Stockton Merja

From: Gary Wightman <gary@wightmanbuilding.com.au>
Sent: Friday, 18 October 2013 10:16 AM
To: Records
Subject: ICR42886 - Ausco Modular PTY LTD and ToPH proposed land transaction

SynergySoft: ICR42886

Attention Mal Osborne,

ICR42886
File Number: 21/04/2013
Int. Correspondent: CEO | David W

Hello,

I am writing to submit my objection to the above proposal. As attractive as $540,000 income to Council income I would urge a broader view on the impact a development may have on the actual growth of the Town.

Where is the demand for something like this ? Currently 200 houses and or units are available to rent in town with rent steadily decreasing by the month, why is the need for another Camp. Lets not present this as anything else other than a camp. With substantial land developments happening around town and approaching completion people need encouragement to build and develop. Another mass camp will not deliver the confidence that people require.
Evidence shows the rental of these projects are not cheaper just offer short term solution instead of responsibility of leasing property.

I came to Port Hedland as I believed the Town was trying to attract people to develop an expand accommodation requirements. The way to keep encouraging people to move and grow this area is not by creating another of these land fill accommodation proposals.

Diminishing the Fly in Fly out environment is what thé Town requires now and not encourage it.

My staff commented the other day after a night out at the Pier Hotel on a Saturday night the difference now that the mass numbers of fly in fly out has had on the atmosphere, the same number of people without the tension and resulting violence.

A BHP Train Driver told me BHP employ over 400 Train drivers and approximately 30 live in Town.

It is factors like this that need discussing and addressing not whether the Town approve another TWA.

In conclusion this is not a Planning issue but a social issue. Please reject this proposal.

Westbury David

From: Records
Sent: Friday, 18 October 2013 1:44 PM
To: Westbury David
Subject: FW: ICR42893 - Application for the 2000-4000 man camp at the Airport

SynergySoft: ICR42893

From: Aoife & Latham Adamson [mailto:lalaland.nz@gmail.com]
Sent: Friday, 18 October 2013 1:29 PM
To: Records
Subject: ICR42893 - Application for the 2000-4000 man camp at the Airport

Hello Town of Port Hedland

I strongly object to the proposed for the Application for the 2000-4000 man camp at the Airport

Thank you

Aoife & Latham Adamson

PO Box 2484
South Hedland
WA 6722
Latham Mob :0403140437
Aoife Mob : 0458990509
Email: lalaland.nz@gmail.com

Stockton Merja

From: Aoife & Latham Adamson <lalaland.nz@gmail.com>
Sent: Friday, 18 October 2013 1:29 PM
To: Records
Subject: ICR42893 - Application for the 2000-4000 man camp at the Airport

SynergySoft: ICR42893

Hello Town of Port Hedland

I strongly object to the proposed for the Application for the 2000-4000 man camp at the Airport

Thank you

Aoife & Latham Adamson

PO Box 2484
South Hedland
WA 6722
Latham Mob :0403140437
Aoife Mob : 0458990509
Email: lalaland.nz@gmail.com

File Number: A1047442
Int. Correspondent: CEO / David J

Stockton Merja

From: Neville Veitch <veitch7@hotmail.com>
Sent: Friday, 18 October 2013 1:53 PM
To: Records
Subject: ICR42895 - Private treaty-proposal Ausco Modular

SynergySoft: ICR42895

Thank you for the opportunity to "speak" out about the above proposal.

We are land and property owners of 19 Edgar street and lot 54 MacKay street ...both in Port Hedland. With the encouragement of the T of PH we undertook these projects thinking that other developments would be faced with the same challenges financially as we have been. Both developments have greatly enhanced the look and fabric of PH's town centre. The first project cost approx 15m and has resulted in 20 quality apartments and 5 commercial opportunities (dentist, builder, drug testing lab etc) the building will be there a long long time....and what a difference it has made to the town precinct. Our MacKay street development is well over 10m of investment...looks great and has added something "special" to town by the way of apartments and commercial opportunities.
The FIFO camp scenarios will seriously affect the viability of such ventures. The affect of the FIFO camps on local communities is well documented and unhelpful to genuinely conceived developments that offer quality residences, for people to live permanently in town.
Ausco Modular offers cheap land and short term solutions for Company's seeking an easy option rather than the good of the local communities.
These company's should be paying equivalent land value to those seeking to build developments that will stand the test of time.
Camps should be miles out of town, not virtually in town "using" facilites and sponging off the communities infrastructure without making a meaningful contribution.
We will shortly have finished 32 apartments, paying full rates/taxes, water corp and Western Power upgrades. The camps, relatively speaking pay little.
The unfair playing field offered to camps proposed mean the demand for accommodation in quality developments unworkable/unviable.
Much has been made of the Town of Port Hedland becoming a "City" of the Pilbara. It won't be that at all. A city with camps right on its boundaries is not the city envisaged but rather the "same old" quick fix.
We can and have to accept that rents are now somewhat less than they were 12 months ago..we do and it's a struggle....but to offer "cheap" camp sites to company's that don't really care about the towns long term community needs is wrong.
Please reject any applications for camp sites (however dressy they appear) and allow those intent on adding to the long term good of PH both socially and financially be encouraged.
Any of the Ausco type scenarios will jeopardise the grand visions held for the Pilbara....for companys ONLY looking for quick short term (impressive) profit.
Your faithfully,
Neville Veitch on behalf of;
Peter Veitch
Joanne Veitch
Garry Madson,
Lynley Madson
Wayne Hickey
Nola Hickey
Chris Veitch
Kellie Veitch
Wendy Henderson
Peter Henderson
Garry Wightman
Shelley Wightman

ICR 42895
File Number: 01/04/0004
Int. Correspondent: CEO / David W

Kerrie Veitch
Dabnco Family Trust
Peringillup Nominees Family Trust

Sent from my iPad

8

From: S <skafv2@gmail.com>
Sent: Wednesday, 9 October 2013 2:35 PM
To: Records
Cc: Penny Taylor; David Hooper; Arnold Carter; Kelly Howlett
Subject: ICR42584 - Proposed camp in precinct 3.

To whom it may concern,

I am writing to you to express my feelings about ANOTHER camp to be built in town.
I do not want another camp here- there are more than enough empty houses (both for sale and for rent) in both Port and South that the companies looking to house employees can do so without building a camp.

Please think about the town and the people's feelings- nobody wants another camp. Make these people rent or but empty houses in the suburbs.

