



1. **Extract – ATSRAC Meeting no 14, Oct 2003 – at Page 6 (Hansard at F&PA 23)**

***“Joint Chairs & EO’s meeting – September 16<sup>th</sup>***

*As noted at this meeting the Departmental budget funding is very tight and as a result the SRAC’s are requested to also recommend the level of due diligence considered necessary to apply. This will then take into account the level of local knowledge of SRAC members.*

*Mick Borzi raised concerns in relation to due diligence recommendations being directed from the SRAC noting this may cause future difficulties and negative outcomes for the SRAC should projects encounter difficulties or fail following recommendations to undertake lesser levels of due diligence.*

*Future operational budgets for SRAC’s have been developed into a package under consideration by Minister Anderson at the present time. This included future funding for the Executive Officer.”*

2. **Extract – ATSRAC Meeting no 8, Dec 2002 – at Page 10**

**Item 9 – Chairs & Executive Officers Meeting, Canberra – October 2002**

Documentation was provided to ATSRAC on the following: -

- o **Retrospectivity:** - ATSRAC agreed with the initiative, coming from Canberra meeting, that from official date of lodgement of full applications, retrospectivity would not be considered an issue. This recommendation has been forwarded to the Minister for consideration and has not as yet been approved.
- o **Due Diligence:** - A brief outline was provided on the 3 levels of due diligence which are dependent upon the level of funding being requested.

3. **Extract from Email dated 26/02/2004**

From: P McDade, Chair ATSRAC  
To: Luke Wild, DOTARS

Luke

Unfortunately, your observations are wide of the real mark. ATSRAC, until told recently by the Dept that it could, has never sought due diligence first as you suggest as it was clear to us that that was the Dept's domain and we were to be kept out of it to ensure we did not muddy the waters or get accused of same and to assure the independence of the Committee from the due diligence process. So any due diligence undertaken was initiated by the Dept in accordance with your criteria which determined what level of due diligence was undertaken. So to suggest that we were misusing the process is very wide of the mark.

Then DOTARS recently said (and I mean after the Sept 03 Chairs conference) that we should be more involved (we did not ask to become more involved - we were invited) in the process and that the Dept was reviewing the due diligence process due to cost. We were advised the new regime would be that minimal due diligence would be carried out unless a higher level was requested by the committee.

The process described in your second paragraph was our understanding of the process as well - and we were following that line.

To suggest that ATSRAC began to get into the habit of sending things to due diligence because we were unsure is grossly exaggerated and incorrect. When we sent something to due diligence it was for good reason and with the concurrence of the Dept. Never once have we sent something to due diligence simply to get something clarified. We were encouraged to use the due diligence process in a way that made eminent sense and practice to me. Indeed, I still maintain it makes better sense to have due diligence completed before we make a recommendation. But the Dept thinks otherwise.

Just tell us what the blessed process is and please stop changing the rules and then trying to pass the buck. Whatever we have been advised, I as Chair, the Committee as a whole, and Yvonne as EO have been assiduous in following those rules. And I have insisted that it be that way for obvious reasons. If your impression about ATSRAC's, not abuse but misuse of the process, for whatever reason, is as described by you, then my concern is that that view is probably also held by others in the Dept. They are wrong.

Regards

Peter J McDade  
Chair  
ATSRAC  
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E-mail: pmcdade@bigpond.net.au

#### **4. Copy of Emails dated 26/02/2004**

-----Original Message-----  
From: Wild, Luke [mailto:Luke.Wild@dotars.gov.au]  
Sent: Thursday, 26 February 2004 2:33 PM  
To: 'Peter Mcdade'  
Cc: Tunney, Yvonne  
Subject: RE: Atherton Hotel, NTA Group, Ivycove, Eden House, Surebeam

Hi Peter

These are only my personal observations, but in the context of working alongside the 7 other SRAC's. Over time, the role and purpose of due diligence in the ATSRP has become a little blurry. The standard practice across the rest of the 7 SRP's has been that due diligence (after a recommendation is made) is carried out for the benefit of Dept and to assist the Minister make an educated decision. Only in exceptional cases, is a due diligence report referred back to relevant SRAC.

ATSRAC began to get into the habit of sending things to due diligence when they were unsure of the project or wanted some aspects clarified. Over time, this got more and more common until I got the feeling that ATSRAC weren't comfortable making a recommendation until due diligence was completed.

