

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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### Attachment 1B to Item 11.1.2

#### **Extract Public Comments BHP Iron Ore**

The stated purpose of the development being a 'Mixed Use Caravan Park' is misleading. The proponent intends to make accommodation units available for both short term use and operational Fly- in Fly-Out (FIFO) workers. The development is really intended to operate as a Transient Workforce Accommodation (TWA) facility. Even if the Town seeks to impose restrictions to prevent its use by operational FIFO workers, enforcement of those restrictions will at best be problematic. If the proponent intends to develop a TWA facility on the Subject Site, then the Business Plan should expressly state that this is the intended use of the facility .

**Town response:** *The development is not intended to operate as a transient workforce accommodation facility. The Business Plan expressly states that the proposed development would contain 18 tents spaces, 36 caravan sites (with recreation and kitchen amenities), 24-backpacker beds accommodated in six rooms all of which will be dedicated solely to tourism, plus nine bungalows and 348 single room accommodations. The 348 single rooms and 9 bungalows would be available to tourists, business travelers as well as Fly-in Fly (FIFO) workers. The accommodation reserved for tourism would be booked via a third party such as the visitors centre to ensure that it was available solely for short stay accommodation. The development was categorized as 'mixed use caravan park' to capture the nature of the project which is neither a caravan park nor a non-residential workforce village.*

More importantly, the Town has advertised a proposed Non-Residential Workforce Accommodation Strategy (NRWA Strategy) for public comment. The NRWA Strategy will prevent industry from providing a range of accommodation options to support our workforce who may or may not reside in Port Hedland – including residential dwellings and also facilities like Port Haven that cater for FIFO workers. It is inconsistent and discriminatory for the Town to promote the NRWA Strategy whilst at the same time give consideration to allowing third parties under the guise of a 'Mixed Use Caravan Park' to provide FIFO worker accommodation.

**Town response:** *The non-residential workforce accommodation strategy is a draft document for discussion and will be refined after a stakeholder consolidation period. The Town would not seek to place restrictions on residential dwellings as part of that strategy nor would the Town have the ability to apply any restrictions retroactively on existing facilities such as Port Haven.*

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#### **Extract of Public Comment Pilbara Development Commission**

The reservation of the reserve is for a caravan park, and the proposed development is not a caravan park.

**Town response:** *The State Government is considering the reclassification of the reserve to "Caravan Park, Holiday Accommodation and Tourism". On 27 November 2013 at the Ordinary Council Meeting, The Town of Port Hedland Council (Council) approved to request an amendment to the purpose of Reserve 29044 being Lot 300 on Deposited Plan 53035, Lot 5822 on Deposited Plan 189904 Lot 5747 on Deposited Plan 216729, Lot 5771 on Deposited Plan 216778 and Lot 1382 on Deposited Plan 29206 from "Caravan Park" to*

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

---

*“Caravan Park, Holiday Accommodation and Tourism” This request has been submitted to the State of Western Australia Department of Lands (State Land Services) for consideration and approval.*

The development is inconsistent with the Pilbara Port Cities Growth Plan, which denotes the area for residential purposes at either a low or medium density. It's recommended that the site be developed as part of the overall Eastend development;

**Town response:** *The Pilbara’s Port City Growth Plan a guiding document and is not intended to be so prescriptive designate a land-use for each and every piece of land within the Town. In addition, the concept of a mixed accommodation village was for the vesting period of 21 years. After that the property could be utilized for residential development and much of the infrastructure such a fill would already be in place making the development of permanent housing less expensive.*

Whether developed as Short Stay Accommodation or Transient Workforce Accommodation, anecdotal evidence suggests that these uses are already over catered for under a demand/supply analysis, considering existing approvals and endorsed business cases. It's recommended that the ToPH update their demand supply analysis; and

