



## MINUTES OF SPECIAL COUNCIL MEETING HELD 8 NOVEMBER 2008

I hereby certify that the Minutes of the Special Meeting of Council held 8 November 2008 are a true and accurate record of the proceedings contained therein.

***Shire President Confirmed***

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**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Acting Shire President, Cr Ralph Addis declared the meeting open at 10:03am.

**2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

Cr R Addis  
Cr K Wright  
Cr J Moulden  
Cr J Parker  
Cr F Mills  
Cr P Caley  
Cr K Torres  
Cr R Boshammer

Peter Stubbs  
Jo-Anne Ellis  
Alex Douglas  
Karyn Apperley

**3. DECLARATIONS OF INTEREST**

• **Financial Interest**

Cr K. Wright declared a financial interest in Item 4.5 Lot 102 Bull Rub Road as he is a Director in the Company that owns the property.

• **Members Impartiality Interest**

Cr F. Mills declared a financial interest in Item 4.5 Lot 102 Bull Rub Road as he is a friend of the Directors of the Company that owns the property.

Cr R. Boshammer declared an interest in item 4.4 Weaber Plains Flood Mitigation as he has a shareholder interest in Ord Irrigation Cooperative and Ord Irrigation Mutual Cooperative Ltd.

• **Proximity Interest**

Nil

#### **4. BUSINESS OF MEETING**

The Acting Shire President vacated the Chair as Presiding Member to allow the Chief Executive Officer to conduct the election for the position of Shire President.

##### **4.1. Election of Shire President**

The Chief Executive Officer called for nominations for Shire President.

The following nominations were made:

Cr R Addis self nominated in writing on 8 November 2008.

Cr K Wright nominated Cr F Mills  
Cr F Mills accepted the nomination

A draw was held to determine the order of candidates on the voting ballot paper. The order was determined as:

Cr Mills  
Cr Addis

At the conclusion of the vote the Chief Executive Officer advised the meeting the vote was tied at 4 votes for each candidate.

#### **COUNCIL DECISION**

**Minute No. 8429**

**Moved: Cr J Moulden**

**Seconded: Cr P Caley**

***That the Meeting be adjourned for 15 minutes.***

**Carried Unanimously 8/0**

Meeting adjourned to 10.30

The Chief Executive Officer reopened meeting at 10.30

A second vote was conducted the Chief Executive Officer using new ballot papers.

At the conclusion of the second vote the Chief Executive Officer declared that Cr F. Mills was elected as Shire President on vote of 5/3.

The Chief Executive Officer congratulated Cr Mills and invited Cr Mills to the Chair. Cr Mills read the declaration for Office President of the Shire of Wyndham East Kimberley, and took Chairmanship of the meeting.

#### 4.2. Election of Deputy Shire President (if required)

The Shire President noted that the office of Deputy Shire President had not become vacant and so an election was not necessary.

#### 4.3. Consideration of a Nominee to the Board of Australia's Northwest

<b>DATE:</b>	8 November 2008
<b>PROPONENT:</b>	Shire of Wyndham East Kimberley
<b>LOCATION:</b>	Shire of Wyndham East Kimberley
<b>AUTHOR:</b>	Peter Stubbs, Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Stubbs, Chief Executive Officer
<b>FILE NO:</b>	40.13.06
<b>ASSESSMENT NO:</b>	N/A

#### **PURPOSE**

To consider a nominee to the Board of Australia's Northwest.

#### **BACKGROUND**

The Zone had previously appointed Cr Archer (Shire of Derby/West Kimberley) to the position of Zone delegate for a two (2) year term which has now expired.

#### **STATUTORY IMPLICATIONS**

Excerpt from Australia's Northwest Constitution

#### ***COMPOSITION OF THE BOARD***

*The affairs of the Organisation shall be managed exclusively by the Board, consisting of no more than thirteen (13) members comprising of:*

*Seven (7) elected members with no less than three (3) of those members from the Pilbara sub-region and no less than three (3) of those members from the Kimberley sub-region.*

*Two (2) ex-officio representatives from local government, comprised of one (1) from the Pilbara sub-region and one (1) from the Kimberley sub-region.*

*Up to four (4) co-opted members as identified by the Board.*

*The Chairman and Deputy Chairman shall both be chosen by the members of the elected Board.*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

ANW meets four (4) times per year and meets the costs of meals accommodation and travel including airfares to Perth or the Region.

