



Minutes
ORDINARY MEETING
OF COUNCIL

15 JUNE 2021

SHIRE OF CUE

**SHIRE OF CUE
Ordinary Council Meeting
AGENDA**

To be held in the Council Chambers, 73 Austin Street Cue on
Tuesday 15 June 2021 commencing at 6:30pm

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1. DECLARATION OF OPENING

The meeting was opened at 6.37pm

The Presiding Member welcomed those present and read the following disclaimer:

No responsibility whatsoever is implied or accepted by the Shire of Cue for any act, omission or statement or intimation occurring during this Meeting.

It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of council’s decision, which will be provided within fourteen (14) days of this Meeting.

PRESENT:

- Councillor Ross Pigdon, Shire President
- Councillor Les Price, Deputy Shire President
- Councillor Ian Dennis
- Councillor Leonie Fitzpatrick
- Councillor Fred Spindler
- Councillor Liz Houghton

STAFF:

- Mr Rob Madson, Chief Executive Officer
- Mr Richard Towell, Deputy Chief Executive Officer
- Ms Tracy Bachraty, Executive Assistant
- Mr Glenn Boyes, Manager Finance
- Mrs Bethany McCall, Customer Service Officer

GALLERY:

- | | | |
|------------------|--------------------|------------------|
| Peter Tegg | Neil Montgomery | Derek Goodfellow |
| Phil Wilding | Melanie Montgomery | Mitchell Mace |
| Stephan Prinsloo | Mike Fitzgerald | Jenni Dennis |
| Phil McCall | Harry Casey | |

2. APOLOGIES AND APPROVED LEAVE OF ABSENCE

Cr Ron Hogben

3. DISCLOSURE OF MEMBERS' INTERESTS

Nil.

4. PUBLIC QUESTION TIME

Derek Goodfellow, 21 Dowley St

Q. How can I have confidence that the good neighbour plan will be adhered to when there has been no communication from Fenix Newhaul?

A. The consultation was held between Newhaul's Town Planner, our Town Planner and consultation with you.

Q. How are they planning to get it into the property?

A. I imagine they will be using a crane.

Q. What if something goes wrong while craning over my property?

A. It won't hang over your property

Peter Tegg, 45 Dowley Street Cue

Q. Why was comments made last week not in the minutes?

A. The comments made are statements and not required to be included.

5. CONFIRMATION OF MINUTES

Council Decision: 01062021

Voting Requirement: Simple Majority

MOVED: Cr Dennis

SECONDED: Cr Spindler

That the Minutes of the Ordinary Meeting 18 May 2021 are confirmed as a true and correct record of the meeting.

CARRIED: 4/2

AGAINST: CR HOUGHTON, CR FITZPATRICK

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. DEPUTATIONS

Nil

8. PETITIONS

Nil

9. ANNOUNCEMENTS WITHOUT DISCUSSION

10. REPORTS

10.1 ACCOUNTS & STATEMENTS OF ACCOUNTS

APPLICANT: Shire of Cue
 DISCLOSURE OF INTEREST: Nil
 AUTHOR: Richard Towell – Deputy Chief Executive Officer
 DATE: 08 June 2021

Matters for Consideration:

To receive the List of Accounts Due & Submitted to the Ordinary Council Meeting on 15 June 2021 as attached – see [Appendix 1](#).

Background:

The local government under its delegated authority to the CEO to make payments from the municipal and trust funds is required to prepare a list of accounts each month showing each account paid and presented to Council at the next ordinary Council meeting. The list of accounts prepared and presented to Council must form part of the minutes of that meeting.

Comments:

The list of accounts are for the month of May 2021.

Statutory Environment:

Local Government (Financial Management Regulations) 1996 – Clause 13.

Policy Implications:

Nil.

Financial Implications:

Nil.

Strategic Implications:

Nil.

Consultation:

Rob Madson, Chief Executive officer

Glenn Boyes, Manager Finance

Officer's Recommendation:

Voting Requirement: Simple Majority

That Council endorse the payments for the period 1 May 2021 to 31 May 2021 as listed at [Appendix 1](#), which have been made in accordance with delegated authority per LGA 1995 S5.42.

May 2021

Municipal Fund Bank	EFTs	9662- 9768	\$ 914,965.83
Direct Debit Fund Transfer			\$ 41,474.39
Payroll			\$ 159,308.58
BPAY			\$ 19,099.65
Cheques			\$ 0.00
Total			\$ 1,134,848.45

Council Decision: 02062021

Voting requirement: Simple Majority

MOVED: Cr Spindler

SECONDED: Cr Dennis

That Council endorse the payments for the period 1 May 2021 to 31 May 2021 as listed at [Appendix 1](#), which have been made in accordance with delegated authority per LGA 1995 S5.42.

May 2021

Municipal Fund Bank	EFTs	9662- 9768	\$ 914,965.83
Direct Debit Fund Transfer			\$ 41,474.39
Payroll			\$ 159,308.58
BPAY			\$ 19,099.65
Cheques			\$ 0.00
Total			\$ 1,134,848.45

CARRIED: 6/0

10.2 FINANCIAL STATEMENT

APPLICANT:	Shire of Cue
DISCLOSURE OF INTEREST:	Nil
AUTHOR:	Glenn Boyes – Manager Finance
DATE:	09 June 2021

Matters for Consideration:

The Statements of Financial Activity are for the period ended 31 May 2021 including the following reports:

- Graphical Representation – Source Statement of Financial Activity
- Statement of Financial Activity
- Major Variances
- Net Current Funding Position
- Cash and Investments
- Trust Fund
- Cash Backed Reserve
- Receivables
- Capital Disposals
- Borrowings
- Capital Acquisitions
- Rate Revenue
- Grants and Contributions

see [Appendix 2](#).