Regards,

Sara Hands

Sent from my iPhone

Westbury David

From: Records
Sent: Thursday, 10 October 2013 9:26 AM
To: Westbury David
Subject: FW: ICR42614 - M.J (Mal) Osborne 'Confidential: Ausco Modular Pty Ltd & Town of Port Hedland Proposed Major Land Transaction'

Importance: High

SynergySoft: ICR42614

From: Troy Bauchop [mailto:troy.bauchop@gmail.com]
Sent: Thursday, 10 October 2013 9:12 AM
To: Records
Subject: ICR42614 - M.J (Mal) Osborne 'Confidential: Ausco Modular Pty Ltd & Town of Port Hedland Proposed Major Land Transaction'
Importance: High

I wish to voice my view on this proposal of another camp in Port Hedland.
I think this proposal is a bad idea. This town needs to look after building the town to make this a place would like to live and stay for the long term. We all the camps we have in this town that are half empty, why build more. We need to work on making housing more affordable for everyday workers. The council need to start making the big and little companies to have their worker live locally. Just look at Kalgoorlie, they do not have the big mining camps. The only worker that FIFO are shut down crews that come and go.

The council need to say NO to this proposal.

Thank you
Troy Bauchop
12 Barrow Place
South Hedland
0407775347

From: Vangy <vangy_baker@bigpond.com>
Sent: Saturday, 12 October 2013 3:47 AM
To: Records
Subject: ICR42689 - I wish to express my objection to the release or approval of any further camp type accommodations in the City of Port Hedland and surrounds.

Hello,
I wish to express my objection to the release or approval of any further camp type accommodations in the City of Port Hedland and surrounds. I am a long term Pilbara local and I say we have enough camps and we don't want any more that detract from the goal of building this great place into a city!!!! Please vote against any current or future submissions for Camps in our towns.

Thankyou
Regards Miss V Baker

Westbury David

From: Records
Sent: Monday, 14 October 2013 9:01 AM
To: Westbury David
Subject: FW: ICR42690 - Re: Ausco Modular Pty Ltd

SynergySoft: ICR42690

From: P & S Reibel [mailto:pandsreibel@kisser.net.au]
Sent: Sunday, 13 October 2013 5:16 PM
To: Records
Subject: ICR42690 - Re: Ausco Modular Pty Ltd

To Who Ever,

I understand this land was approved for leasing to TWA camps over 12 months ago but this was when there was a accommodation shortage in this town.

- As BHP don't seem to be going ahead with their 4000 man camp maybe this is their way of staying beneath the radar and letting other people do the dirty work for them.
- This is a bit like being arrogant and going ahead and wasting the towns money turning the civic hall into offices after the horse has bolted.
- I don't think this should be approve as it will create a bigger problem for the town and the businesses that are all ready struggling to fill the existing available accommodation.
- And last but not lease it shouldn't be about the town grabbing at the carrot being dangle in their face.

Regards

Paul Reibel

4

Westbury David

From: Records
Sent: Thursday, 10 October 2013 10:25 AM
To: Westbury David
Subject: FW: ICR42617 - Re: Ausco Modular Pty Ltd

SynergySoft: ICR42617

From: Dave McGowan-Local.FM [mailto:dave@local.fm]
Sent: Thursday, 10 October 2013 10:14 AM
To: Records
Cc: Howlett Kelly; George Daccache; Arnold Carter; Bill Dziombak; Jan Gillingham; David Hooper; Julie Hunt; Jacob Gloria Ann; Penny Taylor
Subject: ICR42617 - Re: Ausco Modular Pty Ltd

Council.

I wish to provide my opposition to the granting of a lease for yet another camp in town. We must stop this unnecessary dilution of our town!

This is another money grab by the council that is not productive for the rest of the town, and goes against what we, the locals want.

We want local sustainable jobs and housing. To prop the budget up by further undermining the costs for housing by reducing demand and encouraging businesses to use these sites is completely against what the council purports it supports in new homes and larger blocks, and less fifo!

My estimations are that if this rental/lease payment is forgone, the camp not approved, it will cost about $2M a year in the budget.

Now if all the ratepayers in town saw a decrease in their rent by less than $10.00 a week for a year, that would cover the cost of this "black hole". (in any rate increase that may be justified to cover the black hole)

Yes it may mean a rates increase if funds are not MANAGED correctly, but in my view, the local rate payers and thus the local people will be further in front by forcing more homes to be built. If the additional houses built, cause the rents to go down, as they are currently by 3-400 a week in south, this is far more long term benefit of between $15,000 and 20,000 per year per Home to rent, or even purchase!

So with that in mind, the council cannot justify a short term cash grab.

I may also remind you that there is 2 large camps closed down, the rest are not full, and planning should be in force to support those existing camps to the fullest extent. I note also that the council has a "sugar" community bonus, that doesn't come in until the camp is over 75% full, excluding staff and community rooms. With so many camps in town, should this new one get built, it is questionable if the community will ever see any money from it!

Let the proponents build a permanent quality facility at the airport hotel, or marina precinct. We all benefit then, with the extra business premises under it, restaurants and bars.

I cannot believe that existing councillors have voted for this, and some wish to further their time on council, and expect us to vote to keep them in there again.

Regards

Dave McGowan
Sutherland St
Port Hedland, 6721

Mob: 0497 807 588
Email: dave@local.fm

5

Westbury David

From: Records
Sent: Thursday, 10 October 2013 7:55 AM
To: Westbury David
Subject: FW: ICR42608 - Ausco Modular Pty Ltd Development.

Importance: High

SynergySoft: ICR42608

From: Donna Washington [mailto:twash1@bigpond.com]
Sent: Wednesday, 9 October 2013 11:20 PM
To: Records
Subject: ICR42608 - Ausco Modular Pty Ltd Development.

Good Day, please find my response to the above mentioned proposal.
We find this proposal will be at the **detriment** of Port Hedland. Why is this even being considered ?