(I'm sure this was for the best of intentions - they didn't want to recommend a dud. But I'd argue that sorting out the duds is a service that the Dept is here to provide)

As a result of the number of ATSRAC projects we were sending for comprehensive due diligence checks, we realised that the Dept couldn't afford that level of check as a matter of course. (ATSRAC had spent about 60-70% of the total allocation for due diligence for all SRAC's) That's when the Dept changed to the new regime of checking - where only selected projects were sent for the comprehensive checks. Perhaps Des said that these levels were for the SRAC to decide - If he did then this probably only reinforced in the minds of ATSRAC that is was their primary responsibility to sort the chaff from the wheat.

Again, just my personal understanding, based on working alongside the other 7 SRAC's, is:

1. SRAC's evaluate projects on the basis of the regional priorities, with the benefit of their local knowledge, with only a limited focus on the finer points/technicalities of the financial and business aspects of things.
2. The Dept carries out a level of due diligence they find appropriate (perhaps with input from the SRAC who, with the benefit of their local knowledge, may identify specific issues). The due diligence checks are primarily for the dept's benefit and assurance.
3. 1 and 2 are put to the Minister for the final decision.

Just my own perspective but I think that ATSRAC may not have always been properly informed by the Dept about what parts of the process to focus on the most.

Obviously these are just my observations and it may be worth getting ultimate clarification from Bill and Wendi soon (or at the next meeting). Please understand that this is not criticism - it's just an observation based on the perspective I have seeing how other SRAC's operate.

I'd like to chat about this further if you'd like to give me a call.

Cheers  
Luke

-----Original Message-----

From: Peter Mcdade [mailto:pmcdade@bigpond.net.au]  
Sent: Thursday, 26 February 2004 14:21  
To: Wild, Luke  
Cc: Tunney, Yvonne; Dejong, Bill; Bob Beeton  
Subject: RE: Atherton Hotel, NTA Group, Ivycove, Eden House, Surebeam

Thanks Luke.

A couple of points need to be clarified. ATSRAC was advised by DOTARS via Des that the due diligence process has been changed by DOTARS and that the various committees now had the choice of setting the level of due diligence investigation was required for each project it was considering rather than following the graduated dollar scale system. I support that decision by DOTARS. We also have the option (and apparently always have had) to ask for due diligence before we made a recommendation to the minister.

To my mind, however, this may be creating some confusion in the process because in those instances the due diligence would be carried for the benefit of the committee in making its recommendation rather than satisfying the concerns of the Dept and the minister (and I don't argue that it can still do this, but primarily it would be for the Committee's benefit). At present, we generally recommend approval after our preliminary assessment of the application, then the Dept has due diligence completed, then if necessary we revise our recommendation after due diligence has been completed. In other words, it adds months to the process. I may not be making my point clearly enough - but it makes sense to me to put due diligence first, then make the recommendation to the minister thus streamlining the process. We would then only recommend approval or decline with it only going once to the Minister. The loudest criticism we get is the seemingly unnecessary long delays in getting a decision - one way or the other - and I think we owe it to the proponents to get them the decision as quickly as possible.

In Surebeam's case (and a couple of others I might add), we didn't decline their project - we cannot make that decision. If my memory is correct, we simply advised them that due to the unreasonably long delay they took to provide information to facilitate completion of the due diligence process, that we would no option but to regard their application as having lapsed, not that we would not be funding their proposal - which was done with DOTARS' support. They could come back and reapply in such cases - but not so if the project had been declined. If this was not consistent, what is?

An extract from our minutes indicates we rescinded our recommendation - but did not recommend decline. Extract of our decision follows:

- ACTION: EO to draft correspondence to Minister stating that ATSRAC has decided to rescind their recommendation for the Surebeam project. The Minister to be informed that ATSRAC has endorsed informing the proponent that the project has lapsed due to inadequate response to due diligence.
- ACTION: EO to draft correspondence to proponent informing them the application has lapsed due to the incomplete response to due diligence with awareness of competing funds/projects. The letter is to indicate:
- "You may, of course at your discretion, reapply in the future by submitting a new EoI. It would be received and considered by ATSRAC should program funds still be available at the time."

It was also emphasized Surebeam should be made aware of other funds and resources available through the Regional Partnerships Program and that they should be encouraged to contact FNQACC in this regard.

They seemed to be stalling the process hoping to keep their options open for an indefinite time period and it is unreasonable for us to tie up millions of dollars in SRP funding on the never never. Just as proponents are expecting prompt action by the Dept and the Minister for decisions, so to the proponents must be prepared to keep the ball rolling. The only advice we received was that due diligence had not and could not be completed - and as our recommendations for approval have always been "subject to satisfactory completion of due diligence". It was not completed, so we rescinded our recommendation but left the door open for Surebeam to come back with a new EoI.

To sum it up, can we have agreement that the process should include due diligence to be completed within say three months before we recommend anything to the Minister. That would take the Minister out of being accused of causing delays in decisions and put the onus on the proponent to supply sufficient timely information.