Background:

Under the *Local Government (Financial Management Regulations 1996)*, a monthly Statement of Financial Activity must be submitted to an Ordinary Council meeting within 2 months after the end of the month to which the statement relates. The statement of financial activity is a complex document but presents a complete overview of the financial position of the local government at the end of each month. The Statement of Financial Activity for each month must be adopted by Council and form part of the minutes.

Comments:

The Statements of Financial Activity are for the month of May 2021.

Statutory Environment:

Local Government (Financial Management Regulations) 1996 – Clause 14.

Policy Implications:

Nil.

Financial Implications:

Nil.

Strategic Implications:

Nil.

Consultation:

Richard Towell – Deputy Chief Executive Officer

Officer's Recommendation:

Voting Requirement: Simple Majority

That Council receive the Financial Statements, prepared in accordance with the Local Government (Financial Management) Regulations, for the period ended 31 May 2021, as presented at [Appendix 2](#).

Council Decision: 03062021

Voting requirement: Simple Majority

MOVED: Cr Dennis

SECONDED: Cr Price

That Council receive the Financial Statements, prepared in accordance with the Local Government (Financial Management) Regulations, for the period ended 31 May 2021, as presented at **Appendix 2**.

CARRIED: 5/1

AGAINST: CR HOUGHTON

10.3 CORPORATE BUSINESS PLAN REVIEW

APPLICANT:	Shire of Cue
DISCLOSURE OF INTEREST:	Nil
AUTHOR:	Glenn Boyes – Manager Finance
DATE:	09 June 2021

Matters for Consideration:

To adopt the Shire of Cue’s Draft review of the Corporate Business Plan as attached at [Appendix 3](#).

Background:

The *Local Government (Administration) Regulations 1996* were amended in August of 2011 with the inclusion of regulation 19DA– Corporate Business Plans. This regulation requires Councils to produce and maintain a Corporate Business Plan covering a period of at least four (4) years. The Corporate Business Plan sets out the priority actions required to achieve the objectives in the Strategic Community Plan over the next 4 years.

The Shire of Cue adopted an updated Community Strategic Plan in July 2017. This plan was developed in consultation with the community and reflects the values, goals, aspirations and vision of the broader community.

Comments:

A Local Government is required to review its Corporate Business Plan every year. This review has been undertaken as part of the 2021-2022 Annual Budget preparations with the proposed plan being updated to reflect the next four years in line with the financial forecasts adopted in the Strategic Resource Plan presented to council in April 2019.

The Corporate Business Plan links the projects identified in the Long Term Financial Plan and Asset Management Plan back to the Strategic Community Plan and forms the basis for the Annual Budget.

The Corporate Business Plan also draws upon the other planning documents which form part of Council’s integrated planning. These include the Workforce Plan and operational plans. The Corporate Business Plan shows the actions that will be undertaken to achieve each objective and the timing of each action. Some actions are ongoing while others relate to specific projects.

Statutory Environment:

Local Government Act 1995

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

Local Government (Administration) Regulations 1996 – Section 19DA

11. 19DA. Corporate business plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government’s priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) govern a local government’s internal business planning by expressing a local government’s priorities by reference to operations that are within the capacity of the local government’s resources; and
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.
- (4) A local government is to review the current corporate business plan for its district every year.
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government’s strategic community plan.
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.

*Absolute majority required.

- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

Policy Implications:

As part of the integrated planning framework, the Corporate Plan will guide Council’s future budget decision-making processes.

Financial Implications:

The Corporate Business Plan guides the actions for the coming years to achieve the objectives in the Community Strategic Plan. Major projects over this time are expected to be funded by grant funding, reserve funds or operating revenues.

Strategic Implications:

Shire of Cue Strategic Community Plan 2017- 2027

Outcome 2.1.2: Continue to improve and review organisational plans.

Consultation:

Rob Madson - Chief Executive Officer

Richard Towell – Deputy Chief Executive Officer

Officer’s Recommendation:

Voting Requirement: Absolute Majority

To adopt the Shire of Cue’s Draft review of the Corporate Business Plan as attached at [Appendix 3](#).

Council Decision: 04062021

Voting requirement: Absolute Majority

MOVED: Cr Dennis

SECONDED: Cr Price

To adopt the Shire of Cue’s Draft review of the Corporate Business Plan as attached at [Appendix 3](#).

CARRIED: 6/0

10.4 COUNCILLORS MEETING ATTENDANCE FEES

APPLICANT: Shire of Cue
 DISCLOSURE OF INTEREST: Nil
 AUTHOR: Richard Towell – Deputy Chief Executive Officer
 DATE: 9 June 2021

Matters for Consideration:

To determine the fees and allowances payable to Councillors for attending Council and committee meetings for the 2021-2022 financial year.

Background:

The Local Government Act prescribes that council members be paid for attending meetings and reimbursed for costs incurred while carrying out their function as a council member. In 2013, the Salaries and Allowances Tribunal undertook a comprehensive review of the fees, allowances and expenses to be paid and reimbursed under the Local Government Act 1995 to elected council members. The review identified an increase in the roles and responsibilities of councillors as a result of key changes to local government planning and reporting requirements. The Tribunal determined minimum and maximum amounts of payments to be made or reimbursed to elected council members within a four band classification model.

Section 7B(2) of the Salaries and Allowances Act requires the Tribunal to undertake a review of the amount of fees and allowances to be paid to elected members under the local government act on an annual basis. The review for 2021 has been completed with the Tribunal determining that there be no increase in the band ranges.

Comments:

The Shire of Cue sits as a band 4 local government. The table below shows the minimum and maximum amounts payable to elected members in the band 4 category along with the current amounts paid in 2020-2021 and proposed payments for 2021-2022, being no change as determined by the Salaries and Allowances Tribunal.