This TWA will not enhance the lifestyle of Port Hedland, the social impacts, traffic management and the overall negative impact will be felt for years to come.
What Port Hedland needs is long term commitment from all employers and council to ALL people of Port Hedland. There are many houses currently empty that can house the employees the companies require. Mia Mia camps are currently empty, Why because all are FIFO. No commitment means no Growth.
6.2 Economic ; How is the Growth of Port Hedland going to be enhanced by people that don't call this Town THEIR Home, it isn't their home it is a place to come for work and most can't wait to get out of here.
6.3.1 Housing Shortage, Land corp are releasing blocks for construction of permanent housing, the existing housing market will cope with any future expansion.
How is the traffic being Managed ?
How is the social interaction being managed ? Mental health is a big issue within this sector of industry , How is this managed ?
How is the public transport to and from a proposal like this, how is a simple night in town being managed and can be facilitated.
We have lived in Port Hedland only for 3 years and we love this Town, FIFO is destroying the community spirit and for this town to prosper and grow to a sustainable level it needs permanent residents not FIFO.
Additional TWA has no place in the strategic plan of Port Hedland, get the companies to commit long term to this town and this will ensure we have long term growth.
Existing infrastructure will cope with any TWA requirements. (Beachfront currently empty, Port Haven minimum numbers, Mia Mia minimum numbers, BHPB houses empty in Cooke point for the 3 yrs we have lived there)
The vision we require is one of slow and steady growth not boom and bust as it stands now.
Please oppose this development as it will be to the detriment of the town.

Thank you for your time, Terry Washington & Donna Washington.

Terry & Donna Washington
Port Hedland
Western Australia

Our Ref A795166
Enquiries (08) 9482 7424

Mal Osborne
Chief Executive Officer
Town of Port Hedland
PO Box 41
PORT HEDLAND WA 6721

By email: council@porthedland.wa.go.au

Dear Mal,

SUBMISSION RELATING TO THE PROPOSED PRIVATE TREATY AT KINGSFORD BUSINESS PARK WITH AUSCO MODULAR

I refer to the Town of Port Hedland's public notice to undertake a major land transaction as defined under s3.59 of the Local Government Act. The subject transaction involves a property disposition from Ausco Modular Property Pty Ltd to lease a 4.5 Hectare portion being Lot 436 within the Kingsford Business Park as described within the Port Hedland International Airport Land Use Master Plan area.

On behalf of Government, LandCorp is actively involved in providing a mix of residential land opportunities within Port Hedland ranging from low density to high density developments. In this regard, LandCorp is leading a number of projects in Port and South Hedland that include permanent residential development as well as short-stay accommodation. The Department of Housing and Pilbara Development Commission are also engaged in generating a range of development outcomes for Port and South Hedland.

With respect to the advertised private treaty at Kingsford Business Park with Ausco Modular, LandCorp raises the following points:

1. LandCorp shares the Town's vision for growing Port Hedland into a city of some 50,000 people. However, LandCorp is concerned that support for a new temporary workers accommodation (TWA) will discourage public and private investment in permanent development outcomes in Port and South Hedland.

2. LandCorp accepts that TWA's may be required to deal with peak construction demands. However, it is essential that the volume of accommodation provided is limited so far as possible and does not detract from the demand for the take up of short, medium and long term permanent housing product. The softening of the residential market in Port Hedland is such that it is considered there are currently sufficient short-stay accommodation options available to cater for existing population demands.

3. The current occupancy rates of 60% as at the June 2013 quarter at existing short-stay accommodation businesses in Port and South Hedland continues to trend down. LandCorp is also endeavouring to encourage further private investment in strategically placed short-stay accommodation areas (i.e. Finbar Development, Spoilbank Marina, South Hedland Town Centre), some of which have recently been unsuccessful such as the Mirvac Hotel development and the Old Port Hedland Hospital site due to feasibility.

4. The addition of a new TWA has the ability to further undermine existing local short-stay businesses and the ability to discourage new private investment in short-stay accommodation in strategic locations throughout Port and South Hedland. The table below illustrates the significant amount of rooms available within TWA's in Port and South Hedland in comparison with hotels and motels.

Port Hedland Accommodation Market
Key Accommodation Providers
As at May 2013

Hotels & Motels		
	Location	Keys
Upper Scale		
Ibis Styles	Port	65
Esplanade Hotel	Port	108
Budget		
Hospitality Inn	Port	40
Walkabout	Airport	61
South Hedland Motel	South Hedland	104
The Lodge	South Hedland	135
Cooke Point	Port	53
Total		566
TWA's		
	Location	Keys
Upper Quality		
Hamilton Motel	South Hedland	900
Port Haven	Airport	1,200
Basic		
Beachfront Village	Port	436
Wedgefield	South Hedland	700
Mia Mia	Airport	192
Kings at the Landings	Airport	600
Mooka	26kms South	519
Total		4,549

Source: Dubois Group Pty Ltd

5. Taking into account the unsuccessful Mirvac Hotel site deal, LandCorp commissioned Dubois Group Pty Ltd (May 2013) to undertake a study on the current short stay accommodation market in Port Hedland. Part of this study focussed on the "Impact of TWA's on the Commercial Short-Stay Accommodation market". Some of the findings of this report are as follows:

   a. *It is clear that some TWA's in Port Hedland are actively securing business that typically is accommodated in hotels and motels and are offering highly competitive rates to these facilities.*

   b. *In our view, with the softening market conditions, TWA's are having some adverse impact on the town's hotels and motels and in doing so, the TWA's may be operating outside of their permitted terms of use.*

c. *Whilst the provision of this form of accommodation (TWA's) may have been of assistance in dealing with the acute shortage of accommodation during the past two-three years, given the recent change in market conditions, this is now having an adverse effect on the hotels and motels of Port Hedland.*

d. *In our view, the current situation with respect to the hotel market in Port Hedland is very unsettled and presents and extremely challenging market to attract hotel developers who would have the capacity to proceed to finance and develop a major hotel or other short stay facility....*

e. *In our view the key to the development of any major new short stay accommodation facility is dependent on the situation with respect to TWA's and the respective employment policies of the major mining houses with respect to FIFO operational staff.*

(A full copy of the Dubois report is attached)

6. The proposal has the potential to dilute activity and investment in Port and South Hedland and there is a continued risk of creating a third township between Port and South Hedland activity centres.

7. A new TWA will not serve to further normalise the housing market and will add to the perception that Port Hedland is an industrial town populated by temporary fly-in/fly-out workers.

8. The Port Hedland Growth Plan (Implementation Plan) demonstrates a land supply timeline that is capable of releasing significant volumes of permanent development outside the current proposal as part of a planned outcome. Examples of some of these developments are the Western Edge in South Hedland, Stage 1 (Athol Street) in East Port Hedland and the South Hedland Town Centre which LandCorp is currently partnering with the private industry to deliver.

9. More generally, LandCorp is concerned at the number of short-stay housing solutions that are being considered. It is LandCorp's view that short-stay accommodation should be encouraged in strategic locations such as the South Hedland Town Centre and Spoilbank (or other high amenity areas identified through a planning process). The well-planned development of these areas will leave a legacy of activated focus centres. However, ad-hoc development will make it difficult to develop these areas to their full potential and discourage permanent housing solutions. It would be disappointing and contrary to the Pilbara Cities vision if the legacy of the housing demand is a proliferation of short-stay projects that are divorced from high amenity areas.