**Town response:** *XXX report/analysis/study indicates that the number of available beds within the town has been or will be significantly reduced by up to 1,738 in the near future due to xxx. Also, the recently completed Dubois Report points out that “The level of activity within Transient Worker Accommodation Facilities (TWA’s) to house fly-in fly-out employees has also declined as construction projects have ended, however with the impending closure of lesser quality facilities and the termination of leases, this segment may well be facing shortages in the medium term”. The Town also points out to the general public that only a portion of the facility was planned to accommodate temporary workers.*

*Further the Chamber of Minerals and Energy of Western Australia states “The workforce required to meet current growth plans for the resource sector in the Pilbara is expected to peak at just over 65,000 in 2014, up from over 51,000 in 2011-an increase of 28.4%. At a local Government area level, total employment is forecast to decline to 2020 in the Shire of Ashburton and Shire of Roebourne as current major construction projects are completed. However, this fall is offset by growth in employment in the Town of Port Hedland and Shire of East Pilbara.”*

Any Short Stay Accommodation or Transient Workforce Accommodation approval on the site will likely compromise the ability of other already approved projects to proceed. i.e. South Hedland Hotel and Finbar developments.

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### **Extract of Public Comments Tourism WA.**

Tourism WA engaged Brighthouse Consultants to undertake an assessment of the Pretty Pool business plan. In summary, Brighthouse notes that the proposal is essentially for the installation of a 357 room transient workers accommodation camp with a minimal number of caravan and camping sites and a small number of backpacker rooms. It is estimated that the site has the capacity to provide up to 200 tourist accommodation units and caravan and camping sites, under an alternative holiday park proposal.

**Town response:** *The development is not intended to operate as a transient workforce accommodation facility. The Business Plan expressly states that the proposed development would contain 18 tents spaces, 36 caravan sites (with recreation and kitchen amenities), 24-backpacker beds accommodated in six rooms all of which will be dedicated solely to tourism, plus nine bungalows and 348 single room accommodations. The 348 single rooms and 9 bungalows would be available to tourists, business travelers as well as Fly-in Fly (FIFO) workers. The accommodation reserved for tourism would be booked via a third party such as the visitors centre to ensure that it was available solely for short stay accommodation. The development was categorized as 'mixed use caravan park' to capture the nature of the project which is neither a caravan park nor a non-residential workforce village.*

The assessment highlights multiple concerns with the proposed development. In particular, the proposal is not compliant with the Town's Strategic Community Plan 2012-2022, Local Planning Scheme No.5, the Caravan Park and Camping Grounds Regulations 1997, and the draft Non- Residential Workforce Accommodation Strategy, in addition to the purpose of the reserve for a caravan park.

**Town response:** *Please refer to extract of public comment from Brighthouse Consultants*

While Tourism WA strongly objects to the proposal to develop Lot 300 Pretty Pool for transient workforce accommodation, we would welcome the opportunity to work with the Town of Port Hedland on the development of the site for a tourist focused caravan park, including assistance with funding of a pre-feasibility study and business case.

**Town response:** *Town officers have worked closely with Tourism WA throughout this process of the "Request for Proposals". Project officers at Tourism WA were aware of the project and endorsed the concept while informing the management of Tourism WA. Refer to below e-mail correspondence from Lance Hardy Projects Manager for Tourism WA on 3/7/2012:*

*"Anyway, David Westbury is the key contact at the Town of Port Hedland who is releasing the RFP on the Cook Point Caravan Park Site. Just to reiterate from our quick chat, this will be a site that will encompass a mix of FIFO and the caravan market segments with built form accommodation, as without the site being mixed use the business case to develop would not stack up.*

*While it is understood that this was not necessarily an endorsement of the concept from Tourism WA if the town had been made aware of the agencies "strong objection" in 2012 the concept could have been refined before the significant investment of time and money from the proponent and town officers.*