Shire of Cue				
Councillor Attendance Fees				
Band 4 Local Government	Minimum	Maximum	2020-2021	Proposed 2021-2022
Council Meeting Fee - per ordinary or special meeting				
President	\$91.00	\$490.00	\$490.00	\$490.00
Councillors	\$91.00	\$238.00	\$238.00	\$238.00
Committee Meeting Fee - per authorised meeting				
All Councillors	\$46.00	\$119.00	\$119.00	\$119.00
Allowances - Paid monthly				
President Allowance	\$42.75	\$1,671.91	\$908.00	\$908.00
Deputy President (25%)	\$10.69	\$417.98	\$227.00	\$227.00
ICT Allowance - Paid monthly				
All Councillors	\$41.67	\$291.66	\$290.00	\$290.00
Reimbursements				
Engine displacement over 2600cc			\$0.9901	\$0.9901
Engine Displacement over 1600cc to 2600cc			\$0.7087	\$0.7087
Engine displacement 1600cc and under			\$0.5837	\$0.5837
Other approved expenses supported by receipts.				

Council Meeting Attendance Fees

It is proposed that Councillor meeting attendance fees remain at the top rate of \$238 per meeting and the President meeting attendance fee also remain at the top rate of \$490 per meeting.

Council Committee Attendance Fees

Recognising that Council Committee meeting attendance fees are usually paid at the rate of half the Councillors meeting attendance fee, it is proposed that this fee remain at \$119 per meeting.

President and Deputy President Allowance

It is proposed that the President allowance remain at \$908 per month or \$10,896 per annum. The Deputy President allowance is 25% of this amount, being \$227 per month or \$2,724 per annum.

ICT Allowance

It is proposed that this allowance remain at \$3,480 per annum payable as \$290 per month. This allowance is to provide councillors with the resources to obtain a high standard of electronic communication hardware and services to allow the Shire to optimise its communications with Councillors. There is no increase to this allowance under the Salaries and Allowances Tribunal review.

Travel Allowance

The Salaries and Allowances Tribunal determination has set this at the same rates contained in section 30.6 of the Local Government Officers' (Western Australia) Interim Award 2011, which is currently \$0.9901 cents per kilometre for a vehicle with an engine capacity over 2600cc.

Statutory Environment:

Local Government Act 1995

Part 5, Division 8 – Local government payments and gifts to its members.

Local Government (Administration) Regulations 1996

Part 8 – Local government payments and gifts to its members.

Salaries and Allowances Act 1975

Section 7B

Section 7B(2) of the SA Act requires the Tribunal to inquire into and determine the amount of:

- *fees, or the minimum and maximum amounts of fees, to be paid under the Local Government Act 1995 ('the LG Act') to elected council members for attendance at meetings;*
- *expenses, or the minimum and maximum amounts of expenses, to be reimbursed under the LG Act to elected council members; and*
- *allowances, or the minimum and maximum amounts of allowances, to be paid under the LG Act to elected council members.*

Local Government Officers' (Western Australia) Interim Award 2011 and

Local Government Officers' (Western Australia) Award 2021

section 30.6.

Policy Implications:

Nil

Financial Implications:

Allowance has been made in the draft 2021-2022 budget for councillor meeting attendance fees and allowances.

Strategic Implications:

Nil

Consultation:

Rob Madson – Chief Executive Officer

Glenn Boyes – Manager Finance

Officer’s Recommendation:

Voting Requirement: Absolute Majority

That Council, by absolute majority, set the following Members Fees for the 2021-2022 financial year.

Council Meeting Fee - per ordinary or special meeting			
President	\$490		
Councillors	\$238		
Committee Meeting Fee - per authorised meeting			
All Councillors	\$119		
Allowances - Paid monthly			
President Allowance	\$908	\$10,896	per annum
Deputy President (25%)	\$227	\$2,724	per annum
ICT Allowance - Paid monthly			
All Councillors	\$290	\$3,480	per annum
Reimbursements			
Travelling to and from authorised meetings - c/km			
Engine displacement over 2600cc	\$0.9901		
Engine Displacement over 1600cc to 2600cc	\$0.7087		
Engine displacement 1600cc and under	\$0.5837		
Other approved expenses supported by receipts.			

Council Decision: 05062021

Voting requirement: Absolute Majority

MOVED: Cr Spindler

SECONDED: Cr Houghton

That Council, by absolute majority, set the following Members Fees for the 2021-2022 financial year.

Council Meeting Fee - per ordinary or special meeting			
President	\$490		
Councillors	\$238		
Committee Meeting Fee - per authorised meeting			
All Councillors	\$119		
Allowances - Paid monthly			
President Allowance	\$908	\$10,896	per annum
Deputy President (25%)	\$227	\$2,724	per annum
ICT Allowance - Paid monthly			
All Councillors	\$290	\$3,480	per annum
Reimbursements			
Travelling to and from authorised meetings - c/km			
Engine displacement over 2600cc	\$0.9901		
Engine Displacement over 1600cc to 2600cc	\$0.7087		
Engine displacement 1600cc and under	\$0.5837		
Other approved expenses supported by receipts.			

CARRIED: 6/0

10.5 2021-2022 FEES AND CHARGES

APPLICANT: Shire of Cue
 DISCLOSURE OF INTEREST: Nil
 AUTHOR: Glenn Boyes – Manager Finance
 DATE: 10 June 2021

Matters for Consideration:

Adoption of the fees and charges for the Shire of Cue for the 2021-2022 financial year.

Background:

In accordance with section 6.16 of the *Local Government Act 1995*, fees and charges are adopted annually as part of the Council's budget.

Comments:

The schedules of fees and charges proposed for the 2021-2022 financial year are included in [Appendix 4](#). Most of the fees and charges are proposed with no increase. A review of the costs of providing services has been conducted and increases have only been proposed where the cost is not being met by the fee charged.

In considering the tourist park fees and charges the proposed increases are being deferred until the end of the tourist season and will be presented to Council later in the year to be in place for the commencement of the next tourist season.