Part funding for the operations of ANW comes from local governments in the Pilbara and Kimberley.

## **STRATEGIC IMPLICATIONS**

### ***Economic Development***

Key Result Area 3

Work in partnership with Government, community and industry leaders to promote and provide opportunities for economic growth across the Shire

- Partnerships in tourism strategies that promote opportunities for economic growth;
- Advocate for opportunities unique to the region

## **COMMUNITY CONSULTATION**

Nil

## **COMMENT**

Correspondence has been received from the Chief Executive Officer of Australia's Northwest (ANW), as attached, for a representative to be nominated from the Kimberley Zone of WALGA to fill a position on the Board of ANW.

The term runs from October 2008 to the next AGM of ANW in October 2010, in effect a two (2) year term.

## **ATTACHMENTS**

Correspondence from Australia's Northwest

## **VOTING REQUIREMENT**

Simple Majority

## **RECOMMENDATION**

That Council nominate Cr Fred Mills as its nominee to represent the Kimberley Zone on the Board of Australia's Northwest Tourism for a two (2) year term expiring in October 2010.

## **COUNCIL DECISION**

**Minute No. 8430**

**Moved: Cr K Wright**

**Seconded: Cr J Moulden**

***That Council nominate Cr Fred Mills as its nominee to represent the Kimberley Zone on the Board of Australia's Northwest Tourism for a two (2) year term expiring in October 2010.***

**Carried Unanimously 8/0**



**Australia's North West Tourism**  
ABN 24 772 721 131

email [Info@australiasnorthwest.com](mailto:Info@australiasnorthwest.com)  
[www.australiasnorthwest.com](http://www.australiasnorthwest.com)

**Kimberley**

PO Box 554, Broome,  
Western Australia 6725

Tel (+61) 08 9193 6660  
Fax (+61) 08 9193 6662

**Pilbara**

PO Box 1632, Karatha,  
Western Australia 6714

Tel (+61) 08 9185 5455  
Fax (+61) 08 9185 0189

Mr Kenn Donohoe  
Secretary – WALGA Kimberley Zone  
PO Box 44  
BROOME WA 6725

28<sup>th</sup> October 2008

Dear Kenn,

The Constitution of Australia's North West Tourism allows for an Ex Officio representative from the WALGA Kimberley Zone to be nominated to the Board for a two year term. The term of the incumbent, Elsie Archer, has now been completed and it was agreed at our recent Board meeting that I write seeking nomination from the Kimberley Zone to either extend Ms Archer's appointment, or nominate a new candidate.

The next Board meeting of Australia's North West Tourism is scheduled for Perth on 12<sup>th</sup> December and it is hoped to have a recommendation prior to this date.

Please contact me should you require any further information.

Yours Sincerely

A handwritten signature in black ink, appearing to be "Glen Chidlow". The signature is fluid and cursive, written over a light grey rectangular background.

Glen Chidlow  
Chief Executive Officer

#### 4.4. Weaber Plains Flood Mitigation

<b>DATE:</b>	8 November 2008
<b>PROPONENT:</b>	Shire of Wyndham East Kimberley
<b>LOCATION:</b>	Kununurra
<b>AUTHOR:</b>	Alex Douglas, Executive Manager Engineering and Regulatory Services
<b>REPORTING OFFICER:</b>	Alex Douglas, Executive Manager Engineering and Regulatory Services
<b>FILE NO:</b>	22.09.01
<b>ASSESSMENT NO:</b>	N/A

#### **PURPOSE**

For Council to consider the possible acceptance of ownership of the additional M1 Channel culverts as a component of the compulsory three party agreement required to access the State Government funding contribution to the project.

#### **BACKGROUND**

As per Council resolution 8403, a letter was sent to Minister Jacobs. At the time of preparing this agenda, no response had been received from the Minister.

