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ABN. 53 619 220 272

Your Ref:

Our Ref: ES:2017/941

15 September 2017

Shire of Wyndham East Kimberley (SWEK) Councillors
PO Box 614
KUNUNURRA
WA 6743

Attention: Jennifer Ninyette

By Email: Jennifer.Ninyette@swek.wa.gov.au

Dear Sir/Madam

Council Submission – Change of Use Application - Thrifty Car Hire **Location: 317 Laine Jones Drive, Kununurra**

We act for Marsarmatt Holdings Pty Ltd, the owner of the land at 317 Laine Jones Drive, Kununurra (premises) and Territory Rent A Car Pty Ltd trading as Thrifty Car Rental (Thrifty).

Background

This is an application to the Shire of Wyndham East Kimberley (SWEK) Council (Council) for approval of an additional use of the premises.

Our client has previously submitted a similar application for change of use of the premises which was considered and approved by Council on 16 December 2014 (Minute No. 10723).

Notably, the application for a change of use was approved to allow a Motor Vehicle Repair business to operate incidental to the main use of the site as a Car Rental Depot.

Due to a proposed change to the Agent who operates Thrifty Car Hire on our client's behalf, the subsidiary business to operate on site will necessarily need to change. Accordingly, our client has instructed our office to submit a change of use application to Council, to enable a panel beating business to be carried out in conjunction with our client's car hire business.

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Perth, Kununurra **US** - Los Angeles **UK** - Scotland

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Circumstances surrounding the Application for Additional Use

We are instructed our client has invested significantly into development within our town of Kununurra.

Specifically, our client has developed the premises into a successful and commercially viable car rental depot that includes a reception, offices, spacious workshop, two covered car detailing and wash down bays and hardstand areas as well as in excess of 30 designated parking bays on site. It is undeniably a visually appealing building and our client was the first car hire operator, to invest in developing a depot in the vicinity of the Airport.

Our client's business model is such that it appoints an agent in Kununurra to operate Thrifty who receives a percentage of the income from the business. The current Agent, that has been Thrifty's agent for several years, is moving on. Our client has received an expression of interest from an Agent that is currently the proprietor of Kununurra Smash and Screen Repairs, a local and reputable panel beating business.

Car hire businesses regularly require crash repair services due to damage sustained to vehicles by customers. In addition, when customers deliver a vehicle for works at a panel beating business, they often require alternate transport for the period in which their vehicle is being worked on. A car hire business, on site, is the ideal solution to this issue. Both businesses would be complimentary to the other.

The intention is that this Agent would operate the Thrifty Car Rental as well as the panel beating business out of the premises. Thrifty would be the primary business conducted from the premises, with the panel beating business being supplemental to Thrifty's business.

We understand Thrifty's business is primarily dependant upon tourist activity within the region, which of course is seasonal. Due to a significant decline in trade as of late, our client is unable to meet basic financial overheads, making our client's business unviable without a supplementary source of income.

Thrifty invests a great deal of time into training administrative staff in the use of its computer systems and associated infrastructure, which is essential to the operation of the business. Retention of staff is therefore very important to the economic viability of Thrifty's business. Thrifty's ability to retain employees year round (ensuring greater staff retention) will be dependant upon its economic viability. Thrifty employs a number of local residents, and their job security depends upon Thrifty's economic viability.

We are instructed that prior to conducting business out of the current premises, Thrifty's business operated from property located at Bandicoot Drive, whereby the all previous Agent's have operated a mechanical repair business. Our client explains that Thrifty has been able to ensure the viability of their agency agreement with all previous Agents,

only by allowing them to supplement the car hire business with mechanical related subsidiary business.

Our client fears it will be unable to find any agent to operate Thrifty here in Kununurra without the approval to supplement the car hire business with an additional business that is complimentary and incidental by nature.

Local Planning Scheme No 7 (LPS 7)

The premises are located upon land zoned Special Site Airport under LPS 7. The Special Site Schedule at Appendix 2 to LPS 7 identifies the purpose of this Special Site as Airport and specifies uses that can be approved as follows:

Other uses may be permitted by Council provided that they are incidental to the predominant use of the land and / or deemed to be dependant on the function of the Airport.

In other words, uses may be permitted if deemed dependant on the function of the Airport OR if incidental to the predominant use of the land.

Clearly the current approved use of the premises for a car hire business has been deemed to be dependant upon the function of the Airport.

This application for an additional use, in the form of a panel beating business, on the basis that it is incidental to the predominant use of the land, being car hire.

Particulars of Proposed Additional Use

Thrifty's premises, in accordance with Council approved plans, accommodates an expansive panel beating work shop, with an oil separator system, hoist and wash bays with suitable drainage. This workshop's primary purpose is to service Thrifty vehicles and could also service private motor vehicle panel beating work.

Our client intends on building a covered fence on the rear of the property, to ensure that there is no visibility of the panel beating works from the Victoria Highway.

This will allow Thrifty to maintain a professional image and predominantly market its business of car rental.

Conclusion

Certainly, it would appear beneficial to the community to have businesses that support the greater Airport related functions, located in proximity to the Airport.

One of the primary concerns raised with respect to this proposal for the approval of an additional use, is whether the panel beating business will be or remain incidental to the car hire business.

With respect, our client, the owner of Thrifty, has made a multi-million dollar investment in developing its car hire business here in Kununurra. Our client's intention is to accommodate its Agents pecuniary need to operate a subsidiary business from the premises in order to subsidise the income from the predominant Thrifty car hire business on the site.

Our client instructs that it would be entirely unacceptable and uneconomical to its purposes, to allow its agent's panel beating business to operate other than as incidental to Thrifty's predominant use of the site.

However, in the interests of maintaining an economically viable business model for our client, it appears evident that due to the seasonal nature of car hire, in the current climate, a supplementary source of income will be required, in order for Thrifty Car Rental to be sustainable. The reality is that without Council's approval to an additional use of the premises, it is highly unlikely that our client will be able to find a suitable Agent, with the financial capacity to operate the car hire business.

In reviewing this application, we ask that the Council carefully consider the benefits that flow to our community in having aviation supportive businesses investing and developing our Airport precinct. In circumstances where Thrifty is the only car rental business to significantly invest in land and buildings within the Airport precinct, we suggest it is incumbent upon a community supportive of development, to constructively deal with the economic realities of seasonally contingent business.

Yours faithfully
SALERNO LAW PTY LTD

Per:
Emma Salerno