Statutory Environment:

Local Government Act 1995 – Part 6, Division 5, Subdivision 2 – Fees and Charges.

12. 6.16. Imposition of fees and charges

- (1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

** Absolute majority required.*

- (2) A fee or charge may be imposed for the following —
 - (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
 - (b) supplying a service or carrying out work at the request of a person;
 - (c) subject to section 5.94, providing information from local government records;
 - (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;

- (e) supplying goods;
 - (f) such other service as may be prescribed.
- (3) Fees and charges are to be imposed when adopting the annual budget but may be —
- (a) imposed* during a financial year; and
 - (b) amended* from time to time during a financial year.

** Absolute majority required.*

13. 6.17. Setting level of fees and charges

- (1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —
- (a) the cost to the local government of providing the service or goods; and
 - (b) the importance of the service or goods to the community; and
 - (c) the price at which the service or goods could be provided by an alternative provider.
- (2) A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.
- (3) The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —
- (a) under section 5.96; or
 - (b) under section 6.16(2)(d); or
 - (c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.
- (4) Regulations may —
- (a) prohibit the imposition of a fee or charge in prescribed circumstances; or
 - (b) limit the amount of a fee or charge in prescribed circumstances.

14. 6.18. Effect of other written laws

- (1) If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —
- (a) determine an amount that is inconsistent with the amount determined under the other written law; or
 - (b) charge a fee or charge in addition to the amount determined by or under the other written law.
- (2) A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.

15. 6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

Policy Implications:

Nil

Financial Implications:

Fees and charges revenue makes up approximately 10% of the Shires operating income and provides a means for the Shire to recover the costs of providing services on a user pay basis.

Strategic Implications:

Shire of Cue Strategic Community Plan 2017 – 2027

Outcome 2.1: A strategically focused and unified Council functioning efficiently

2.1.3: Maintain accountability and financial responsibility.

Consultation:

Rob Madson – Chief executive Officer

Richard Towell – Deputy Chief Executive Officer

John Curtin – Manager Works and Services

Tracy Bachraty – Coordinator Community Development

Dianne Wandmaker – Manager Cue Tourist Park

Bill Atyeo – Environmental Health Officer

Officer's Recommendation:

Voting Requirement: Absolute Majority

That Council, by absolute majority;

Adopts the schedule of fees and charges contained in [Appendix 4](#). effective from 01 July 2021 and incorporates these fees and charges into the 2021-2022 budget.

Council Decision: 06062021

Voting requirement: Absolute Majority

MOVED: Cr Fitzpatrick

SECONDED: Cr Spindler

That Council, by absolute majority;

Adopts the schedule of fees and charges contained in [Appendix 4](#). effective from 01 July 2021 and incorporates these fees and charges into the 2021-2022 budget.

CARRIED: 6/0

10.6 DEVELOPMENT APPLICATION – GROUPED DWELLING

APPLICANT: Fenix Newhaul Pty Ltd
DISCLOSURE OF INTEREST: Nil
AUTHOR: Eugene Ferraro – Shire Town Planner
DATE: 3 June 2021

Matters for Consideration:

Application for Planning Approval to construct four single bedroom accommodation units at the rear of Lot 609 (23) Dowley Street, Cue.

Background:

This application was deferred at the Council May 2021 meeting to enable further consideration of issues relating to the management of the proposed accommodation units.

A copy of the application, including site and floor plans for the proposed development is attached at [Appendix 5](#).

Lot 609 is 1040m² in size and currently accommodates an existing dwelling.

The proposal seeks to install a four unit accommodation facility at the rear of the property, to provide accommodation for Fenix Newhaul workers during their swing. The workers will be based at the nearby transport depot and will walk to and from the depot to their accommodation.

The application seeks to erect four (4) accommodation units, 5m from the rear boundary and 5.8m from the respective side boundaries. The units will front the existing dwelling and each contain separate bathroom facilities. In addition to the accommodation, four car parking bays are proposed.

Communal cooking, dining and laundry facilities will be provided in the existing dwelling.

This development may only be approved with Council's discretion.

Management of Proposed Accommodation:

In investigating this matter, a balance has been attempted to be achieved between encouraging economic activity in the town while protecting the amenity of its residents. To this end, the concept of a management plan for the unit operators was formulated that could provide more certain outcomes for all parties. The use of management plans is an accepted approach to dealing matters that may be on-going.

In this instance, the concept of a 'Good Neighbour' management plan is being proposed. The concept of being a good neighbour provides a simple overarching

objective and makes outcomes clear to the operator, adjoining neighbours and general community.

The good neighbour management plan should seek to address three main areas of concern: noise minimisation; light spill; and identify a responsible entity. The issue of noise may arise from the location of parked vehicles and reversing alarms, together with the congregation of people, particularly during the very early mornings. Light spill may arise from the inappropriate location, intensity and direction of fixed lighting. The need to identify a responsible entity should also be an important component of the plan, as it provides the community with a contact point should any issues arise. The management plan will also provide the opportunity to ensure that the property is maintained in a clean and tidy manner.

It is important that the management plan be a simply written document so that it can be easily understood and implemented effectively. In addition, there should also be a requirement to maintain a register of complaints. The register should detail any issues raised, response thereto and be made available to the Chief Executive Officer at the Shire. Should the Council agree to granting a three year approval to this application, information from the register may form part of the deliberative process for any possible extension of this use in the future.

A condition should also be imposed to ensure that a copy of the good neighbour management plan is located in each unit and made available to the adjoining neighbours and the Shire. Finally, a condition should also be imposed to ensure the management plan is kept up to date and that the responsible entities and their contact details remain current.

It is acknowledged that a management plan may not prevent all issues from arising, it does, however, provide a clear commitment by the operator and importantly, provides a process for dealing with issues, should they arise.