***Minute No. 8403***

***Moved: Cr K Wright***

***Seconded: Cr J Parker***

***That Council seek the intervention of the Minister for Water to resolve the impasse that has developed between the Water Corporation and the Ord Irrigation Cooperative as well as the Shire in regards to the proposed expansion of syphons under the M1 channel and works to increase the capacity of the D2 drain in the vicinity of Lots 7 and 25 Weaber Plain road.***

***Carried 4/2***

Below is the background provided to Councillors at the Ordinary Meeting of Council 21 October 2008:

Councillors have recently met with representatives of the Ord Irrigation Cooperative (OIC), Water Corporation (WC) and Kimberley Development Commission (KDC) in an endeavour to progress a three party agreement (SWEK, OIC and WC) to secure the State funding.

Councillors were provided information at the October Briefing Session.

From both the meeting with OIC, WC and KDC and the Briefing Session there was a view that Councillors were prepared to consider ownership of the new (and existing) culverts provided that there was a means of reviewing the ownership issue as and when the M1 Channel is widened or the M2 Channel is constructed as part of the Ord expansion plans.

## **STATUTORY IMPLICATIONS**

For Council to accept ownership of the additional M1 Channel culverts Access Agreements will be required from both OIC and WC to enable unfettered access to the land for both construction and maintenance activities.

## **POLICY IMPLICATIONS**

There are no specific policies relating to this report.

## **FINANCIAL IMPLICATIONS**

Estimates have been prepared by Shire staff and forwarded to the OIC and WC for review.

The flood mitigation project involves three parts being Research Station Rd (additional culverts) on the D2 alignment, widening of the D2 Drain and M1 Channel (additional culverts)

The estimated costs are summarised as follows: -

- A. Research Station Rd - \$148,000
- B. Widening of the D2 Drain – yet to be analysed
- C. M1 Channel - \$500,000

A total of \$900,000 has been committed by the State and Federal Governments. Based on the sum of the Research Station Rd and M1 Channel parts an amount of \$250,000 is available for initial widening works on the D2 Drain.

Should the Shire take ownership of the M1 Channel culverts the estimated annual cost would be in the range of \$10,000 to \$20,000 per annum dependent on the type of wet season experienced.

The Shire has commenced budgeting for maintenance works on the drainage reserves that take water from the Weaber Plain Road reserve through to the M1 Channel reserve. This year \$80,000 has been allocated.

## **STRATEGIC IMPLICATIONS**

Not applicable

## **COMMENT**

The following information outlines a number of the issues to consider with respect to the ownership of the culverts:

1. Existing culverts currently owned by OIC.
2. OIC want to shift ownership and therefore future management/liability to Shire, so that they are removed from future flooding impacts.
3. Syphon is under M1 and within M1 reserve vested/owned by Water Corporation.
4. Syphon does not connect to any other Shire network.



Staff are aware of the desire by Council to resolve the apparent stalemate caused by the ownership issue, and that that desire is primarily to assist the owners of the land that is subject to inundation during mid to late wet season heavy rainfall events.

Work has been initiated on the Research Station culverts and has been advertised for the two week period from 27 October to 10 November 2008.

The recommended action from staff is that Council would be best to not accept ownership of the culverts as the isolated infrastructure is not located on land under the Shire's control and there is no evidence that the ownership of the culverts will be reviewed into the future.

Should Council consider that ownership of the culverts is required to progress the three party agreement then the following alternate recommendation is provided:

That Council advise the Ord Irrigation Cooperative and Water Corporation that it is prepared to accept ownership of the culverts under the M1 Channel adjacent the drainage reserve R42882 subject to the following criteria being satisfied:

1. The Water Corporation agrees to provide an easement agreement for the portion of King Location 915 (M1 Channel reserve) over which the culverts are constructed,
2. The Ord Irrigation Cooperative agrees in conjunction with the Water Corporation agrees to access by the Shire or its contractors at all times to enable both construction and maintenance of the culverts and their inlet and outlet structures,
3. The Water Corporation or Ord Irrigation Cooperative undertakes maintenance of stormwater channels within King Location 915 that direct water to the culverts, and
4. The Water Corporation commits to the inclusion of appropriate stormwater management provisions within the design and construction works involving the widening of the M1 Channel or the new M2 Channel to replace the function of the existing and new culvert structures.