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

---

*The concept of a “mixed accommodation facility” is further bolstered by Council’s drafted Caravan Park / Backpacker Accommodation Feasibility Study, commissioned by BHP Billiton, carried out by the AEC Group (yet to be endorsed) which revealed that a pure caravan park / backpacker development attracts high construction and heavy maintenance costs with a limited market, where as a fully serviced mixed tourist holiday park accommodates a more diverse types of traveler and provides access for community members including additional benefits for the Community such as a restaurant open to the public.*

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### **Extract of Public Comments Brighthouse Consultants**

The loss of tourism opportunity at the superb coastal location

**Town response:** *The proposal was aimed at building a tourism market in Port Hedland by providing a significant number of tourism amenities and thus begin the long process of diversifying the local economy. The Town is committed to growing a tourism market and providing facilities, such as the Pretty Pool Caravan Park, would help achieve this vision.*

*The Town of Port Hedland sent the “Request for Proposals” to large number caravan park operators and marketed the site in cooperation with Tourism WA. Despite these efforts, the Town did not receive any responses from caravan park operators/developers.*

*On August 2012 Council resolved to authorise the development of the site through a Request for Proposal (RFP). The RFP was advertised in the West Australian and The Australian newspapers on 26 August 2012 and North West Telegraph on 29 August 2012. A briefing session and a site inspection were held on 4 October 2012.*

*Two responses were received and following further negotiations with both parties the response from The MAC was endorsed by Council as the preferred proponent on 8 May 2013 (File No. 19/01/0002).*

Grossly Inadequate financial return to the community compared to potential earnings for Mac Services;

**Town response:** *The arrangement for a ground lease and is similar to the amount being paid for comparable properties such as the Cooke Point Caravan Park or Port Haven. It is disingenuous for Brighthouse to claim no market exists for this type of accommodation in Port Hedland and then claim enormous profits by the Mac Group. In addition, the tourism aspects of this development were to be run at cost by the Mac Group to keep them affordable.*

Inconsistency with the Town of Port Hedland’s Strategic Community Plan;

**Town response:** *The Community Strategic Community Plan 2012-2022 is a guiding*

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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*document which offers a high level assessment of the Town's aspirations. It is unrealistic for officers to assess this proposal in that manner.*

Regulatory Non-compliance;

Inconsistency with the Town of Port Hedland's Town Planning Scheme #5

**Town response:** *The property is classified as a Local Scheme Reserve for 'Parks and Recreation' under the Town of Port Hedland Town Planning Scheme Number 5. This allows the Town to approve use of the site for caravanning and short stay accommodation use consistent with the lease arrangements.*

Inconsistency with the proposed purpose of the Reserve for Caravan Park, Holiday Accommodation and Tourism.

**Town response:** *The State Government is considering the reclassification of the reserve to "Caravan Park, Holiday Accommodation and Tourism". On 27 November 2013 at the Ordinary Council Meeting, The Town of Port Hedland Council (Council) approved to request an amendment to the purpose of Reserve 29044 being Lot 300 on Deposited Plan 53035, Lot 5822 on Deposited Plan 189904 Lot 5747 on Deposited Plan 216729, Lot 5771 on Deposited Plan 216778 and Lot 1382 on Deposited Plan 29206 from "Caravan Park" to "Caravan Park, Holiday Accommodation and Tourism" This request has been submitted to the State of Western Australia Department of Lands (State Land Services) for consideration and approval.*

Inconsistency with the Town of Port Hedland Non-residential Workers Accommodation Strategy

**Town response:** *The Non-residential workforce accommodation strategy is a draft document for discussion and will be refined after a stakeholder consolidation period.*

Negative Impact on the surrounding residential community;

**Town response:** *The proposal contained elements such as buffers and landscaping which would be refined at the planning application stage.*

Lack of legacy value accruing to the community upon termination of the lease.