Residential Design Code Assessment:

Lot 609 is zoned Residential and coded R10/12.5 under the Shire of Cue Local Planning Scheme No. 2 (LPS 2).

The application raises two issues that need to be assessed against the Residential Design Codes (RD Codes) –boundary setbacks and open space.

Side Boundary Setbacks

Walls are deemed-to-comply with the RD Codes if they are less than 3.5m high and setback either 1.5m from the side boundary if the wall contains a major opening (i.e. window greater than 1m² in area, or door), or 1.0m if the wall has no major openings. The proposed units have no major openings on walls facing the lot boundaries and are setback 5.8m from the side boundaries.

The proposed units are to be setback 5.8m from each of the side boundaries and meet with the Deemed to Comply requirements of the RD Codes.

Rear Boundary

Walls are deemed to comply with the RD Codes under the R10 or R12.5 Code, if they are a minimum of 6m from the rear boundary. The proposal seeks to locate the units 5m from the rear boundary and therefore does not comply with the deemed-to-comply provisions of the RD Codes. The RD Codes provide the following where proposals do not meet the deemed-to-comply provisions.

2.4 Judging merit of proposals

Where a proposal does not meet deemed-to-comply provision(s) of the R-Codes Volume 1 and addresses design principle(s), the decision-maker is required to exercise judgement to determine the proposal.

Judgement of merit is exercised only for specific element(s) of a proposal which do not satisfy the relevant deemed-to-comply provision(s).

2.5 Exercise of judgement

2.5.1

Subject to clauses 2.5.2 and 2.5.3, the decision-maker is to exercise its judgement to consider the merits of proposals having regard to objectives and balancing these with the consideration of design principles provided in the R-Codes Volume 1.

The decision-maker, in its assessment of a proposal that addresses the design principle(s), should not apply the corresponding deemed-to-comply provision(s).

In summary the RD Codes do not provide the Council with the option to simply refuse an application because one component of the application does not meet the deemed-to-comply requirements. In these instances, the Shire is required to assess that component against the objectives of the relevant Design Principles. The relevant Design Principles for the rear boundary setback are at Clause 5.1.3 of the RD Codes as follows:

5.1.3 Lot boundary setback

- P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:
- reduce impacts of building bulk on adjoining properties;
 - provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and
 - minimise the extent of overlooking and resultant loss of privacy on adjoining properties.

As assessment against the above Design Principles is as follows:

DESIGN PRINCIPLES	RESPONSE
Reduce impacts of building bulk on adjoining properties	The proposed 5m setback of the proposed buildings will ensure that they have no adverse impact on the amenity of the rear neighbour. The buildings are single storey and will be largely screened from view from the rear property. Furthermore, the proposal will not impact on the amenity of the dwelling on the adjoining rear lot as this building is setback approximately 20m from the rear boundary

DESIGN PRINCIPLES	RESPONSE
Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties	The proposed building will have no impact on availability of direct sun and ventilation to adjoining properties.
Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.	Lot 609 current enjoys a row of mature trees located along the rear boundary. The trees provides an ideal screen to the neighbouring lot, as well as providing much needed shade, particularly during the summer months. The proposed development has been designed to avoid the trees, a condition requiring the trees to be protected would, therefore, be appropriate.

In light of the above analysis, the proposed 5m setback to the rear boundary can be assessed as complying with the objectives of the Design Principles of the RD Codes.

Open Space

The RD Codes provides that 55% of a lot should be maintained as open space for R12.5 coded land and 60% open space for land coded R10. The RD Codes define open space as follows:

<p>Open Space</p> <p>Generally that area of a lot not occupied by any building and includes:</p> <ul style="list-style-type: none"> • open areas of accessible and useable flat roofs and outdoor living areas above natural ground level; • areas beneath eaves; • verandahs, patios or other such roofed structures not more than 0.5m above natural ground level, unenclosed on at least two sides, <i>and</i> covering no more than 10 per cent of the site area or 50m² whichever is the lesser; • unroofed open structures such as pergolas; • uncovered driveways (including access aisles in car parking areas) and uncovered car parking spaces; <p>but excludes:</p> <ul style="list-style-type: none"> • non-accessible roofs, verandahs, balconies and outdoor living areas over 0.5m above natural ground level; and/or • covered car parking spaces and covered walkways, areas for rubbish disposal, stores, outbuildings or plant rooms.
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The area of the proposed building, (minus the verandah which is included as open space) is 60m². With the existing dwelling being 175m² in area, the resultant dwelling area would be 235m². With the site being 1040m² in total size, the total area of open space on the site would be 805m², or 77.4% of the site. Consequently, the proposal meets the deemed-to-comply requirements of 55% open space under the R12.5 code and 60% under the R10 code.

Car Parking

The application also proposes to include an additional three on-site car parking bays. The bays are arranged in a tandem style, with two of the proposed bays located on the western side boundary.

The number and location of any additional car parking bays is a matter for Council discretion. The proposed location of two additional bays along the side boundary may have the potential to adversely impact on the amenity of the adjoining property. To avoid any potential for adverse impacts, approval should not be issued for these additional bays.

Dowley Street is a very wide road, being some 40m in width. The street verge in front of Lot 609 is in excess of 20m in width. With ultra-low traffic volumes along the street, there is ample space to accommodate vehicle parking on the verge without adversely impacting on the amenity of the area or on traffic flows and safety. It is also noted that the footpath is located on the opposite side of the street. Parking on the verge will encourage vehicles to enter and exit in forward gear, thereby, reducing the potential for rear reversing alarms being sounded. The manner in which vehicles are parked on the verge will also be a matter addressed by the good neighbour management plan. To this end, a condition is proposed to remove the additional car parking bays from the approval.