## **ATTACHMENTS**

Nil

## **VOTING REQUIREMENT**

Simple Majority

## **MANAGERS' RECOMMENDATION**

That Council:

1. advise the Water Corporation and Ord Irrigation Cooperative that the ownership of the new culverts should be consistent with the present agreement between those two parties, that is the responsibility remain with the Cooperative, and
2. implements the installation of additional culverts under Research Station Road and the balance of funds committed by the State and Federal Governments be made available to the Ord Irrigation Cooperative and Water Corporation for the implementation of improvements to the infrastructure under their management being the D2 Drain and the M1 Channel culverts.

That Council advise the Ord Irrigation Cooperative and Water Corporation that it is prepared to accept ownership of the culverts under the M1 Channel adjacent the drainage reserve R42882 subject to the following criteria being satisfied:

1. The Water Corporation agrees to provide an easement agreement for the portion of King Location 915 (M1 Channel reserve) over which the culverts are constructed,
2. The Ord Irrigation Cooperative agrees in conjunction with the Water Corporation agrees to access by the Shire or its contractors at all times to enable both construction and maintenance of the culverts and their inlet and outlet structures,
3. The Water Corporation or Ord Irrigation Cooperative undertakes maintenance of stormwater channels within King Location 915 that direct water to the culverts, and
4. The Water Corporation commits to the inclusion of appropriate stormwater management provisions within the design and construction works involving the widening of the M1 Channel or the new M2 Channel to replace the function of the existing and new culvert structures.

### **COUNCIL DECISION**

**Minute No. 8431**

**Moved: Cr J Moulden**

**Seconded: Cr K Wright**

***That Council advise the Ord Irrigation Cooperative and Water Corporation that it is prepared to accept ownership of the culverts under the M1 Channel adjacent the drainage reserve R42882 subject to the following criteria being satisfied:***

- 1. The Water Corporation agrees to provide an easement agreement for the portion of King Location 915 (M1 Channel reserve) over which the culverts are constructed,***
- 2. The Ord Irrigation Cooperative agrees in conjunction with the Water Corporation agrees to access by the Shire or its contractors at all times to enable both construction and maintenance of the culverts and their inlet and outlet structures,***
- 3. The Water Corporation or Ord Irrigation Cooperative undertakes maintenance of stormwater channels within King Location 915 that direct water to the culverts, and***
- 4. The Water Corporation commits to the inclusion of appropriate stormwater management provisions within the design and construction works involving the widening of the M1 Channel or the new M2 Channel to replace the function of the existing and new culvert structures.***

**Carried 7/1**

*Cr P Caley requested votes be recorded*

*For: Cr K Wright                      Cr R Boshammer  
      Cr J Moulden                     Cr K Torres  
      Cr J Parker                       Cr F Mills  
      Cr R Addis*

*Against: Cr P Caley*

***Reason for change from Recommendation***

***Council took the view that the risks involved with taking ownership were outweighed by the need to achieve a pragmatic and timely solution in the interests of land owners.***

#### 4.5. Lot 102 Bull Run Road – Single Dwelling

<b>DATE:</b>	8 November 2008
<b>PROPONENT:</b>	Green Country Holdings
<b>LOCATION:</b>	Lot 102 Bull Run Road
<b>AUTHOR:</b>	Keith Williams, Town Planner
<b>REPORTING OFFICER:</b>	Peter Stubbs, Chief Executive Officer
<b>FILE NO:</b>	01.0076.02
<b>ASSESSMENT NO:</b>	A0076

#### **PURPOSE**

For Council to consider granting planning consent to Green Country Holdings for a Single Dwelling at Lot 102 Bull Run Road.

#### **BACKGROUND**

Workers accommodation and a transport depot have been approved and constructed on Lot 102 Bull Run Road. The owner now seeks approval of a single dwelling on the lot.

#### **SITE LOCATION**

The subject site is one of four Composite Industry zoned lots located on Bull Run Road in Kununurra. The subject land abuts two Composite Industry lots to the north and south, with the rear (eastern) boundary adjacent to a large parcel of Rural Living zoned land that surrounds the entire Composite Industry area on three sides. There is a fuel depot to the south of the Composite Industry zoned land area.

The subject site is abutted to the south by a transport depot development with two existing transient accommodation units and planning approval for a caretaker's dwelling, with a large shed currently being developed. To the north is a lot developed with a single residence to the rear of the lot, a caretaker's dwelling and workshop to the front boundary with Bull Run Road. The northern most lot is developed for single residential purposes.