**Town response:** *The concept of a mixed accommodation village was for the vesting period of 21 years. After that the property could be utilized for residential development and much of the infrastructure such a fill would already be in place making the development of permanent housing less expensive. Thus the project does create a legacy for the community.*

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**Extract of Public Comments Lavan Legal on behalf of the Dubois Group; The Esplanade Hotel; The Walkabout Motel; The Hospitality Inn and the Ibis Styles.**

It should be noted that Lavan Legal have submitted objections of a similar nature to any development which might compete with these businesses or “land uses”. A summary of six letters from Lavan Legal is noted below. These outline objections on various grounds to new businesses, including a new coffee shop to which Nigel Oakey Managing Director of Dome Coffees Australia responded to one of these submissions in the following manner *“In this context it is somewhat reprehensible that a hijacking of due process is now attempted with ambit claims from nameless [clients] with vested business interests.”*

Letters of opposition to proposed developments received from Lavan Legal:

- 30 July 2013 – Proposed 120 room hotel development at Lot 5867 Wedge Street
- 28 August 2013 – Urgent request for deferment of Council’s consideration of item 11.1.1.14-Proposed Town Centre “Restaurant” and “Caretakers Dwelling” Application on lot 500 (No. 76) The Esplanade
- 28 August 2013 – Urgent request for deferment of Council’s consideration of item 15.2-Private Treaty proposal to lease lots 437, 438 and 439 and Part Lot 436 within the Kingsford Business Park to Finance Unlimited Pty Ltd.
- 16 October 2013 – Notice Apparent failure of the Town of Port Hedland and the Council to comply with and apply its statutory obligations.
- 18 October 2013 – Submission on proposal by the Town of Port Hedland to enter into a major land transaction with Ausco Modular Pty Ltd for the development of a 4.5ha portion of Lot 436 within the Kingsford Business Park
- 22 November 2013 – Submission on proposal by the Town of Port Hedland to enter into a major land transaction with Finance Unlimited Pty Ltd for the development of a 14.5 TWA within the Kingsford Business Park, being Part Lot 436 and all of Lots 437-439.

**TWA use under management order for Resolution 29044**

Reserve 29044 is vested in the Town subject to a management order which permits the Town, subject to complying with the provisions of the LG Act, to grant a lease for up to 21 years for the purpose of "caravan park".

The Proposal states that an application has been submitted to the State Lands Service to amend this purpose to "Caravan Park, Holiday Accommodation and Tourism". However, Mac is proposing a large 350+ bed TWA facility, with only a small number of camping, caravan, and backpacker facilities (to be operated by a separate, but not specified operator). The 350+ bed TWA component of the Proposal cannot be described as a "caravan park", "holiday accommodation" or "tourism• use.

On that basis, the authority for the Town to grant a lease in accordance with the Proposal is unclear.

**Town response:** *The State Government is considering the reclassification of the reserve to*

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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*“Caravan Park, Holiday Accommodation and Tourism”. On 27 November 2013 at the Ordinary Council Meeting, The Town of Port Hedland Council approved amending the purpose of Reserve 29044 being Lot 300 on Deposited Plan 53035, Lot 5822 on Deposited Plan 189904 Lot 5747 on Deposited Plan 216729, Lot 5771 on Deposited Plan 216778 and Lot 1382 on Deposited Plan 29206 from “Caravan Park” to Caravan Park, Holiday Accommodation and Tourism” This request will be submitted to the State of Western Australia Department of Lands (State Land Services).*

### **TWA use on Land Reserved “Parks and Recreation” under TPS5**

The Land is reserved "Parks and Recreation" under TPS5.

Clause 2.2 of TPS5 states: *“A person shall not carry out any development on..., or change the use of a reservation [under LPS5] without first applying for an obtaining written approval of the Council”.*

Clause 2.3 of TPS5 states: *“Where an application for planning approval is made [in accordance with clause 2.2 of LPS5] with respect to land within a reservation, the council shall:*

*The ultimate purpose Intended for the reservation should be determined by reference to, among other things, strategic planning documents and the management order which accompanies the vesting of the reserve.*

In this case, the 350+ bed TWA proposed by MAC is not in accordance with the ultimate purpose for the reservation, and as a result, the discretion available to the Town is constrained with regard to granting a TWA use under LPS5 in that location.

