

OFFICIAL

# **Council Meeting**

## **Minutes**

**15 December 2021 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 Jeff Johnson - Acting 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 Sophie Constable - Administration Officer Statutory Compliance

### 2.2 Apologies

Cr Coates

## 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 24 November 2021 as circulated be confirmed.

Moved: Cr Mark Harris

CARRIED

Seconded: Cr Peter Eddy

(R269/21)

## 6. PUBLIC QUESTION TIME

QT57/21 - Lachlan McDonald

### Question

1. Could Council please advise how the newly constructed dwelling at 20 Catalina Crt Ballarat East (and surrounding dwellings) comply with the requirement all new dwellings must have a floor level 300mm above the 1% AEP flood event and satisfies the other requirements.
2. Despite modelling that suggests no new dwellings will flood, what action is Council taking to prevent flood damage when we next have a flood event similar to, or worse than, the 1990s.

### Answer

1. Natalie Robertson, Director Development and Growth responded that, the subject site forms a 2011 VCAT Order approving a Planning Permit for a staged subdivision of 40 lots. I'm satisfied as part of this process that the required drainage/stormwater infrastructure was provided by the land developer in accordance with the planning permit conditions. This application was referred to the relevant CMA who did not object to the development and did not attend VCAT as a party to the matter.

The land is zoned General Residential and is not subject to any overlays, including a Flood overlay. Therefore, no planning permit is required to develop a single dwelling.

As part of the building permit process a Property Information Request would be made by a landowner or builder for each site. All property information reports include the following question:

Is the land located in a designated flood area in accordance with Regulation 802.

In this instance the response has been:

*No. The property has not been designated as "liable to flooding" within the meaning of regulation 802 of Building Regulations 2006. However, City of Ballarat strongly recommends seeking further flood advice from the relevant Catchment Management Authority with regard to any recommendation for appropriate location and floor level of any building works on this site*

The onus falls on the owner, the builder and the building surveyor. It is not illegal to build below any floor level but it also means that the owner must accept the risk of potential flooding in a 1 in 100-year AEP (Annual Exceedance Probability) flood event. The flood study produced for the area indicates that development will help reduce the potential for flooding in Catalina Court. Works in the development and surrounds will likely reprofile some parts of the existing surface and channel flows more directly into the drainage system.

2. Natalie Robertson, Director Development and Growth responded that Mr McDonald acknowledges himself that modelling suggests that new dwellings are not likely to be subject to flood. If an exceptional event occurs and the owner through their own due diligence has decided not to build to the recommended floor level I would expect that the onus falls on the private Building Surveyor rather than Council who has approved the final Building Permit which would show floor levels.

I will add that the Flood Overlay amendment is anticipated to go on exhibition in 2022, although this amendment would not be retrospective and only applicable to new development.

### **QT58/21 - Nick Shady**

#### **Question**

1. Unvaccinated residents are currently unable to: -access public swimming pools for leisure -access Council owned gyms for physical recreation -access libraries beyond a click and collect service -access the art gallery, town hall, civic hall, parent place, and other community halls and sports venues.

Under the Australian Consumer Law, businesses must not accept payment for products or services if they do not intend to supply them.

Will Council reimburse unvaccinated rate payers who are paying for these services which are not intended to be provided to them?

2. In the city of Hobsons Bay, a fully vaccinated resident who was infected with Covid recently visited their City library, which resulted in the library subsequently needing to be closed for a deep clean.

This event shows that fully vaccinated people can bring the infection into a building, putting the lives of everyone present- as well as everyone they come into contact with later - at risk.

Should the City of Ballarat be proactive in saving lives by closing access to facilities to the fully vaccinated as well as the unvaccinated?

#### **Answer**

1. John Hausler, Director Corporate Services responded that Council provides a variety of services for which there is a direct fee as per Councils adopted fees and charges in the annual budget - for example fees to use the facilities at the Ballarat Aquatic and Leisure Centre. In this particular instance of a direct fee being charged for this type of service Council has provided the opportunity for a reduced fee or no fee during the period of COVID restrictions and also has given customers an opportunity to put their
-

membership fees on hold once the Ballarat Aquatic and Leisure Centre was able to be reopened.

For a general charge such as the annual rates charge which covers a wide range of services which are provided to the community without their needing to be any direct correlation to the service used and the amount charged, Council currently has no intention that I am aware of to provide any reimbursements for the general rate charge. Council has recently adopted a financial hardship policy which provides guidance for ratepayers whom may be experiencing difficulty paying their rates.

2. John Hausler, Director Corporate Services responded that Council's facilities continue to responsibly manage access to the public in a COVID safe way in line with the open premises and stay safe directions of Victoria's Chief Health Officer. These directions provide the basis upon which Council's COVIDSafe plan has been prepared and implemented to provide a safe environment for the public to have these facilities open.