The proposal is therefore not supported by LandCorp. In fact, LandCorp believes the advancement by Council of the proposal will have serious impacts on the future standing and the long term sustainability of Port Hedland. We believe broader consultation with the Minister for Regional Development, the Pilbara Development Commission and stakeholders in the hospitality industry is critical.

Yours sincerely

Ross Holt
CHIEF EXECUTIVE OFFICER

17 October 2013

10

PO Box 51 WEST PERTH 6872
Level 2, 16 Parliament Place
WEST PERTH WA 6005
AUSTRALIA

Enquiries: paul.trotman@pdc.wa.gov.au
Our ref: A3731486

By email: council@porthedland.wa.gov.au

Mal Osborne
Chief Executive Officer
Town of Port Hedland
PO Box 41
PORT HEDLAND, WA 6721

Dear Mal,

Business Plans for Major Land Transactions - Finance Unlimited and Ausco Modular

I refer to the Town of Port Hedland's public notice to undertake a major land transaction as defined under s3.59 of the Local Government Act. We note that the proposed transaction involves the disposal of all or part of Lots 436, 437, 438 and 439 within the airport precinct for the purposes of Transient Workforce Accommodation. Our understanding is that you have received two proposals: one from Ausco Modular to lease a 4.5 hectare portion of Lot 436 and one from Finance Unlimited to lease a portion of Lot 436 and all of Lots 437, 438 and 439 with both proposals being for Transient Workforce Accommodation. Our comments in this letter relate to both proposals.

As you will recall the issue of Temporary Worker Accommodation was raised at the 30 May 2013 Town of Port Hedland Steering Committee meeting in relation to hotel developments in the town. The Minutes show that the "...ToPH reported on current position: up to 5,000 beds available in TWA's which are impinging on hotel demand: could have another 4,000 beds if planned TWAs come on stream: noted possible ToPH sites perpetuate existing problems but Council reliant TWA funds to redevelop airport ..." The Minutes also note that the Department of Land's policy on the temporary workforce accommodation would be provided to the Committee.

The Lands policy was provided to the 5 September 2013 meeting of the Steering Group who also noted the airport redevelopment in the following terms: "...Council have varying views on provision of TWA space but have agreed to initiate Business Case for 4.5ha TWA site with Finance Unlimited as proponent and for "city building" projects rather than resource sector. Noted that draft Business Case for TWA should be public by end September 2013."

I have returned to the Steering Group Minutes as they articulate the issue the Council faces, namely to what extent obtaining funds for airport development through a TWA offer would adversely impact on the interests of Hedland businesses and residents. It is clear from the above quotes that the Town is aware that existing TWA facilities are already adversely impacting on hotel operations in Hedland and that the Town recognize the addition of further beds, in particular ones advanced by the Town, would perpetuate if not exacerbate the problem.

The way Council should go on this issue is, to some extent, guided by the arguments in each of the two Business Plans under review. At page eight of both documents your *Strategic Community Plan 2012-2022* is referred to and quotes four tests that these TWA proposals would need to meet. I have addressed those tests below.

Facilitate commercial, industry and town growth

1. The PDC is seeking to implement the Government's Pilbara Cities vision through substantial investment in a variety of land development projects in Port and South Hedland. In particular, LandCorp are seeking to encourage private investment in strategically placed short-stay accommodation areas such as Finbar's Sutherland Street development, the Spoilbank Marina and South Hedland Town Centre. The addition of further TWA facilities at the airport has the ability to undermine the financial viability of these existing, town-building, initiatives and as such would work against 'facilitating commercial, industry and town growth'. This view is given substance through the recent unsuccessful attempts by Mirvac to secure a hotel development at the old Port Hedland Hospital site.

2. In light of the recent unsuccessful Mirvac hotel deal, LandCorp commissioned Dubois Group Pty Ltd (May 2013) to undertake a study on the current short stay accommodation market in Port Hedland. Part of this study focused on the "Impact of TWA's on the Commercial Short-Stay Accommodation market". Some of the findings of this report are outlined below. What is clear is that the addition of new TWA facilities to the market at this time has the potential to be counterproductive and work against 'facilitating commercial, industry and town growth'.

    a) It is clear that some TWA's in Port Hedland are actively securing business that typically is accommodated in hotels and motels and are offering highly competitive rates to these facilities.

    b) In Dubois' view, with the softening market conditions, TWA's are having some adverse impact on the town's hotels and motels and in doing so, the TWA's may be operating outside of their permitted terms of use.

    c) Whilst the provision of this form of accommodation (TWA's) may have been of assistance in dealing with the acute shortage of accommodation during the past two-three years, given the recent change in market conditions, this is now having an adverse effect on the hotels and motels of Port Hedland.

    d) In Dubois' view, the current situation with respect to the hotel market in Port Hedland is very unsettled and presents an extremely challenging market to attract hotel developers who would have the capacity to proceed to finance and develop a major hotel or other short stay facility.

    e) Dubois are aware of one or two parties who are persevering with proposed short stay developments in Port Hedland, which if they proceed, would in their view significantly diminish the appetite for any new hotel development.

    f) In Dubois' view the key to the development of any major new short stay accommodation facility is dependent on the situation with respect to TWA's and the respective employment policies of the major mining houses with respect to FIFO operational staff.

3. The proposal has the potential to significantly dilute activity and investment in Port and South Hedland and as such would, again, have the capacity to work against 'facilitating commercial, industry and town growth'.

4. Draft work undertaken by the Commission in September 2012, which has been shared with the Town, shows existing and planned TWA provision reaching over 12,000 beds by 2014, which includes 2,000 beds for BHP at the airport. Given the substantially changed market conditions, and the deferral of the Outer Harbour construction, it is not clear why additional TWA beds at the airport would be required at this time. Karratha's experience is salient: recent work by the Shire of Roebourne indicates that their long-term TWA need is in the order of 3,000 to 4,000 beds and that supply is well in excess of this. Before committing to the proposals Council should consider reviewing the TWA supply/demand equation in Port Hedland – we would be happy to assist with this.

5. A new TWA facility is likely to add to the perception that Port Hedland is an industrial town populated by temporary fly-in/fly-out workers and as such would not be supportive of 'town growth'.