***Town response:*** *The property is classified as a Local Scheme Reserve for ‘Parks and Recreation’ under the Town of Port Hedland Town Planning Scheme Number 5. This allows the approval use of the site for caravanning and short stay accommodation use consistent with the lease arrangements.*

In addition, and as raised with the Town in submission to a number of TWA proposals put forward In the last year or so, my Clients have concern that a decision to grant a lease in the circumstances will evidence the apprehension of bias and render the decision open to legal challenge.

The test for whether there is a reasonable apprehension of bias is to ask whether a fair minded observer who is familiar with all the facts and circumstances of a case, would apprehend that there was bias, that is, when there is a reasonable apprehension that the decision maker might not bring an impartial and unprejudiced mind to the resolution of the question involved in it: *Laws v Australian Broadcasting Tribunal* (1990) 10 CLR 70; *Livesey v NSW Bar Association* (1983) 151 CLR 288.

The Proposal provides a number of examples through which a legal challenge to the ultimate decisions of the Council, under both the LG Act and the *Planning and Development Act 2005* (PO Act), on the basis of a reasonable apprehension of bias, may be made.

The Proposal contemplates the entering into of a lease for the purposes of a TWA facility prior to planning approval under TPS 5 being granted.

Not only is it likely that future assessment of development approval applications to support

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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the land use will give rise to a reasonable apprehension of bias, it is also likely to amount to the potential fettering the Town's and the Council's discretion to determine applications under TPS5.

**Town response:** *Business Plan and Planning approval are two distinct and separate processes administered under two separate acts and in this instance determination will be administered by two different decision making authorities:*

- *Business Plan-Local Government Act 1995 – Council*
- *Development Application Planning and Development Act – joint Development Assessment Panel*

*While conditions may have been “suggested” through the proposal by no means will influence the planning evaluation. Should the application be approved by the Joint Development Assessment Panel the conditions will have been scrutinized by the members to ensure all conditions are appropriate.*

### **TWA Land use**

The land use "transient workforce accommodation" is defined under TPS5 as:

*"Dwellings intended for the temporary accommodation of transient workers and may be designed to allow transition to another use or may be designed as a permanent facility for transient workers and includes a contractors camp and dongas".*

A "transient worker" is not defined under TPS5 and the only Town documents which attempt to classify a transient worker are the Town's Draft FIFO and TWA Strategy and the Town's Pilbara's Port City Growth Plan, which both provide by implication that transient workers are "operational and construction FIFO workers".

Operational workers are defined as skilled workers which are required on an ongoing basis whereas construction workers are required for a certain aspect of a project only.

Additionally, in all circumstances where a TWA land use is proposed, there should always be consideration given to effects on the amenity of the locality, and accordingly, all such applications may only be determined by the Council (and not by delegation).

As the Proposal has failed to identify what specific business or project the TWA will be catering to (ie, it does not elaborate on the what operational or construction workers it will be accommodating), it is questionable if the land use proposed will meet basic requirements required for the Town to support a TWA in any event.

The nature of a TWA is intended to be short term, and temporary. The grant of a lease with a 21 year lifespan, with no reference to a need generated by a particular business or project, is contrary to that objective.

**Town response:** *The requested information is out of the scope of the business plan. It is unrealistic for the proprietor to have a company committed to obtaining accommodation prior to a planning application being submitted.*

**Failures of the Town to comply with the basic requirements of producing a Business Plan as set out in the *Local Government Act 1995 (WA)*;**

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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### **Failure of the Town to describe the name of all other parties concerned**

The Town has failed to adequately describe all other parties concerned with the Proposal as required under section 3.58 (4)(a) of the LG Act.