Council will continue to assess and follow the directions of the Chief Health Officer.

## 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 Mark Harris**

**Seconded: Cr Samantha McIntosh**

**CARRIED**

**(R270/21)**



## 8. OFFICER REPORTS

### 8.1. PANDEMIC REACTIVATION AND RECOVERY PLAN SUMMARY REPORT

**Division:** Community Wellbeing  
**Director:** Matthew Wilson  
**Author/Position:** Bill Cook – Manager Emergency Management

#### PURPOSE

1. The purpose of this report is to provide an update on the implementation of Council's COVID-19 Response, Reactivation and Recovery Plan throughout 2021. The revised plan and report builds on the initial public report released to the community in December 2020 which outlined Council's response to COVID-19 throughout 2020. The plan shows the holistic nature of Council's response to COVID-19 with many areas of the organisation involved in the process.

#### RESOLUTION:

**That Council:**

1. **Note the Pandemic Reactivation and Recovery Plan Summary Report and acknowledge all actions delivered across the organisation over the last two years.**
2. **Note the development of new Municipal Community Recovery Plan in early 2022 by the Community Recovery Planning Committee.**

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

**CARRIED**  
**(R271/21)**

## 8.2. DESIGN REVIEW PANEL MEMBERSHIP

**Division:** Development and Growth  
**Director:** Natalie Robertson  
**Author/Position:** Fiona Gray – Executive Manager Catalyst Projects

### PURPOSE

1. To present to Council recommended members for formal appointment to the City of Ballarat Design Review Panel.

### RESOLUTION:

That Council:

1. Appoint the following members to the Ballarat Design Review Panel:

**Ammon Beyerle – Architect**  
**Brodie Blades – Urban Designer**  
**Justine Clark – Architectural critic**  
**Rebecca Finn – Urban Designer | Landscape Architect**  
**Mark Fuller – Landscape Architect | Urban Designer**  
**Orlando Harrison – Urban Designer | Architect**  
**Stuart Harrison – Architect (VDRP)**  
**Brad Hooper – Architect**  
**Kim Irons – Architect (VDRP)**  
**Wendy Jacobs – Heritage Consultant | Architect**  
**Luke Jarvis – Architect**  
**Nicole Kalms – Academic**  
**Celia Konstas – Urban Designer | Planner**  
**Raph Krelle – Planner**  
**Mena Kubba – Architect**  
**Penelope Martyn (Smith) – Planner**  
**Vincent McDonald – Accessibility advisor | Architect**  
**Lisa Merkesteyn – Architect | Heritage advisor**  
**Damon Obst – Landscape Architect**  
**Shelley Penn AM – Architect (VDRP)**  
**Harold Perks – Architect**  
**Kim Roberts – Architect (VDRP)**  
**Paul Simpson – Civil Engineer**  
**Scott Spargo – Urban Designer**  
**Anthony Styant-Browne – Architect (VDRP)**  
**Steve Thorne – Urban Designer (VDRP)**  
**David Vernon – Architect**  
**Steffen Welsch – Architect**

Moved: Cr Samantha McIntosh

Seconded: Cr Mark Harris

**CARRIED**

**(R272/21)**

### 8.3. DOMESTIC ANIMAL MANAGEMENT PLAN

**Division:** Development and Growth  
**Director:** Natalie Robertson  
**Author/Position:** Clare Douglas-Haynes Coordinator Animal Services

#### PURPOSE

1. The Domestic Animals Act 1994 (DA Act) requires Council to prepare a domestic animal management plan (DAM Plan), in consultation with the Secretary, for their municipality. 2021-2024 DAM Plans are due from each council by 4 December 2021.
2. This policy draft was open for community feedback and consultation during September 2021.

#### RESOLUTION:

**That Council:**

1. **Endorse the Council Domestic Animal Management Plan 2021/2024.**

**Moved: Cr Ben Taylor**  
**Seconded: Cr Des Hudson**

**CARRIED**  
**(R273/21)**

**8.4. PUBLIC ART DONATION 'THE BOAT' LEARMONTH**

**Division:** Community Wellbeing  
**Director:** Matthew Wilson  
**Author/Position:** Kate Gerritsen, Public Art Coordinator

**PURPOSE**

1. To recommend the donation of 'The Boat' by Ratartat and the Learmonth Community to Council's Public Art Collection

**RESOLUTION:**

**That Council:**

1. **Accept the donation of 'The Boat' to Council's Public Art Collection; and**
2. **Write to the Friends of Learmonth advising of the acceptance of the donation.**

**Moved: Cr Des Hudson**

**Seconded: Cr Samantha McIntosh**

**CARRIED**

**(R274/21)**

**8.5. TENDER 2021/22-360 - WENDOUREE WEST RECREATION RESERVE -  
COMMUNITY HUB, SPORTS PAVILION, CHANGEROOMS AND MENS SHED**

**Division:** Development and Growth  
**Director:** Natalie Robertson  
**Author/Position:** Trent Bursill – Project Manager

**PURPOSE**

1. To award Contract 2021/22-360 - Wendouree West Recreation Reserve - Community Hub, Sports Pavilion, Changerooms and Mens Shed.