#### **PROPOSED LAND USE / DEVELOPMENT**

The applicant is seeking approval of a single dwelling. The subject land is currently used as a transport depot with development comprising two transient accommodation units for bus drivers, a shed for the storage of buses and a tank stand.

#### **FINANCIAL IMPLICATIONS**

The Application Fee of \$420.00 has been paid.

#### **COMMUNITY CONSULTATION**

Under Town Planning Scheme No. 7 – Kununurra and Environs, both a transport depot and transient accommodation are AA uses, meaning that there are no

advertising requirements. Officers do not have delegated authority to approve this AA use. Accordingly, the application is to be considered by Council.

## **ATTACHMENTS**

A location plan and submitted development plan are attached.

## **PLANNING ASSESSMENT**

### **Strategic/Structure Plans**

The Local Planning Strategy designates the subject land to be for Industrial purposes with the current Rural Living zoned land to also be used for Industrial.

### **Town Planning Scheme No. 7 – Kununurra and Environs**

The land is located within the Composite Industry zone. Clause 5.15 of the town planning scheme states that the objectives of this zone are:

*To provide for the establishment of minor industrial pursuits and single residential development on the same lot with particular regard being given to operating hours, levels of development, and potential impact of the development on adjoining composite industrial zoned lots and future rural residential uses in the locality.*

In addition to objectives, the Scheme contains development requirements for lots situated within the Composite Industry zone, stating that a person may only:

- a) *Develop or establish a light industry where a residence is erected first and forms an integral part of the development.*
- b) *Allow the residence to be occupied by either the owner, manager or employee of the light industry established on the premises.*
- c) *Generally allows family or dependants to be employed in the industrial pursuit.*
- d) *Establish an industry that is of a nature as determined by Council that can operate compatibly with residential living and with minimal impact on adjoining residential uses.*
- e) *Establish an industry that is essentially a single person operation and is not reliant on attracting passing trade or customers.*
- f) *Develop single residential use in accordance with the R15 code.*
- g) *Develop industrial use in accordance with standards specified in Tables 1 and 2 of the Scheme.*

Under Table 1 of the Scheme, transient accommodation is listed as a form of residence, and defined in Appendix 1 as

*any habitable building permanently affixed to the ground by footings as required by Council and includes any caravan, transportable dwelling or any structure used for habitation for the purposes of accommodation for a period not exceeding 6 months.*

A transport depot is an Industrial use defined as

*any land or buildings used for the garaging of motor vehicles used or intended to be used for carrying goods or persons, or for the transfer of*

*goods or persons from one motor vehicle to another of such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles, and may include overnight accommodation on-site for the transport workers.*

There will be no customers attracted to the site by signage or advertising, with very limited occasions envisaged when a customer may find it more convenient to meet the bus on site than be collected.

### **CONCLUSION / COMMENT**

The site has been developed with Transient Accommodation and a Transport Depot, which were approved by Council.

The proposed use and development of a single dwelling are consistent with Scheme provisions, and it is recommended that the proposed use and development be approved with conditions.

### **VOTING REQUIREMENT**

Absolute Majority

### **RECOMMENDATION**

1. That Council grants planning consent to Green Country Holdings for the use and development of Lot 102 Bull Run Road for a Single Dwelling, in accordance with the submitted plans and subject to the following conditions:
  - (i) Any conditions issued under delegated authority from Council's Standard Conditions list.
2. That Council amend its Delegations Register to give delegated authority to the Chief Executive Officer to approve planning applications for single dwellings in areas zoned as composite industry.

*Cr Wright left room at 10.45*

### **COUNCIL DECISION**

**Minute No. 8432**

**Moved: Cr J Moulden**

**Seconded: Cr R Addis**

***That Council grants planning consent to Green Country Holdings for the use and development of Lot 102 Bull Run Road for a Single Dwelling, in accordance with the submitted plans and subject to the following conditions:***

- (i) ***Any conditions issued under delegated authority from Council's Standard Conditions list.***

**Carried Unanimously 7/0**

*Cr Wright returned to room at 10.46*

**COUNCIL DECISION**

**Minute No. 8433**

**Moved: Cr J Parker**

**Seconded: Cr J Moulden**

***That Council amend its Delegations Register to give delegated authority to the Chief Executive Officer to approve planning applications for single dwellings in areas zoned as composite industry.***