Hope this makes sense and it is not intended to be argumentative - but it is I think a very important issue that needs to be addressed in the interests of program efficiency and transparency.

Regards

Peter J McDade  
Chair, ATSRAC  
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E-mail: pmcdade@bigpond.net.au

-----Original Message-----

From: Wild, Luke [mailto:Luke.Wild@dotars.gov.au]  
Sent: Thursday, 26 February 2004 8:59 AM  
To: 'Peter Mcdade'  
Cc: Tunney, Yvonne; Dejong, Bill  
Subject: RE: Atherton Hotel, NTA Group, Ivycove, Eden House, Surebeam

G'day Peter

The reason the Dept doesn't take unilateral action on the Ivycove project is that the Minister must approve all 'declines'. DOTARS can't write to the applicant and say 'sorry, we're not going to fund you', before the Minister has considered the case for rejection and concurs with it. (ie, Just as ATSRAC only makes recommendations for approval, it also only makes recommendations for 'decline'.)

So the reason the Dept wants to bring the Ivycove project back to ATSRAC is so that ATSRAC can amend their earlier approval (to a 'decline'), write to the Minister accordingly, have the Minister consider it, and then contact the applicant. Unfortunately this is time consuming, but its the way we have to go.

You may be thinking about this in the case of the Surebeam project, where ATSRAC recently wrote to the applicant to tell them 'sorry,

we're not funding you'. This was not actually consistent with the correct process. Last week I prepared a Minute to the Minister re the Surebeam situation and he concurred with ATSRAC's recommendation to 'decline'. The Dept will now write to the applicant and confirm what ATSRAC has already informed them.

By the way, I should explain that ATSRAC can reject EoI without reference to the Minister, but applications are a different matter.

Cheers  
Luke

-----Original Message-----

From: Peter Mcdade [mailto:pmcdade@bigpond.net.au]  
Sent: Wednesday, 25 February 2004 21:22  
To: Wild, Luke; Tunney, Yvonne  
Cc: Dejong, Bill  
Subject: RE: Atherton Hotel, NTA Group, Ivycove, Eden House, Surebeam

I agree with your recommendations Luke. However, re Ivycove I have some matters that should be generally clarified. I am confused as to some of the arguments and this should clear them up for future actions/decisions (I hope). On the one hand you state re Eden House, that the due diligence process "is conducted primarily for the information and satisfaction of the Department and the Minister" and that you (the Dept) feel confident in altering the arrangement without discussion with ATSRAC - and I have no problem with that.

However, where we have made a recommendation for approval but then due diligence fails, (as per Ivycove) why does it get referred back to ATSRAC? There is no further debate needed as far as I can see. They should just receive a letter stating the bleedin' obvious - "Your application has been considered by ATSRAC and the Dept and unfortunately, it has not satisfied the independent due diligence process to demonstrate certainty of funding and viability (or whatever the report finds). Consequently, your project is not eligible for SRP funding - yours sincerely, DOTARS". Copy of advice to ATSRAC is all that is needed for our records. After all, (and I have had this debate many times) ATSRAC cannot approve or decline anything - so what is the point of having further delays in the process just to let ATSRAC discuss something they can do nothing about? We can only make recommendations to the minister - which has been done in this case.

So why not just move on and advise them accordingly?

Regards

Peter J McDade  
Chair, ATSRAC

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E-mail: pmcdade@bigpond.net.au

**5. Copy of Email dated 25/02/2004**

-----Original Message-----

From: Wild, Luke [mailto:Luke.Wild@dotars.gov.au]  
Sent: Wednesday, 25 February 2004 10:45 AM  
To: 'pmcdade@bigpond.net.au'; Tunney, Yvonne  
Cc: Dejong, Bill  
Subject: Atherton Hotel, NTA Group, Ivycove, Eden House, Surebeam

Hi Peter and Yvonne

I just wanted to give you both an update on several projects that have required action lately.

The Dept (via the Minister) has received 3 letters of complaint about ATSRAC funding to the Atherton Hotel. The complaints were that funding to the Hotel would negatively influence their existing businesses. The Dept conducted a review of the independent due diligence assessment (which include an assessment of the competitive neutrality issues) and has drafted letters to be signed by the M.O. The letters state that a review has been carried out and that the decision to fund the project will stand.

No contract had been signed with the grantee as we waited to sort this matter out, but I will now begin contract negotiations.

You may remember that the NTA Group was given until 31 January to contact the Dept and complete contract negotiations. They were warned that failure to do so 'may' result in the withdrawal of their grant. They have not contacted us at all, and so I am preparing a 'show cause' letter as a first step in having their funding rescinded.