**RESOLUTION:**

**That Council:**

1. Resolves to enter into Contract 2021/22-360 - Wendouree West Recreation Reserve - Community Hub, Sports Pavilion, Changerooms and Men's Shed with Plan Group Pty Ltd for the total tendered price of \$4,763,830.00 (ex GST).
2. Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.

**Moved: Cr Peter Eddy**

**Seconded: Cr Daniel Moloney**

**CARRIED**

**(R275/21)**

Chief Executive Officer, Evan King declared a direct conflict of interest with the following agenda item and left the meeting in Council Chamber at 7:13pm prior to discussion of this item.

### **8.6. CEO EMPLOYMENT AND REMUNERATION POLICY**

**Division:** Executive Unit  
**Director:** Evan King  
**Author/Position:** Andrew Prestage – Executive Manager People and Culture  
Cameron Montgomery – Executive Manager Governance and Risk

#### **PURPOSE**

1. Seek endorsement of the Chief Executive Officer (CEO) Employment and Remuneration Policy which incorporates approaches to the full employee lifecycle and appointment of the CEO.

#### **RESOLUTION:**

**That Council:**

1. **Adopt the Chief Executive Officer Employment and Remuneration Policy.**

**Moved: Cr Ben Taylor**

**CARRIED**

**Seconded: Cr Samantha McIntosh**

**(R276/21)**

Chief Executive Officer, Evan King returned to the meeting in Council Chamber at 7:15pm.

**8.7. GOVERNANCE POLICY REVIEW**

**Division:** Executive Unit  
**Director:** Evan King  
**Author/Position:** Cameron Montgomery – Executive Manager Governance and Risk

**PURPOSE**

1. The purpose of the report is to recommend to Council to adopt the Federal and State Elections Policy and rescind the Place Names Policy.

**RESOLUTION:**

**That Council:**

1. **Adopt the Federal and State Elections Policy.**
2. **Rescind the following policies:**
  - **State and Federal Elections Policy adopted by Council on 23 May 2018 (R126/18)**
  - **Place Names Policy adopted by Council on 9 October 2013 (R382/13)**

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

**CARRIED**  
**(R277/21)**

## 8.8. COUNCIL MEETING SCHEDULE 2022

**Division:** Executive Unit  
**Director:** Evan King  
**Author/Position:** Cameron Montgomery – Executive Manager Governance and Risk

### PURPOSE

1. This report recommends a schedule of Council Meeting dates be adopted for the 2022 calendar year.

### RESOLUTION:

That Council:

1. Hold meetings of Council on the following dates in 2022:

Date	Time	Meeting Type
9 February 2022	6:30pm	Planning Delegated Committee
23 February 2022	6:30pm	Council Meeting
9 March 2022	6:30pm	Planning Delegated Committee
23 March 2022	6:30pm	Council Meeting
13 April 2022	6:30pm	Planning Delegated Committee
27 April 2022	6:30pm	Council Meeting
11 May 2022	6:30pm	Planning Delegated Committee
25 May 2022	6:30pm	Council Meeting
8 June 2022	6:30pm	Planning Delegated Committee
22 June 2022	6:30pm	Council Meeting
13 July 2022	6:30pm	Planning Delegated Committee
27 July 2022	6:30pm	Council Meeting
10 August 2022	6:30pm	Planning Delegated Committee
24 August 2022	6:30pm	Council Meeting
14 September 2022	6:30pm	Planning Delegated Committee
28 September 2022	6:30pm	Council Meeting
12 October 2022	6:30pm	Planning Delegated Committee
26 October 2022	6:30pm	Council Meeting
7 November 2022	6:30pm	Unscheduled Council Meeting (Mayoral Election)
9 November 2021	6:30pm	Planning Delegated Committee
23 November 2022	6:30pm	Council Meeting



<b>7 December 2022</b>	<b>6:30pm</b>	<b>Planning Delegated Committee</b>
<b>14 December 2022</b>	<b>6:30pm</b>	<b>Council Meeting</b>

2. **Make public the schedule of Council meetings on the City of Ballarat website.**

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

**CARRIED**  
**(R278/21)**

## 8.9. S11A INSTRUMENT AND APPOINTMENT AND AUTHORISATION

**Division:** Executive Unit  
**Director:** Evan King  
**Author/Position:** Cameron Montgomery – Executive Manager Governance and Risk

### PURPOSE

1. The report is to endorse the S11A Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* for Donna Perera, and Kathy Baker.
2. The report is to also revoke the S11A Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* for Jade Erwin.