**Carried Unanimously 8/0**

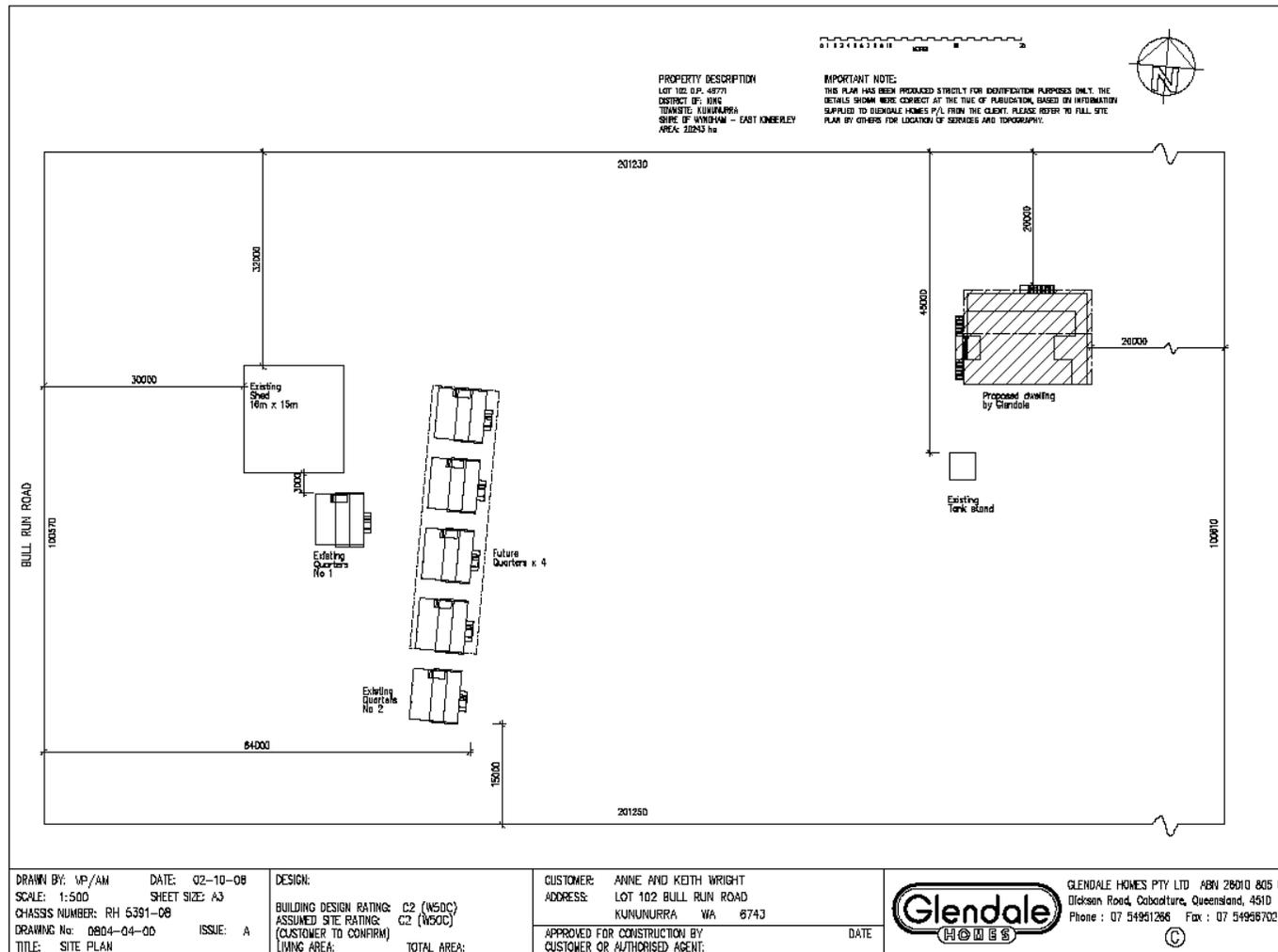
*Council considered the recommendations in two parts to enable Cr Wright to take part in decision making in relation to part two of the officers recommendation as this was not related to the declaration of interest.*