Conclusion

The town has not experienced any social issues, such as noise or anti-social behaviour arising from such facilities and will continue to rely on Newhaul to manage the behaviour of its employees and contractors. The proposal for the preparation and implementation of a good neighbour management plan will work towards minimising any possibly adverse impacts on the adjoining and nearby neighbours. The management plan will limit the number of people residing on the property at any one time and will need to be prepared to the specifications and satisfaction of the CEO.

The application is for accommodation in a residential area and, as such, no town planning objection is raised to the application.

Given that the life of the mine is finite, it is recommended that the life of this approval be set for a fixed period of three years, after which a fresh application will need to be made to continue with the accommodation.

The proposal for the accommodation units provides an opportunity to house workers in the town. The mining operation is a significant economic opportunity for the town and the ability to accommodate workers in town ensures that town centre operators can also benefit from this activity.

Statutory Environment:

Shire of Cue Local Planning Scheme No. 2.

- a. Avoid the potential for reverse warning alarms to sound on vehicles, by:
 - i. Encouraging only vehicles fitted with reverse warning alarm off switches to park on site during non-daylight hours;
 - ii. Reverse warning alarms being switch off while on site; and
 - iii. Parking vehicles off site (street verge) and if possible, in such a way to enter and exit if forward gear;
 - b. The maximum number of employees to reside on-site at any one time;
 - c. Employees encouraged to be:
 - i. courteous to neighbours;
 - ii. keep noise to a minimum; and
 - iii. not to congregate in outdoor areas in close proximity to neighbours;
 - d. Avoid lights being directed toward neighbouring properties;
 - e. Ensure compliance with the relevant environmental noise regulations;
 - f. Restrict occupants only to employees of Fenix Newhaul Pty Ltd;
 - g. Ensure the property is maintained in a clean and tidy manner and that all external gates are maintained to minimise noise;
 - h. Access and egress to the proposed units in such a manner so as to avoid disturbance of neighbours, particularly during the early morning hours; and
 - i. Contact details (Name and mobile phone number) of person(s) to register any complaints.
2. Prior to the occupancy of any unit, a copy of the approved 'Good Neighbour' management plan shall be provided:
 - a. To all adjoining residents;
 - b. In each accommodation unit; and
 - c. To the Shire of Cue.
 3. The 'Good Neighbour' management plan shall be kept up to date to the satisfaction and specification of the Chief Executive Officer and any updates shall be provided to adjoining residents, unit occupiers and to the Shire.
 4. A register of any complaints received under the 'Good Neighbour' management plan and responses thereto shall be maintained and shall be made available to the Chief Executive Officer Shire of Cue upon request. The register should record as a minimum, the name of the complainant, the date and nature of the complaint, the response, date of response and any other follow up actions.
 5. The proposed three (3) additional car parking bays are not approved.
 6. This approval is for a period of three (3) years from the date of this approval.
 7. Unless a further approval has been issued to continue the use, upon the expiry of this approval the buildings the subject of this approval must be removed within 60 days of this expiry and the land thereon made good.

8. The existing trees located along the rear boundary of the property shall be retained to the satisfaction of the Shire of Cue.
9. That the applicant obtains a Building Approval Certificate, in accordance with the requirements of the Building Act 2011 and the Building Regulations 2012, prior to undertaking any further works on the lot associated with construction of the dwelling.
10. That the applicant obtains a Building Permit, in accordance with the requirements of the Building Act 2011 and the Building Regulations 2012 prior to, undertaking any works associated with completing construction of the dwelling.
11. That the applicant make application for the approval of an on-site effluent disposal system in accordance with the requirements of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.
12. That the applicant connect the operation to mains power and that any use of a generator on the site be for back-up purposes only.
13. The applicant seeking the approval of the Water Corporation for the development;
14. That the proponent satisfies local and any FESA requirements with regard to fire services;
15. That the applicant obtain and submit to the Shire of Cue, prior to occupancy, a Certificate of Building Compliance, in accordance with the requirements of the Building Act 2011 and the Building Regulations 2012.

Advice to Applicant

The applicant is advised that the 'Good Neighbour' management plan referred to in Condition 1 of this approval, should be a simple document not exceeding 1 – 2 pages, be written in simple English and use simply understood terms.

Council Decision: 07062021**Voting requirement: Simple Majority****MOVED: Cr Price****SECONDED: Cr Dennis**

That Council approve the application for planning approval to accommodate a four unit transportable dwelling on Lot 609 Dowley Street, Cue, subject to the following conditions:

1. Prior to the occupancy of any unit, a 'Good Neighbour' management plan being prepared and implemented to the satisfaction and specifications of the Chief Executive Officer of the Shire of Cue addressing the following:
 - a. Avoid the potential for reverse warning alarms to sound on vehicles, by:
 - i. Encouraging only vehicles fitted with reverse warning alarm off switches to park on site during non-daylight hours;
 - ii. Reverse warning alarms being switch off while on site; and
 - iii. Parking vehicles off site (street verge) and if possible, in such a way to enter and exit if forward gear;
 - b. The maximum number of employees to reside on-site at any one time;
 - c. Employees encouraged to be:
 - i. courteous to neighbours;
 - ii. keep noise to a minimum; and
 - iii. not to congregate in outdoor areas in close proximity to neighbours;
 - d. Avoid lights being directed toward neighbouring properties;
 - e. Ensure compliance with the relevant environmental noise regulations;
 - f. Restrict occupants only to employees of Fenix Newhaul Pty Ltd;
 - g. Ensure the property is maintained in a clean and tidy manner and that all external gates are maintained to minimise noise;
 - h. Access and egress to the proposed units in such a manner so as to avoid disturbance of neighbours, particularly during the early morning hours; and
 - i. Contact details (Name and mobile phone number) of person(s) to register any complaints.
2. Prior to the occupancy of any unit, a copy of the approved 'Good Neighbour' management plan shall be provided:
 - a. To all adjoining residents;