### 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 instruments of appointment and authorisation (the instruments), and that;
  - a. Kathy Baker and Donna Perera be appointed and authorised as set out in the instruments.
  - b. The instruments come 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 instruments be sealed.
2. Revoke the S11A Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) for Jade Erwin (R181/20).

Moved: Cr Mark Harris  
Seconded: Cr Des Hudson

CARRIED  
(R279/21)

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

**Division:** Executive Unit  
**Director:** Evan King  
**Author/Position:** Cameron Montgomery – Executive Manager Governance and Risk

**PURPOSE**

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

**RESOLUTION:**

**That Council:**

**Exercise the powers conferred by the legislation referred to in the attached instrument of delegation at Attachment 2, and that:**

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.
2. The Instrument comes into force immediately after the Common Seal of Council is affixed to the instrument.
3. On the coming into force of the instrument, all previous S6 delegations to members of Council staff are revoked.
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 may from time to time adopt.

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

**CARRIED**  
**(R280/21)**

**8.11. CONTRACTS APPROVAL DELEGATED COMMITTEE MINUTES**

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

**PURPOSE**

1. The purpose of this report is to provide Council with copies of minutes of Council's Contracts Approval Delegated Committee in accordance with the adopted Terms of Reference. At the meetings of these Committees held on 6<sup>th</sup> October, 20<sup>th</sup> October, 3<sup>rd</sup> November and 17<sup>th</sup> November 2021 twelve contracts were approved by the Committee. This report provides a copy of the minutes of these meetings as well as detailing summary information in relation to these Contracts.

**RESOLUTION:**

**That Council:**

1. Note, as per the *Local Government Act 2020* Section 66 that this matter is designated confidential.
2. Receive the Contracts Approval Delegated Committee minutes of the meeting held on 6<sup>th</sup> October, 20<sup>th</sup> October, 3<sup>rd</sup> November and 17 November, 2021.

**Moved: Cr Ben Taylor**  
**Seconded: Cr Mark Harris**

**CARRIED**  
**(R281/21)**

**8.12. OUTSTANDING QUESTION TIME ITEMS**

**Division:** Executive Unit  
**Director:** Evan King  
**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 Des Hudson**  
**Seconded: Cr Peter Eddy**

**CARRIED**  
**(R282/21)**

## 9. NOTICE OF MOTION

Nil

## 10. REPORTS FROM COMMITTEES/COUNCILLORS

### GB44/21 Cr Ben Taylor

Cr Taylor raised concerns for the State Governments proposed 'Windfall Gains Tax' which has now been adopted and due to take effect from 1 July 2023.

Cr Taylor expressed concerns of the negative impacts this tax will have on the housing market and development opportunities due to increased cost. Cr Taylor explained that if your property or land that you own is rezoned (which often people have no control over), once rezoned, the valuer general will value your property, look at the difference and based on the amount, the landowner will be taxed 50%. This happens straight away rather than when you sell the property and if you do not pay this tax you will then have to incur interest on that cost for that period until the property is sold or once the landowner pays that bill.

The revenue from this tax then goes straight to State Government. Cr Taylor requested that Ballarat City Council and the CEO advocate for the revenue raised from the Windfall Gains Tax to be quarantined for the Local Government Authority in which it is raised and then used to fund local infrastructure priorities.

Evan King, Chief Executive Officer stated that prior to this tax being legislated, City of Ballarat and Regional Cities Victoria (RCV), have advocated regarding the potential impacts of this tax and also for the revenue raised to be used locally for infrastructure and development opportunities. The CEO reported that City of Ballarat will continue to advocate for this option prior to the Windfall Gains Tax coming into effect in July 2023.

### GB45/21 Cr Tracey Hargreaves

Cr Hargreaves raised some concerns that have been reported to her by a few residents lately, in relation to an issue/shortage that is potentially worldwide. There is currently a suggested shortage of urea, particularly AdBlue urea-based diesel exhaust fluid.

Cr Hargreaves expressed that this may affect countless residents vehicles, council fleet vehicles and as such, requested that a briefing be provided to Council in 2022 to discuss the potential implications/impacts on Council and our community due to this shortage and strategies to deal with these impacts.

Evan King, Chief Executive Officer explained that he is also very aware of many community concerns of this issue and is more than happy to bring a briefing back to Council in 2022 to discuss these impacts.

### GB46/21 Cr Daniel Moloney

Cr Moloney requested a briefing to Council regarding the walking/cycling tracks and trails connectivity between Alfredton and Delacombe, particularly the old rail line and how it could connect to the Kensington Creek Path.

