

EZION OFFSHORE LOGISTICS HUB (TIWI) PTY LTD

Integrating conventional technology in unconventional ways

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Our Ref: EOTCOR2015/009

10th April 2015

Russell Keith

Email: russell.keith@nt.gov.au

Dear Russell,

Thank for meeting with Ben Halliwell and I Wednesday and hearing our concerns relating to the Written Comments to the *Port of Darwin Bill 2014* and *Ports Management Bill 2014* that we submitted to Haley Richards 19 January 2015. Please find an electronic copy of the comments we provided you yesterday.

I now have a much better understanding of the process and your role in it. I feel confident in your use and passage of our information. I understand the notions of your terms of reference and I have comfort that our concerns will be addressed within the widest spectrum of application open to you. Please understand that I am very disappointed that despite our best efforts and acting on specific advice and assurances from the Chief Minister, his department and staff, that these comments did not find their way into the public record to date and neither was my organization formerly invited to make comment to the committee.

It might interest yourself and the committee to note that we were assured that our enquiry written comments would be distributed to all relevant parties, including the Parliamentary enquiry specifically, and further that our comments would be entered into the public record. These assurances were made consistently as our comments were raised at numerous meetings held with the Department of the Chief Minister with various parties. It is very unsettling to discover that we have seemingly been intentionally misled in terms of assurances to distribute our comments and later, assurances that they had been. These misrepresentations only serve to heighten our concerns and make us suspect of the entire processes.

As to the Darwin Port privatization, it appears that we have been intentionally excluded from the process despite the numerous meetings, offers and insights that I have provided NT Government and their consultants over the past year. Given the circumstances, it is difficult to construe the situation as anything other than a systematic and deliberate pattern of behaviour. I have two letters from the NT Government assuring me that we are a contender in bidding for the Lease and operation of the Port. Recent events make it apparent that this may not be the case. We find this an astonishing behaviour of a government seeking foreign capital to aid development. NT government and the Federal government has visited our offices in Singapore multiple times offering support of our current investments in Australia and soliciting interest for future investment. This has been met positively by our CEO and

open to consideration on a case by case basis by our board. One of the projects is the privatization of Darwin Port.

Since our meeting we have become aware of comments made to the Parliamentary Committee on the enquiry into Darwin Port Privatization. Had we been invited to provide testimony to the Committee, our concerns would have in large part echoed those made by the Maritime Union of Australia.

I turn now to the development of Port Melville, our Singaporean investors and Australian owners have invested considerable time, money and resources in the region with a long term view. I have openly shared commercially privileged and strategically sensitive information with Government staff and consultants. I am also concerned about the lack of your scope to review this proposed legislation. I am compelled to share my discovery of the situation(s) with our foreign partners and board members. I suspect that they will not be very happy and will instruct me to take aggressive measures to protect their investment. They are prominent members of the Asian Investment Community. I will also be forced to update the US Navy and Marine Corp as well, as Port Melville is of significant interest to them. I am acutely aware that the proposed port legislation and the Port Bills are highly unpopular with the general public and industry. My board is always asking me about the status as they wish to gauge the risk to their current investment with a watchful eye toward future investment. In its current form both the Ports Bills and the Ports Privatization and the processes promoting them will undoubtedly spur as strong response from industry which of course will quickly reach the investment community.

For your part, I found our discussion professional and respectful and I appreciate your objective ear. We try to be good corporate citizens. To us that means to engage with community and to collaboratively work with government. We now find that bureaucracy and Ministerial advisory staff through lack of endeavour, skill or want, fail to understand the objective ramifications of the drafting of the Ministerial authority as to Port Operations within the bills. As discussed, there are definitional issues between the Act's that create misunderstanding as to balance of power and imposition of governance that we believe is unconscionable, and to our dismay not well understood by government staff or advisors who does not appear to have read in context, in detail. Matters as to the residence of the bureaucratic power in the operation of the *Port of Darwin Bill* 2014 do not reconcile the imbalance caused by the Chief Ministerial authority imposed by the *Ports Management Bill* 2014 which, for example on the mere surface, provides the government with the ability to usurp the existing operational and commercial relationships with the current operator. Such powers are provided with strict capability and without an appellat processes. I trust that you will find scope in your jurisdiction to assure that our comments are made a matter of public record, are considered, and that your terms of reference will be read wide enough to allow commentary as to our full gambit of concerns.

Kind Regards,



Captain Larry G. Johnson, CEO
Ezion Offshore Logistics Hub (Tiwi) Pty Ltd

Cc: Ben Halliwell