- b. In each accommodation unit; and
 - c. To the Shire of Cue.
3. The 'Good Neighbour' management plan shall be kept up to date to the satisfaction and specification of the Chief Executive Officer and any updates shall be provided to adjoining residents, unit occupiers and to the Shire.
 4. A register of any complaints received under the 'Good Neighbour' management plan and responses thereto shall be maintained and shall be made available to the Chief Executive Officer Shire of Cue upon request. The register should record as a minimum, the name of the complainant, the date and nature of the complaint, the response, date of response and any other follow up actions.
 5. The proposed three (3) additional car parking bays are not approved.
 6. This approval is for a period of three (3) years from the date of this approval.
 7. Unless a further approval has been issued to continue the use, upon the expiry of this approval the buildings the subject of this approval must be removed within 60 days of this expiry and the land thereon made good.
 8. The existing trees located along the rear boundary of the property shall be retained to the satisfaction of the Shire of Cue.
 9. That the applicant obtains a Building Approval Certificate, in accordance with the requirements of the Building Act 2011 and the Building Regulations 2012, prior to undertaking any further works on the lot associated with construction of the dwelling.
 10. That the applicant obtains a Building Permit, in accordance with the requirements of the Building Act 2011 and the Building Regulations 2012 prior to, undertaking any works associated with completing construction of the dwelling.
 11. That the applicant make application for the approval of an on-site effluent disposal system in accordance with the requirements of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.
 12. That the applicant connect the operation to mains power and that any use of a generator on the site be for back-up purposes only.
 13. The applicant seeking the approval of the Water Corporation for the development;
 14. That the proponent satisfies local and any FESA requirements with regard to fire services;
 15. That the applicant obtain and submit to the Shire of Cue, prior to occupancy, a Certificate of Building Compliance, in accordance with the requirements of the Building Act 2011 and the Building Regulations 2012.

Advice to Applicant

The applicant is advised that the 'Good Neighbour' management plan referred to in Condition 1 of this approval, should be a simple document not exceeding 1 – 2 pages, be written in simple English and use simply understood terms.

CARRIED: 4/3

AGAINST: Cr Houghton, Cr Spindler, Cr Fitzpatrick

The Presiding Member exercised the casting vote and carried the motion.

10.7 AMENDMENT NO 1 SHIRE OF CUE LOCAL PLANNING SCHEME NO 2

APPLICANT: Shire of Cue
DISCLOSURE OF INTEREST: Nil
AUTHOR: Eugene Ferraro
DATE: 20 May 2021

Matters for Consideration:

Proposal to modify and readvertise the Heydon Place Amendment No 1 for public comment.

Background:

At its meeting in October 2017, the Council resolved to initiate and advertise Amendment No 1 which sought to rationalise the zoning and road layout for the Heydon Place General Industry area.

Four submissions were received during the advertising period, including an objection from LandCorp, the then owner of Lot 596 Heydon Place.

At its meeting in March 2018 the Council resolved as follows:

- 1. support amendment 1 to Town Planning Scheme No2 with a proposed modification to address issues raised in submissions by Landcorp and the Water Corporation in relation to the alignment of Heydon place;*
- 2. authorise the Shire President and Chief Executive Officer to sign and apply the common seal to the amendment documents; and*
- 3. endorse the recommendations contained in the report titled "Planning & Development Act 2005 Shire of Cue Local Planning Scheme No.2 Amendment No. 1 Report on Final Approval Schedule of Submissions"*

There was no action taken to implement this decision and the amendment has remained 'on-foot' since.

A review of the matter has now been undertaken and a simpler solution is proposed that will enable the planning of the Heydon Place general industrial area to be finalised.

Comments:

The amendment as initially advertised sought to avoid the creation of a cul-de-sac by extending Heydon Place to the northern boundary of the general industrial area and then extending this through along the adjoining Unallocated Crown Land to Robinson Street. This solution suffered two problems. The first was that it affected Lot 596, which at the time was owned by LandCorp and now has since been sold and developed for industrial purposes. The second required the extension of the town boundary and also required the navigation of vesting Unallocated Crown Land and the Native Title agreement.

LandCorp objected to the proposed amendment as inter alia, it would have an adverse impact on Lot 596. Upon reviewing this amendment, it appears that a simple solution is available that will enable the development of the general industrial area to be finalised more promptly, without impacting on private land. A subdivision concept plan has been prepared to demonstrate the potential outcome of the proposed modification. ([Appendices 6 & 7](#)).

The modified proposal seeks to formalise Heydon Place as a cul-de-sac. This would enable the subdivision of the Council owned Lots 641 and 9000 to be completed and provide the opportunity for additional industrial lots to be provided to the market. Discussions with officers at the Department of Planning, Lands and Heritage have confirmed that the solution is workable, provided that the cul-de-sac head can accommodate the necessary turning movement of transport vehicles. At 42m wide, the cul-de-sac head has been designed to accommodate the turning movement of vehicles up to 53.5m in length.

The solution also enables Lot 641 to be subdivided into two lots, with the section currently occupied by Lacy Transport being subdivided as a battleaxe shaped lot. A copy of the draft subdivision concept plan to achieve this is attached at [Appendix 8](#).

Arrangements would need to be put in place at the time of subdivision to enable reciprocal access to and from the road assembly area onto the access leg. This would ensure that current fuel filling arrangement will remain in place.

Statutory Environment:

The *Planning and Development (Local Planning Schemes) Regulations 2015* detail the processes that must be following for preparing and amending town planning scheme. Regulation 51 is as follows:

- 51. Local government may advertise proposed modifications to standard amendment**
- (1) The local government may decide to advertise a modification to a standard amendment to a local planning scheme if —
 - (a) the local government proposes the modification to address issues raised in submissions made on the amendment; and
 - (b) the local government is of the opinion that the proposed modification to the amendment is significant.
 - (2) If a local government makes a decision under sub regulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the amendment.
 - (3) A proposed modification to an amendment to a local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
 - (4) Any advertisement of a proposed modification to the amendment to the local planning scheme must include a notice specifying —
 - (a) the proposed modifications to be made to the advertised amendment; and
 - (b) where the amendment and the proposed modifications may be inspected; and
 - (c) to whom and during what period submissions may be made; and
 - (d) the manner and form in which submissions may be made.
 - (5) The period for making submissions set out in the notice referred to in sub regulation (4) must be a period of 21 days commencing on the day on which the notice is first given or a longer period approved by the Commission.

