunuwarra Drive.**
- 16.2 Delegate to the Chief Executive Officer the Authority to complete all relevant steps pursuant to the Geographic Place Naming Procedures to formalise this change.**

Moved: Cr Samantha McIntosh
Seconded: Cr Belinda Coates

CARRIED
(R141/22)

8.10. ROAD NAMING PROPOSAL - NYANINYUK ROAD, GLENDARUEL

Division: Corporate Services
Director: John Hausler
Author/Position: Rod Leith, Manager Revenue and Procurement

PURPOSE

1. The report proposes to name an unnamed roadway that runs east from Coghills Creek Road, Glendaruel, opposite Coutts Road, to Fentons Road, as Nyaninyuk Road.
2. The unnamed road forms part of the boundary between City of Ballarat and Hepburn Shire Council.
3. The unnamed road is unofficially known as Coutts Road, however this name is not valid and has only been assigned temporarily for the benefit of Emergency Services.
4. Naming the unnamed roadway will create a single, unobscured and unobstructed roadway that has a start and end point, enabling clear and logical numbering.
5. In accordance with the *Geographic Place Names Act 1998*, any changes to roads, including name changes, must undergo a period of public notice and consultation.

RESOLUTION:**20. That Council:**

- 20.1 **Endorse the proposal to name the unnamed road in Glendaruel, as Nyaninyuk Road.**
- 20.2 **Authorise the Chief Executive Officer to complete all relevant steps pursuant to the Geographic Place Naming Procedures to formalise this change.**

Moved: Cr Belinda Coates
Seconded: Cr Des Hudson

CARRIED
(R142/22)

8.11. AUDIT AND RISK COMMITTEE BIENNIAL REPORT

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

PURPOSE

1. To present Council with the Audit and Risk Committee's Biennial Report for the period 1 January 2022 to 30 June 2022.

RESOLUTION:

That Council:

Receive and note the Audit and Risk Committee Biennial report for the period 1 January 2022 to 30 June 2022.

Moved: Cr Samantha McIntosh
Seconded: Cr Mark Harris

CARRIED
(R143/22)

8.12. 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:

6. Exercise the powers conferred by the legislation referred to in the attached instrument of delegation at Attachment 3, and that:
 - 6.1. 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.
 - 6.2. The Instrument comes into force immediately upon resolution.
 - 6.3. On the coming into force of the instrument, all previous S6 delegations to members of Council staff are revoked.
 - 6.4. 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 Mark Harris

Seconded: Cr Peter Eddy

CARRIED

(R144/22)

8.13. S11A AND S11B INSTRUMENT OF APPOINTMENT AND AUTHORISATIONS

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

PURPOSE

1. This report is to seek Council's endorsement of the S11A. Instrument of Appointment and Authorisations under the *Planning and Environment Act 1987* to Chenenka Liyanapathirana and Robert Harvey and endorse the S11B Instrument of Appointment and Authorisation under the *Environment Protection Act 2017* for Robert Harvey.
2. The report is to also revoke the S11A Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* to Jorine Bothma.

RESOLUTION:**7. That Council:**

- 7.1 Exercise the powers conferred by s147(4) of the *Planning and Environment Act 1987* and the other legislation referred to in the attached instruments of appointment and authorisation (the instruments), and**
 - a. Chenenka Liyanapathirana and Robert Harvey be appointed and authorised as set out in the instruments.**
 - b. The instruments come into force immediately upon resolution and remains in force until Council determines to vary or revoke it.**
- 7.2 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, and resolves that:**
 - a. Robert Harvey be appointed and authorised as set out in the instrument.**
 - b. The instrument come into force immediately upon resolution and remains in force until Council determines to vary or revoke it.**
- 7.3. Revoke the S11A Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) for Jorine Bothma (R56/22).**

Moved: Cr Des Hudson
Seconded: Cr Peter Eddy

CARRIED
(R145/22)

8.14. OUTSTANDING QUESTION TIME ITEMS

Division: Corporate Services
Director: John Hausler
Author/Position: Lyndsay Leingang - 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:

Endorse the Outstanding Question Time report.

Moved: Cr Des Hudson
Seconded: Cr Amy Johnson

CARRIED
(R146/22)

9. NOTICE OF MOTION

1. A Notice of Motion was lodged by Mayor, Cr Moloney on 21 September 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 28 September 2022 Council Meeting Agenda.
3. Formal notice was provided to Councillors on 21 September 2022 which was then recorded in the Notice of Motion Register by the Governance team.
4. Mayor, Cr Moloney proposes the following motion:

RESOLUTION:

That Council:

That a report be brought to Council by the end of 2022 outlining a review of the Procurement Policy.

Moved: Cr Daniel Moloney, Mayor

Seconded: Cr Mark Harris

CARRIED

(R147/22)

10. REPORTS FROM COMMITTEES/COUNCILLORS

GB32/22 Cr Hudson

Cr Hudson advised he took a phone call from Jason Dunn who is an owner of Easy Street Valet Handwash Car Wash in Delacombe Centre. He was not in a good place mentally, and talked about the impact on his business with the current roadworks and the further ten more weeks of it. Because of Covid he lost his last business, and the downturn of his current business is at around 80% because of these roadworks. After two years of Covid, now the traffic conditions and length of these drawn-out road conditions are disrupting his business. Although this is a State Road, we need advocacy to get on with projects continue that crucify small business. Can Council do anything other than advocate in our meetings?

GB33/22 Cr Hudson

Staff member Rob McVitty, City of Ballarat Hall Keeper for the past 26 years, had his 70th Birthday this week. On behalf of Council, congratulations!

GB34/22 Cr McIntosh

At the Learmonth Footy Oval, the female bathroom is without a roof. At the recent BFNL Netball Group Central Highlands Grand Final, the situation still hadn't been dealt with. There were six portable toilets put in out in open with no cover in the rain and no wheelchair access. This is alarming in 2022. Can we please have a look at this? There is a significant difference between what is being done for men's and women's sports.

GB35/22Cr Johnson

Thank you to Luke Ives who met with us to discuss Jason's concerns regarding the potholes. This was a great example of how we can relay concerns when we communicate with community members. Luke explained the process of potholes and talked about the forward plan. Is it possible to do a live Q&A where residents can lodge questions or via another forum in order to provide a comprehensive explanation of what's going on with the roads at the moment?

GB36/22 Cr Johnson

Cr Johnson sends her regards to the bus crash for Loretto College. The thoughts of Council are with all those affected.

GB37/22 Cr Moloney

Cr Moloney will table a petition on behalf of Jay Morrison regarding the procurement policy. The petition will be received before the next meeting.