The Proposal does not detail what specific project or business the proposed residents of the TWA will identify with, as required to be considered under the any approval for a TWA use under TPS5.

The Proposal does not detail who the financiers or end users of the Proposal are.

The Proposal does not detail who MAC intend to operate the "tourism" component of the Proposal.

The Business Plan fails to identify which Town officer/ officers prepared the Business Plan

As none of this information has been provided, there is no way to ascertain whether the Town, its officers or Councilors have any conflicts of interest with MAC, its contractors, or the businesses who's staff will utilize the TWA, contrary to the requirements of the LG Act.

***Town response:*** *The proposal is from The Mac Services Group Pty Ltd ("The MAC") and this is clearly stated. The business plan been prepared for consideration of a land lease and is not a TOPH led/managed project. Many of the entities that Lavan Legal are requesting be listed and named in the Business Plan have not yet been determined and therefore it would be impossible to identify.*

### **Failure of the Town to detail the market value of the disposition**

The APC Valuation provides a valuation for Lot436 on the basis that, among other things, all relevant Local, State and Commonwealth government approvals are in place, and in particular that the Land could be developed for, among other things, a 350+ room TWA as detailed in the Proposal.

This assumption is incorrect, as the Land Is not approved for a TWA use under TPS5, and the Town does not currently have the power to grant a TWA use on the reserve pursuant to its management order (see paragraphs 5-14 above)

Accordingly, as the valuation is premised on an incorrect assumption, there are potential issues that the Town has not met its requirement to properly value the Land pursuant to the requirements of the LG Act.

#### ***Town response:***

One could assume that this would mean that the property is worth less and therefore the offer becomes a more attractive offer in terms of potential financial return from the ground lease.

### **Failure of the Town to detail an overall assessment of the Major land transaction**

Due to all of the failures of the Town in preparing the Business Plan, as detailed above and below, the Town has failed to provide an overall assessment of the major land transaction in accordance with s.3.59(3) of the LG Act.

***Town response:*** *The Business Plan was reviewed by WALGA prior to publication and is in*

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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*conformance with the requirements with sections 3.58 and 3.59 of the Local Government Act 1995 and the associated Local Government (functions and General) Regulations 1996.*

### **Failure of the Town to consider the Proposals expected effect on the provisions of facilities and services provided by the Town for the extent of the lease term and extensions**

The Town is required to detail its consideration of the Proposal's expected effect on the provisions of facilities and services provided by the Town for the extent of the lease term and extensions in accordance with s.3.59(3)(a) of the LG Act.

Clause 3.3 of the Business Plan is deficient in achieving the minimum standards expected by s.3.59(3)(a) as:

The LG Act requires a consideration of both positive and negative effects the Business Plan therefore fails to consider the effect (both positive and negative) of the proposal on the provision of facilities and services provided by the Town for the extent of the lease term and extensions; and

The Town has failed to consider the "development costs" and "financial risks" for the development to the level required by the LG Act, and the effect that these will have on the provision of services by the Town, such as, among other things:

- The risk of the proponent terminating prior to the completion of the 21 year term;
- The risk of the development not achieving 80% occupancy for a significant proportion of the lease term;
- The risk of the development not being completed;
- The risk of permitting development within areas known to be vulnerable to flooding and storm surges. (for example, the risk that within the 21 year term of the lease, the Land floods, causing damage to the Proponents assets, and consideration of whether the Town will be partly liable for damages if it encouraged and permitting such a development to occur in a known vulnerable area); and
- the risk of a challenge to the Proposal and subsequent planning application (if any), including significant legal costs likely in defending the Town's position to approve,

***Town response:*** *The Business Plan was reviewed by WALGA prior to publication and is in conformance with the requirements with sections 3.58 and 3.59 of the Local Government Act 1995 and the associated Local Government (functions and General) Regulations 1996.*

### **Failure of the Town to consider the Proposals expected effect on other persons providing facilities and services in the district for the extent of the lease term and extensions;**

The Town is required to detail its consideration of the Proposal's expected effect on the provisions of facilities and services provided by the other persons in the district for the extent of the lease term and extensions in accordance with s.3.59(3)(b) of the LG Act.