**ATTACHMENT 1 - AERIAL PHOTO**

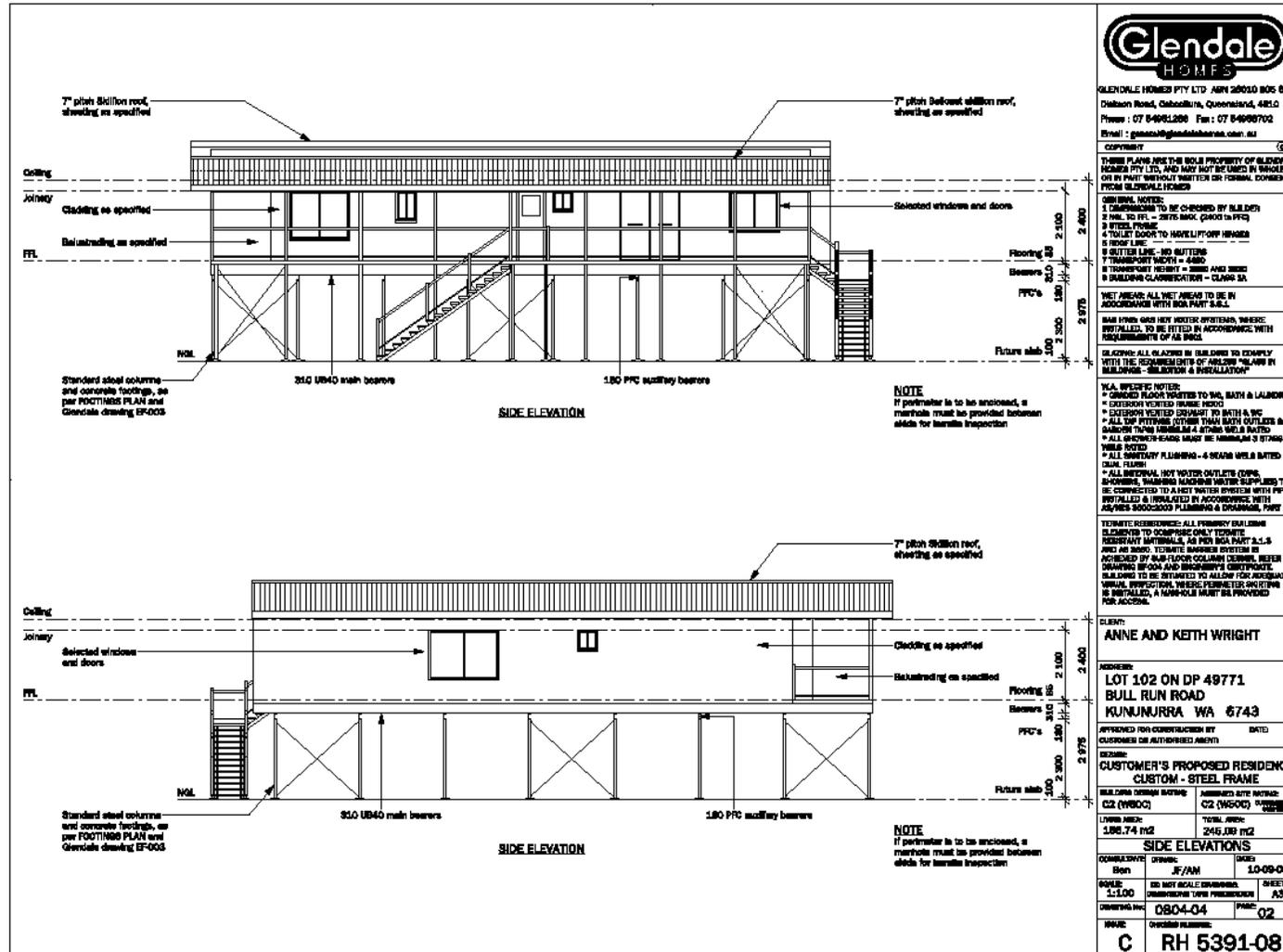


**LOT 102 BULL RUN ROAD  
PROPOSED SEINGLE DWELLING**

# ATTACHMENT 2 - SITE PLAN



ATTACHMENT 3 - ELEVATION PLAN



**5. CLOSURE**

With all matters of business complete the Shire President declared the meeting closed at 10.49am.