6. The Business Cases do not demonstrate that there are no other available or planned TWA facilities in Hedland, nor do they demonstrate what legacy city-building benefits would arise from acceptance of one of these proposals. This then makes it difficult to determine if the proposals 'facilitate' or hinder 'town development.'

Develop the Port Hedland airport as a leading regional airport

7. It is not clear to us how the proposed TWA facilities would contribute, in a physical sense, to making Port Hedland a leading regional airport. TWA facilities are reasonably flexible in their locational needs – as evidenced above, there are already proposals for similar facilities elsewhere in Hedland – and such facilities might also be used to make some marginal residential developments viable. In contrast land close to the airport, by definition, is limited and may be better used to support businesses (e.g. inter-modal freight operations, logistics, aircraft servicing) that rely on proximity to an airport for their operations. The case for a TWA use to support 'developing Port Hedland airport as a leading regional airport' is not made in the Business Plans.

8. We accept that the income the Town would receive from the proposed deal would assist in the redevelopment of the airport. However, the Business Plan does not explore other funding options such as loans, public-private partnerships, grants from bodies such as Infrastructure Australia or municipal bonds. In our view these options should be explored before committing to a proposed deal.

Address housing shortage and affordability through using Council land

9. The *Pilbara's Port City Growth Plan* demonstrates a land supply timeline that is capable of releasing significant volumes of permanent residential development to deliver a Town of 50,000 people by 2035: examples of current residential projects include the Western Edge, Hamilton Precinct, Project Osprey, the Town's own Eastern Gateway work, Athol Street in East Port Hedland and the South Hedland Town Centre.

   Clearly the provision of a Temporary Worker Accommodation facility at the airport would not address residential housing issues as the facility targets a totally different market segment. It might be argued that such a facility would assist by providing accommodation for construction workforces, but this case is not explored in the Business Plans and may be not be supportable in light of other TWA provision elsewhere in the Town.

Even if an argument could be mounted to view the proposed facility as being suitable for long-term residential purposes, it is arguable as to whether or not the airport is an appropriate location for such a use, especially given the volume of residential developments elsewhere in the Town.

10. The draft *Hedland Infrastructure Capacity Study and Action Plan*, which the Town has contracted NS Projects to prepare, states that, in relation to housing mix, "... the primary focus should be on delivering 3 bedroom and 4+ bedroom stock to the Hedland market" with "... a lesser focus on 1 bedroom and 2 bedroom stock." By way of volume, the draft *Action Plan* states (pg. 20) that the demand for one bedroom apartments to 2018 is no more than 134 units. Given this, it is difficult to see how the airport TWA proposal would 'address housing shortage and affordability' in Hedland.

Create local employment and investment and diversify the economy

11. We share the Town's vision for growing Port Hedland into a city of some 50,000 people. Our concern is that support for a new Temporary Worker Accommodation facility at the airport will discourage public and private investment in permanent development outcomes in Port and South Hedland.

12. The addition of a new TWA facility has the ability to further undermine existing local short-stay businesses and the ability to discourage new private investment in short-stay accommodation in strategic locations throughout Port and South Hedland. The table below illustrates the significant amount of rooms available within TWA's in Port and South Hedland in comparison with hotels and motels.

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Key Accommodation Providers
As at May 2013

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	Location	Keys
Upper Scale		
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Esplanade Hotel	Port	108
Budget		
Hospitality Inn	Port	40
Walkabout	Airport	61
South Hedland Motel	South Hedland	104
The Lodge	South Hedland	135
Cooke Point	Port	53
Total		566
TWA's		
	Location	Keys
Upper Quality		
Hamilton Motel	South Hedland	900
Port Hever	Airport	1,200
Basic		
Beachfront Village	Port	438
Wedgefield	South Hedland	700
Mia Mia	Airport	192
Kings at the Landings	Airport	600
Mooka	28kms South	519
Total		4,549

25

Source: Dubois Group Pty Ltd

13. In order to ensure that the proposed Temporary Worker Accommodation facility at the airport will 'create local employment and investment and diversify the

economy' and not adversely impact on existing businesses, the Council should undertake an Economic Impact Analysis.

As you can see from the above discussion we do not agree that the proposals before Council adequately address the tests established by Council, are inconsistent with the State's view on how Temporary Workforce Accommodation should be approached and do not evidentially address the requirements established by the Local Government Act for a Business Case. Before proceeding with any decisions we would encourage you to engage with us in reviewing the TWA supply/demand equation in Port Hedland.

Yours sincerely

Anne Banks-McAllister
A/Chief Executive Officer

18 October 2013

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LAVAN LEGAL Leaders in Law

18 October 2013

Mr Mal Osborne
Chief Executive Officer
Town of Port Hedland
PO Box 41
PORT HEDLAND WA 6721
By Email:
council@porthedland.wa.gov.au

Cc: Clients

Dear Sir

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

1 We act on behalf of a number of hotel owners (**Clients**) within the Town of Port Hedland.

2 Our Clients have instructed us to write to the Town of Port Hedland (**Town**) in order to make a submission on the advertised proposal by the Town to enter into a major land transaction with Ausco Modular Pty Ltd (**Ausco**) for a 4.5ha portion of Lot 436 (**Land**) within the Kingsford Business Park (**Proposal**).

Summary

3 Our Clients have significant concerns in relation to, in the first instance, the Private Treaty Proposal submitted by Ausco to the Town on 16 July 2013, and in preparing and releasing for public comment the business plan for the Proposal (**Business Plan**).

4 Our Clients' concerns with the Proposal and the Business Plan can be broadly classified into 3 distinct categories, these include:

4.1 errors of fact in the Business Plan;

4.2 references in the Business Plan giving rise to a reasonable apprehension that the Town is, and will be, biased and unable to objectively assess the

Proposal, or any later planning, building, health, liquor and environmental applications on the Land; and

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

Submissions

5 Our detailed submissions in relation to the Proposal and the Business Plan are as follows:

Errors of fact

Approved land use

6 Page 3 of the Business Plan indicates that Lot 436 has planning approval for a TWA land use.

7 According to the Town of Port Hedland Town Planning Scheme No.5 (**TPS5**), the land is zoned "Airport".

8 Under TPS5 "Transient Workers Accommodation" is classed as an "AA" use in the Airport zone. This means that the use is not permitted unless the Council has granted planning approval.

9 Our Clients are unaware of any such planning approval being granted.

10 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".

11 A "transient worker" is not defined under TPS5. 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.

12 Additionally, in all circumstances where a TWA is proposed, there will always be an effect on the amenity of the locality, and accordingly, all such applications may only be determined by the Council (and not by delegation).