Clause 3.4 of the Business Plan fails to consider, in any meaningful way, the requirements under s.3.59 (3)(b) of the LG Act.

The Town is aware of the significant oversupply of TWA in Port Hedland and that this

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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situation is unlikely to change in the short or medium term, yet it has failed to consider the effect of adding an additional 350+ TWA beds when there is no project or projects to which the TWA relates, and there is no need for the beds given the current oversupply.

Further, the oversupply of TWA Is having detrimental effects on the viability of existing permanent hotel and motel accommodation providers within Port Hedland. This is due to the failure of the Town to properly condition, and subsequently enforce against TWA operations under, among other things, the PO Act.

This failure to properly condition or enforce provisions of TPS5 has lead to TWA operators advertising, and catering, to the general public in contravention of their planning approvals (by operating as Hotel and Motel uses).

The only way that the Town can demonstrate the effect of the proposed development on other persons providing facilities and services in the district is to obtain commercial needs assessment for the proposed TWA development.

It is my Clients' submission that the Town is required to, and has failed to, conduct a commercial needs assessment for the proposed development in order to demonstrate the projected need for the development and that the proposed development will not have a detrimental effect on the viability of existing accommodation providers in the district

***Town response:*** *The business plan was reviewed by WALGA and the Town's solicitor prior to publication and found to be fully compliant with all Sections of 3.58 and 3.59 of the Local Government Act 1995. Town staff have raised this specific request for a commercial needs assessment with our solicitor whom stated this provision in the Local Government Act refers to other service providers such as hospitals and schools, and not existing for-profit business. Furthermore, the solicitor has informed the Town staff that it would a violation of fair-trading to consider proposals in terms of what competition they would bring to existing businesses.*

### **Failure to consider the Proposals expected financial effect on the local government:**

The Town is required to detail its consideration of the Proposal's expected financial effect on the Town for the extent of the lease term and extensions in accordance with s.3.59(3)(c) of the LG Act.

The Town does not appear to have considered the "development costs" and "financial risks" for the development, and the potential financial effect that these will have on Town, such as, among other things:

- the risk of the proponent terminating prior to the completion of the 21 year term;
- the risk of the development not achieving 80% occupancy for a significant proportion of the lease term;
- the risk of permitting development within areas known to be vulnerable to flooding and storm surges. (for example, the risk that within the 21 year term of the lease, the Land floods, causing damage to the Proponents assets, and consideration of whether the Town will be partly liable for damages if it encouraged and permitting such a development to occur in a known vulnerable area); and
- the risk of a challenge to the Proposal and subsequent planning application (if any), including significant legal costs likely in defending the Town's position to approve,

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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- The financial risk to the Town, by flooding the market with TWA developments in circumstance and where there is an oversupply, that legitimate, long term, high quality accommodation providers, who provide services not only to transient workers, but also to visitors and tourists, close their doors.

### **Failure to consider the Proposals expected affect on matters referred to in the Town's current plan prepared under section 5.56:**

The Town is required to detail the Proposal's expected affect on the matters referred to in the Strategic Community Plan In accordance with s3.59(3)(d) of the LG Act.

While the Town has attempted to identify how, under clause 3.6 of the Business Plan, the Proposal will comply with the Strategic Community Plan for the following 1-4 years. The Town does not identify how the Proposal will comply with the Strategic Community Plan for the following 5-21 years under which the lease may be in operation.

The Town has failed to consider how the TWA helps to retain a permanent population in the Port Hedland, “*a place that residents are proud to call home and establish themselves as permanent fixtures in the landscape*”, as required under the Environmental strategic theme of the Strategic Community Plan.