Ivycove were given until 31 January to produce all relevant due diligence information to the due diligence consultant. They did, and a Final Report was produced by PWC Cairns. This report cites several critical factors but most importantly the failure of the applicant to adequately show they can finance their contribution to the project. This will have to be discussed at the next ATSRAC meeting. Although I think it is a simple enough issue to be handled via Flying Minute, given the reason for deferral of the ATSRAC meeting (ie due to local government elections), it will have to wait to be discussed at the April ATSRAC meeting.

Bill and I discussed Eden House and the recommendation at the January ATSRAC meeting (proposed by the Dept, I believe) to ask the grantee for a revised budget due to changed financial circumstances. The Dept now recommends that we don't go down this route for several reasons;

\* That the minister has already approved \$186,300 for the project;

- \* That a possible change to the amount of the grant from ATSRAC on the basis that the grantee can now afford to contribute more is a problematic policy and precedent issue;
- \* And to a lesser extent, that contract negotiations have already been delayed a significant time and it is important that the Dept make some payment on the grant in this financial year.

Of course, the Dept would confirm several things with the grantee prior to continuing, namely:

- \* That they (and not another party) will still be contributing their nominated amount to the project;
- \* That there is no fundamental alteration to the actual project from that which ATSRAC considered and recommended;
- \* That the regional benefits that ATSRAC recommended the projects for, will still be realised.

Peter - Are you happy for us to take this approach? (As the due diligence process is primarily conducted for the information and satisfaction of the Department and the Minister, we feel confident in altering the arrangement without discussion on it from ATSRAC. And if we did wait for ATSRAC's consideration anyway, we would have to wait until April, which we believe to be an unnecessary delay.)

Also, Eden House has not yet been publicly announced and the Dept will be trying to arrange its public announcement as soon as possible. (Perhaps in conjunction with other announcements - I'll keep you posted.)

As a result of ATSRAC's recommendation to decline funding to Surebeam Biosecurities, we have prepared a Minute to Minister recommending he agree with ATSRAC.

Cheers

Luke Wild  
Sustainable Regions Programme  
Department of Transport and Regional Services  
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luke.wild@dotars.gov.au

**6. Extract from Draft ATSRAC minutes - 4 & 5 April 2003**  
**(Hansard F&PA 40)**

**“441.00 B. Blanch – Kalamunda Park**

The committee endorsed a recommendation to the Minister for funding of \$150,000.”

P McDade comments (4/7/05):

Unfortunately I cannot locate prior or subsequent advice, which I am sure would have been given, confirming satisfactory completion of Due Diligence. The following reports (numbered 7 & 8) from DOTARS show the contract negotiations were to commence or had commenced in subsequent months. This would indicate satisfactory completion of the due diligence process.



**7. Extract from Draft ATSRAC minutes - August 2003**

**CONTRACT NEGOTIATIONS STATUS REPORT (Updated 6 August 2003)**

<b>Project</b>	<b>Status</b>
Mareeba Wild Animal Park	Contracts signed and first payment made.
Atherton GIS project	In contract negotiations - draft contract with proponent.
NTA Group - Kenaf	Contract negotiations yet to begin.
Mareeba Wetlands Foundation	Contracts signed and first payment made.
<b>Kalamunda Eco-stay</b>	<b>Contract negotiations yet to begin.</b>
Gambino's Marlin Mangoes	Contract negotiations yet to begin.
Great Northern Minesite	Contract negotiations yet to begin.
Lake Tinaroo Foreshore Development	Contract signed and first payment made.
Ecobiotics	Contract signed and first payment made.
Harold West Walk	Contract signed and first and only payment made.

**8. Extract from draft ATSRAC minutes October 2003**

**CONTRACT NEGOTIATIONS STATUS REPORT (Updated 7 October 2003)**

<b>Project</b>	<b>Status</b>
Atherton GIS project	Contract negotiations being finalized.
NTA Group - Kenaf	Contract negotiations commenced – awaiting response from applicant
<b>Kalamunda Eco-stay</b>	<b>Contract negotiation underway</b>
Gambino's Marlin Mangoes	Contract negotiation underway
Great Northern Minesite	Contract negotiation underway

**9. Re: Alleged Dimbulah Project Being Declined (Hansard F&PA 57)**

My further enquiries into this issue indicate that there never was a formal proposal put forward to ATSRAC, hence my ignorance of the matter. I understand that preliminary enquiries were made at a meeting in Dimbulah and the querists were advised that it probably would not fit the ATSRAC's guidelines, as there were specific funding programs within government for water projects by local government. No further action was taken by the querists.