13 As the Proposal has failed to identify what specific business or project the TWA will be catering to (ie, it has failed to identify an operational or construction workforce), it is questionable if the landuse proposed will meet the definition of a TWA.

14 A lease with a 20 year potential is not temporary nature, and as there is no identification of an operational or construction workforce to which the facility will

cater, the landuse is likely to be a Motel Use (which is an "SA" use under the TPS5 and requires advertising prior to Council exercising its discretion).

15 Accordingly, unless the Town can produce a valid planning approval for the development of the Land, which has been advertised in accordance with TPS5, then the statement at Page 3 of the Business Plan is misleading and not true.

3) Land Valuation

16 Page 3 and page 5 of the Business Plan provides that Ausco's proposed offer to lease a 4.5ha portion of the Lot 436 for $12/m² is equal to the current valuation as determined by Australian Property Consultants in August 2013 (**APC Valuation**).

17 Section 3.58(3)of the LG Act provides that the Town may dispose of property, otherwise than by highest bidder at public auction or by public tender, if it gives public notice of the proposed disposition, including a description of the property concerned, details of the proposed disposition, and inviting submissions from the public on the proposal.

18 The details of the proposed disposition that are required under section 3.58 (3) of the LG Act include, as provided under section 3.58(4) of the LG Act, among other things, a market valuation of the disposition, as ascertained by a valuation carried out not more than 6 months before the proposed disposition.

19 The APC Valuation provides that the $12/m² valuation of the Lot 436 is on the basis that, among other things, the whole 10ha of the Land is leased for TWA purposes.

20 Page 12 of the APC Valuation also provides that as land area increases the per square metre rate decreases.

21 Accordingly, as lots 437, 438 and 439 are significantly smaller (3.5ha) than Lot 436 (10ha) the valuation rate for those lots is is significantly higher at $15/m² (see page 13 of the Valuation).

$13

22 It is evident therefore that a true valuation of the disposition (the land the subject of the Proposal, namely the western 4.5ha portion of Lot 436) has not been conducted as required under s.3.58(4)(c) of the LG Act.

23 It is also evident that the value of Ausco's offer at $12/m² is likely to significantly undervalue, rather than equal the value of the disposition as misleadingly stated by the Town at page 3 and page 5 of the Business Plan.

Bias & fettering of discretion

24 The rule against bias will be offended, and open a decision to legal challenge, in situations where there is a reasonable apprehension of bias.

25 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.

26 The Proposal and the Business Plan provide 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* (**PD Act**), on the basis of a reasonable apprehension of bias, may be made.

Lack of Planning Approval

27 Both the Business Plan and the Proposal contemplate the entering into of a lease for the purposes of a TWA facility prior to planning approval under TPS 5 being granted.

28 Page 5 of the Business Plan correctly states that *"Ausco will be responsible for obtain[ing] statutory planning and building approvals"*.

29 In our submission, neither the Business Plan nor the Proposal should suggest conditions of the lease which are ultimately the subject of other approval mechanisms, such as planning approval under TPS5.

30 Not only does the imposition of these types of conditions give rise to a reasonable apprehension that the Council will be biased in determining any planning (or other) application, but it also amounts to fettering the Town's and the Council's discretion to determine the applications under TPS5 (and would therefore provide a separate head to challenge the decision).

31 Please not the following examples alluded to in the Business Plan:

31.1 Conditions commercially acceptable to Ausco

31.1.1 Dot point 4 on page 2 of the Proposal reads:

"Subject to the above [(meaning subject to an an application being made to comply with a proposed precinct plan which is not yet approved]) this lease is conditional upon the DA being obtained on terms & conditions reasonably / commercially acceptable to Ausco..."

31.1.2 If the Council agree to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.2 Stormwater condition

31.2.1 Dot point 9 on page 2 of the Proposal provides a condition which reads:

"Stormwater discharge to be via external drainage swales as noted in the Kingsford Business Park Design Guidelines..."

31.2.2 Drainage is a planning consideration, which should be assessed by the Town following the lodgement of an application for planning approval in accordance with the requirements under TPS5.

31.2.3 If the Council agree to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.3 Fill condition

31.3.1 Dot point 10 and 11 on page 2 of the Proposal provides for conditions which read respectively:

"no import of fill is required to meet the Q100 flood prevention requirements"; and

"a 2035 100-year minimum RL of 6.6m is adopted. The 100-year values have the 500mm of freeboard included."

31.3.2 Flooding is a planning consideration specifically provided for under cl.6.16 of TPS5. Any application for the determination of flood issues, finished floor levels, and the requirement to import fill in relation to a development should be assessed by the Town, based on the latest and best information available at the time, following the lodgement of an application for planning approval in accordance with the requirements under TPS5.

31.3.3 If the Council agree to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.4 No contribution for upgrading condition

31.4.1 Dot point 13 on page 2 of the Proposal provides for 3 conditions, the first condition reads:

"Under Council's current planning instruments and guidelines, we understand that no adopted infrastructure charges, development contribution, community benefit contribution, third party operation agreements or equivalent shall apply to this parcel of land"

31.4.2 Conditions for the imposition of contributions for infrastructure, including for parking, public open space, bridges, roads, drainage and community facilities have the ability to be validly

imposed on any planning approval (subject to certain requirements being met) at the discretion of Council (or the Town) under TPS5.

31.4.3 Even if there is no policy to support the imposition, upon the lodgement and assessment of a planning application under TPS5, the Council (or the Town) may impose any condition it sees fit so long as, among other things, the conditions fairly and reasonably relate to the development proposed (ie. there is need and nexus). The test is set out in in the seminal case of *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 (**Newbury**).

31.4.4 If the Council agree to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.5 Voluntary development contribution

31.5.1 The second condition contained within dot point 13 on page 2 of the Proposal reads:

"...Ausco will accept a voluntary development contribution within our development approval, stipulating that upon completion of the development, a voluntary contribution of $3.25 for each occupied room per night above a threshold level of 75% of total rooms (excluding site management personnel) shall be payable on an annual basis."

31.5.2 Apart from the questionable basis for the condition, it is our Clients' view that such a condition is beyond the power of the Council to validly impose on Ausco as a condition on planning approval under TPS5.

31.5.3 This is because there needs to be, among other things, a nexus between the development and the need for the contribution: Newbury.