- (6) A person may make a submission on a proposed modification to a standard amendment to a local planning scheme that has been advertised in accordance with sub regulation (2) —
- (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.
- (7) If a proposed modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and
 - (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered.

Given:

1. That Regulation 51(1) enables Council to readvertise a modification to an amendment that is proposed in response to a submission received;
2. The previous modification adopted by the Council in May 2018 was not readvertised; and
3. The modification now proposed offers a solution that is able to be better implemented and importantly, able to be implemented immediately,

it is recommended that Council:

- a. Rescind the decision of the Council of March 2018 (Resolution 04032018) relating to amendment 1; and
- b. Agree to now modify the amendment as proposed by this report;
- c. Agree to advertise the modified amendment; and
- d. Refer the amendment to service authorities for comment.

Policy Implications:

Nil.

Financial Implications:

Upon finalisation of the amendment the Shire will be able to finalise the subdivision of Lot 9000.

Strategic Implications:

The proposed action addresses the following objectives contained in the Shire’s Strategic Community Plan 2017-2027.

Economic Objective

Outcome 1.1 Maximise local economic opportunities to benefit the whole community

1.1.3 Utilise the land available in the area for a range of new business to be self-sustaining

Consultation:

Rob Madson – Chief Executive Officer

Matthew Burnett – Senior Planning Officer Dept of Planning, Lands and Heritage.

Officer’s Recommendation:

Voting Requirement: Simple Majority

That Council:

- a. Rescind the decision of the Council of March 2018 (Resolution 04032018) relating to amendment 1; and
- b. Pursuant to Regulation 51(1) of the *Planning and Development (Local Planning Schemes) Regulation 2015* resolve to:
 - 1. Determine the submissions received as per the summary of submissions attached;
 - 2. Agree to modify to amendment in response to the submissions received;
 - 3. Agree to advertise the modification to Amendment 1 for a period of 21 days by:
 - a. Publishing a public notice on the Shire website; and
 - b. Provide a notice in writing to all landowners within the Heydon Place General Industrial area;
 - c. Making a copy of the modification available for public viewing within the Shire Office
 - d. Referral to authorities.

Council Decision: 08062021

Voting requirement: Simple Majority

MOVED: Cr Dennis

SECONDED: Cr Spindler

THIRD: Cr Price

That Council:

- a. Rescind the decision of the Council of March 2018 (Resolution 04032018) relating to amendment 1; and
- b. Pursuant to Regulation 51(1) of the Planning and Development (Local Planning Schemes) Regulation 2015 resolve to:
 - 1. Determine the submissions received as per the summary of submissions attached;
 - 2. Agree to modify to amendment in response to the submissions received;
 - 3. Agree to advertise the modification to Amendment 1 for a period of 21 days by:
 - a. Publishing a public notice on the Shire website; and
 - b. Provide a notice in writing to all landowners within the Heydon Place General Industrial area;
 - c. Making a copy of the modification available for public viewing within the Shire Office
 - d. Referral to authorities.

CARRIED: 6/0

11. MOTIONS BY MEMBERS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. MOTIONS FOR CONSIDERATION AT THE NEXT MEETING

Nil

13. NEW BUSINESS OF AN URGENT NATURE

Nil

14 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Council Decision: 9062021 **Voting requirement: Simple Majority**

MOVED: Cr Fitzpatrick **SECONDED: Cr Dennis**

That the meeting be closed to members of the public to discuss confidential matters.

CARRIED: 6/0

All public and staff, with the exception of the CEO, left the meeting at 7:29pm.

14.1 CEO SELECTION PANEL RECOMMENDATION

APPLICANT: CEO Selection Panel

DISCLOSURE OF INTEREST: Nil

AUTHOR: Rob Madson – Chief Executive Officer

DATE: 15 June 2021

Matters for Consideration:

Ratification of the recommendation of the CEO Selection panel in relation to the employment of a Chief Executive Officer and appointment of an Acting CEO from 1 July 2021.

Council Decision: 10062021 **Voting requirement: Absolute Majority**

MOVED: Cr Price **SECONDED: Cr Dennis**

That Council:

1. Accept the CEO Selection Panel recommendation that the preferred applicant to be appointed to the position of CEO is Mr Richard Towell.
2. Acknowledge that Mr Richard Towell is considered to be a suitably qualified person to be appointed to the position of CEO.
3. Authorise Cr Pigdon, Cr Price and Mr Mike FitzGerald of Fitz Gerald Strategies to conclude a negotiated contract of employment within the scope of the advertised remuneration package.
4. Appoint Mr Richard Towell to the position of Acting CEO from 1 July 2021 should the permanent CEO appointment not be concluded by that date.

CARRIED: 4/3

AGAINST: Cr Houghton, Cr Spindler, Cr Fitzpatrick

The Presiding Member exercised the casting vote and carried the motion.

Note: Absolute Majority not achieved.

Council Decision: 11062021

Voting requirement: Simple Majority

MOVED: CR DENNIS

SECONDED: CR FITZPATRICK

That the meeting be re-opened to members of the public.

CARRIED: 6/0

15 CLOSURE

The Presiding Member thanked those present for attending the meeting and declared the meeting closed at 7:37pm.

To be confirmed at Ordinary Meeting on the 20 July 2021.

Signed:.....

Presiding Member at the Meeting at which time the Minutes were confirmed.