The Town has failed to consider how the TWA encourages families to grow and prosper in the community, as required under the Economic strategic theme of the Strategic Community Plan

The Town has failed to consider how the TWA helps to unify and connect the community, as required under the Community strategic theme of the Strategic Community Plan.

***Town response:*** *The Strategic Community Plan 2012-2022 is a guiding document which offers a high level assessment of the town’s aspirations. It is unrealistic for officers to assess this proposal in that manner.*

### **Inability of the Town to manage the undertaking or the performance of the transaction**

The Town is required to detail how it has the ability to manage the Proposal over the extent of the lease term and the extensions in accordance with s.3.59 (3)(e) of the LG Act.

The Town has failed to demonstrate how the management of the offer is within the resources and capacity of the Town as alluded to at clause 3.7 of the Business Plan.

The inadequacies and deficiencies identified In the Business Plan draw into question the Town's ability to manage complex long term lease arrangements.

***Town response:*** *The Town manages many similar arrangements and has the capacity to manage additional leases.*

## Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response

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### Extract of comments from the Port Hedland Pony Club

1. Extra traffic on Styles Road and Johnson Lane will directly affect the access to the Pony Club grounds and also the safety of our riding members who ride out across the road to the 4 Mile track.

**Town response:** *While increased traffic would have in-evidently come from the site in Pretty Pool, the same can be said for all development and the effects can be managed accordingly.*

2. Having a facility so close to a horse stables what is the Heath regulation?

**Town response:** *Horses and people have lived in close proximity for thousands of years. However, these types of issues would have been addressed in the planning phase of the application. It should also be noted increased development in the area of Port Hedland is inevitable.*

3. Access to the beach for our members to take their horses for daily exercise will now be more hazardous trying to negotiate the limited access, therefore, putting our members in a potentially dangerous situation.

**Town response:** *Maintaining beach access along the estuary was a requirement of the RFP and was to be maintained.*

4. Having such a large facility next to a Pony Club where a majority of members are children, bring forth security and safety issues for the club such as trespassing vandalism, theft, safety for the horses and the possibility of other undesirable behaviors putting our children at risk.

5. Members have issues with the safety of our junior members and families with having so many single room accommodation and the types of people this will bring to our area and close proximity to our club.

6. With the facility looking at catering for over 417 people at any one time, how will this affect the pretty pool area supplies i.e.; power, water and sewage?

**Town response:** *A comprehensive infrastructure capacity study was completed as part of the due diligence before the proposal was advertised for public comment. All upgrades to the infrastructure were to be addressed by the proponent with no public funds contributing to the cost.*

7. The facility is building directly next to a tidal creek and on areas where the tidal waters go. Cyclone Christine threatened to flood all low lying land which this facility is building directly on the flood plains.

**Town response:** *Measures such as fill would have been taken to ensure the safety of the residents including fill which would have made the site better suited for residential development.*

## **Attachment # 1B Extract Stakeholder and community comments on Pretty Pool Caravan Park proposal – Town of Port Hedland response**

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8. How is the facility protecting against the threat from crocodiles to their tent and caravan sites as it will be right along the creek where crocodiles have been sighted?

**Town response:** *Caravan parks coexist in many areas with crocodiles and safety measures would need to be managed accordingly.*

9. Our junior members, members and PHPC families have many concerns that we will be restricted or even lose our grounds in where we attend our horses that are a big part of our lives. We care for them twice a day providing them food and water, take them out for exercise. Horses are used as therapy and have been known to keep many children and people out of trouble. Horses are a big part of these members' lives providing much more than can be explained in a letter.

**Town response:** *The Town recognizes the emotional attachment that people have with animals and at no time was the removal of the stables discussed as part of this project. The Town sees horses as a vital part of the Port Hedland landscape and both land uses can be managed accordingly. Stables of this type certainly add to the quality of amenity and can be a key factor in the livability of a community.*