31.5.4 While the condition of that type may still be imposed on any planning application by the Council, and accepted by Ausco in the short term, there is the potential that the condition may be challenged down the line by Ausco (even after the expiry of the lease) on the grounds of being beyond power. This may provide scope for Ausco to claim the whole of the monies back from the Council as damages (among other things).

31.5.5 A condition of this type is therefore not suitable to be imposed as part of a planning application, and should, if contemplated, be

included as a term of the proposed lease itself (and be subject to review in line with CPI).

31.5.6 If the Council agree to enter into the lease on terms which dictate planning conditions, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.6 Voluntary development contribution in exchange for public acknowledgements etc

31.6.1 The third condition contained within dot point 13 on page 2 of the Proposal reads:

"...Th[e] voluntary contribution shall be utilised by Council towards community benefits programs identified in consultation between the two parties and recognised by Council through public acknowledgements, naming rights or similar".

31.6.2 As detailed above, a condition of this type is not suitable for inclusion as a condition within a planning approval. Conditions are the price to be paid for the benefit of the approval: *Lloyd v Robinson* (1962) 107 CLR 142. The "condition" stipulated above is not a condition, it is a commercial offer and should be included as commercial consideration of the Town within a lease itself.

31.6.3 If the Council agree to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.7 Construction of a "Fly Camp"

31.7.1 Dot point 4 on page 2 of the Proposal provides a condition which reads:

"Prior to the opening of Stage 1 of the development, a construction fly-camp will be located on the site for the purpose of the village construction only".

31.7.2 Land use, and the approval of a fly-camp is a planning consideration, which should be assessed by the Town following the lodgement of an application for planning approval in accordance with the requirements under TPS5.

31.7.3 If the Council agree to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent

conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.8 Removal of modular buildings

31.8.1 Dot point 1 on page 3 of the Proposal provides two conditions which read:

"Handover of the site at the end of the lease will include removal of modular buildings and equipment. In ground services and other improvements will be capped and left in situ".

31.8.2 As a TWA is fundamentaly a temporary land use, the planning approval must be be granted only for a specific term, and should contain remediation provisions for the end of the term of the approval and the lease. Any such conditions which should be assessed by the Town following the lodgement of an application for planning approval in accordance with the requirements under TPS5.

31.8.3 If the Council agree to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent conditional planning approval will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.9 First right of refusal to purchase

31.9.1 Dot point 2 on page 3 of the Proposal provides a conditions which reads:

"Ausco Modular to have a first right of refusal to purchase the site in the event that the ToPH resolves to dispose of the suite during the period of the lease or extended period"

31.9.2 Section 3.58 of the LG Act provides very strict controls on the Town in circumstances where it wishes to dispose of property.

31.9.3 It would be potentially beyond power for the Town to enter into the lease on such a term, any subsequent decision of the Town or the Council will be tainted due to the reasonable apprehension that any subsequent sale will be granted on terms beneficial to Ausco, which but for the lease, the Council would never have imposed.

31.10 Money to upgrade Airport

31.10.1 The wording at page 8 of the Business plan reads:

"The funds derived from the lease will also pay for significant redevelopment improvements to the Port Hedland International Airport"

31.10.2 We have been informed by out Clients that the Town requires circa $2.5m in new funding to pay for its promised upgrading of the Port Hedland International Airport (**Airport**).

31.10.3 At the same time the Business Plan, the Proposal and the APC valuation all question the viability of the proposed TWA facility (and the viability of other accommodation providing facilities in the Town of Port Hedland) given the significant increase in room vacancy rates and oversupply of housing (over 500 houses for rent or sale) which has developed over the past 12 months.

31.10.4 If the Council agree to enter into the Proposal, the decision of the Town or the Council will be potentially tainted due to the reasonable apprehension that any approval was granted for the improper purpose of requiring money to upgrade the Airport, while at the same time failing to take into account other material considerations, including the effect of the Proposal on the viability of existing accommodation providers within Port Hedland (as required by 3.59(3)(b) of the LG Act.

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

General

32 Clause 3.2 of the Business Plan refers to clause 3.58 (30)(2a) and 3.59(4)(2a) of the LG Act. No such sections of the LG Act exist.

33 It also appears that Clause 3.2 of the Business Plan is attempting to quote directly from the LG Act, but does so inaccurately.

34 Clause 3.7 of the Business Plan refers to a terms and conditions of a sale. It appears that this has been cut and paste from a previous application and therefore the Town may have failed to turn its mind to (and consider to the relevant standard) a relevant consideration as required under section 3.59(3)(e) of the LG Act.

Failure of the Town to describe the property concerned

35 The Town has failed to adequately describe the property the subject of the disposition as required under section 3.58 (3)(a)(I) of the LG Act.

36 The Business Plan loosely defines the land as a 4.5ha portion of the 10ha Lot 436.

37 The Proposal also loosely defines the land as a 4.5ha western portion of the 10ha Lot 436.

38 No plan has been provided which demonstrates what 4.5ha portion of the 10ha lot 436 is the subject of the Proposal and the Business Plan.

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

39 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.

40 The Business Plan and the Proposal do not detail what specific project or business the proposed residents of the TWA will identify with, as required to be considered a TWA under TPS5.

41 The Business Plan and the Proposal do not detail who the financiers of the Proposal are.

42 The Business Plan and the Proposal do not detail whether Ausco intend to utilise any contractors in effecting the lease (including on an ongoing basis).

43 The Business Plan fails to identify which town officer/ officers prepared the Business Plan.

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

Failure of the Town to detail the consideration to be received by the Town for the disposition

45 The Town has failed to adequately detail the value of the consideration to be received by the Town for the disposition as required by s.3.58(4)(a) of the LG Act.

46 The Proposal details a $rate/m², a "voluntary contribution" as well as numerous conditions, all of which make up the consideration to be received by the Town for the disposition.

47 The Business Plan only details a $12/m² figure, it fails to detail the other relevant consideration (as outlined at paragraph 46 above)..

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

48 As detailed at paragraph 16 – 23 above, the Town has failed to detail, in any way, the market value of the disposition as required by s.3.58(3)(c) of the LG Act.

49 The APC Valuation provides a $12/m² valuation for Lot 436 on the basis that, among other things, the whole 10ha of the Land is to be leased for TWA purposes only.

50 Page 12 of the Valuation also provides that as land area increases the per square metre rate decreases.

51 Accordingly, as lots 437, 438 and 439 are significantly smaller (3.5ha) than Lot 436 (10ha) the valuation rate for those lots is is significantly higher at $15/m² (see page 13 of the Valuation).

52 It is evident therefore that a true valuation of the disposition (the land the subject of the Proposal, namely the unidentified western 4.5ha portion of Lot 436) has not been conducted to the standard required under s.3.58(4)(c) of the LG Act.

53 Further, even if the Proposal was for the whole of Lot 436, the APC Valuation is flawed in any event.

54 The APC Valuation mistakenly assumed that the only use permitted on the Land was for TWA developments.

55 The land is zoned Airport under TPS5 where a variety of uses are permitted on the land subject to approval by the Council. There is no development plan or otherwise which restricts the use of the Land to TWA landuse only.

56 Accordingly, it does not appear that the APC Valuation has been prepared to consider the potential value of other land uses on the land and therefore has failed to conduct the valuation on highest and best use principles, as detailed at page 9 of the APC Valuation.

57 As the Town has based its Business Plan on the false assumption that the land has been properly described and valued, there is the potential that the land the subject of the Proposal is undervalued.

Failure of the Town to detail an overall assessment of the major land transaction

58 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.

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

59 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.

60 Clause 3.3 of the Business Plan (page 7) is deficient in achieving the minimum standards expected by s.3.59(3)(a) as:

60.1 It cites "adverse effect" yet the LG Act requires a consideration of both positive and negative effects;

60.2 it is obvious that the proposal will not have any adverse effect on the current provision of facilities and services in the the Town of Port Hedland as the TWA is not currently built;

60.3 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

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

60.4.1 the risk of the development not completing the first stage, as required by the condition at dot point 13 of Page 2 of the Submission;

60.4.2 the risk of the development not achieving 75% occupancy for a significant proportion of the lease term, as required by dot point 13 of page 2 of the Submission;

60.4.3 the risk of the development not being completed, as required by the condition at dot point 14 of page 2 of the Submission;

60.4.4 The risk that over 20 years the Airport runways may need to expand, and as a result the Town may have to terminate the lease. If this is the case will the Town be liable for remediation as provided at dot point 1 of page 3 of the Submission.

60.4.5 The risk of a challenge to the Business Plan and subsequent planning application (if any), including significant legal costs likely in defending the Town's position; and

60.4.6 The potential risk that the Town will be unable to market, or will only be able to market at reduced rates, the remaining 5.5ha portion of Lot 436, due to the Proposal accounting for the western 4.5ha portion away from the runway.

<u>Failure of the Town to consider the Proposals expected affect on other persons providing facilities and services in the district for the extent of the lease term and extensions:</u>

61 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.

62 Clause 3.4 of the Business Plan (page 7) fails to consider, in any way, the requirements under s.3.59(3)(b) of the LG Act.

63 The APG valuation made it very clear to the Town that there is currently a significant oversupply of TWA accommodation in Port Hedland and that this is unlikely to change in the foreseeable future.

64 Further, the oversupply of TWA accommodation 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 operatons under, among other things, the PD Act.

65 This failure to properly condition or enforce TPS5 has lead to TWA operators advertising, and catering, to the general public in contravention of their planning approvals.

66 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 a commercial needs assessment for the proposed development.

67 The Town has fails to include a commercial needs assessment for the proposed development and therefore has failed to demonstrate that the proposed development will not have a detrimental effect on the viability of existing accommodation providers in the district.

Failure to consider the Proposals expected financial effect on the local government;

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

69 The Town has failed to adequately detail the value of the consideration to be received by the Town for the disposition as required by s.3.58(4)(a) of the LG Act.

70 The Proposal details a $rate/m², a "voluntary contribution" as well as numerous conditions, all of which make up the consideration to be received by the Town for the disposition.

71 The Business Plan only details a $rate/m², it fails to detail the other consideration.

72 As detailed at paragraph 60.4 above, the Town has failed to consider 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:

72.1 The financial risk of the development not completing the first stage, as required by the condition at dot point 13 of Page 2 of the Submission;

72.2 the financial risk of the development not achieving 75% occupancy for a significant proportion of the lease term, as required by dot point 13 of page 2 of the Submission;

72.3 the financial risk of the development not being completed, as required by the condition at dot point 14 of page 2 of the Submission;

72.4 The financial risk that over 20 years the Airport runways may need to expand, and as a result the Town may have to terminate the lease. If this is the case will the Town be liable for remediation as provided at dot point 1 of page 3 of the Submission.

72.5 The financial risk that the Towns incompetence in preparing the Business Plan and subsequent planning application (if any), will open the Town to significant legal costs in defending un-defendable positions;

72.6 The financial risk that Ausco will sit on the lease while paying a pepper corn rental of $1/month until commercial conditions improve, which could be for a significant period of time;

72.7 The financial risk that the town will be unable to market, or will only be able to market at reduced rates the remaining 5.5ha portion of Lot 436, due to the Proposal accounting for the western 4.5ha portion away from the runway; and

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

Failure to consider the Proposals expected affect on matters referred to in the local government's current plan prepared under section 5.56;

73 The Town is required to detail the Proposals expected effect on the matters referred to in the Strategic Community Plan in accordance with s.3.59(3)(d) of the LG Act.

74 The Town has failed 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.

75 The Town has failed to identify how the Proposal will comply with the Strategic Community Plan for the following 5-20 years under which the lease may be in operation.

76 The Town has failed to consider how the TWA Proposal 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.

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

78 The Town has failed to consider how the TWA Proposal, which is located next to the Airport's runway, and isolated from the rest of the residents in the Port Hedland, help to unify and connect the community, as required under the Community strategic theme of the Strategic Community Plan.

79 The Town has failed to consider how the implementation of the Proposal, and the preparation of a Business Plan deficient in a number of respects, will help the Town demonstrate to the community that the Town is meeting its *"ethical and legislative obligations"*, as required under the Local Leadership theme of the Strategic Community Plan.

Inability of the Town to manage the undertaking or the performance of the transaction.

80 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.

81 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.

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

Conclusion

83 In light of the above, we request that the Town and the Council:

83.1 not approve the Proposal;

83.2 carefully consider the issues outlined above;

83.3 seek the advice from the Town's solicitors regarding the ability of the Town and/or the Council to approve the proposal (and subsequent applications) given the content of the Business Plan; and

83.4 introduce an urgent moratorium to refrain from determining any further development approvals or lease arrangements incorporating TWA facilities in the district until the Town can competently deal with the issues that inevitably arise.

84 Our Clients are willing to having frank and open discussions with Town and/or Councillors to address their concerns.

85 If you have any questions relating to the above request, please contact Brendan Foley or me.

Yours sincerely

Craig Wallace
Partner – Planning and Environment