

ORDINARY MEETING  26 MAY 2015	6.3
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NOTICE OF MOTION – CR MELCHERT

MCU (CODE ASSESSABLE DEVELOPMENT) LOT 1 CAPTAIN COOK HIGHWAY, INTENSIVE ANIMAL HUSBANDRY ETC.

### **NOTICE OF MOTION**

I hereby give Notice of my intention to move the following motion at Council's Ordinary Meeting to be held on Tuesday 26 May, 2015:-

*"That Council resolve that:-*

- *in relation to the Development Approval issued for "MCU (Code Assessable Development) Lot 1 Captain Cook Highway, Intensive Animal Husbandry etc, Council direct that should an application be received for any change to conditions it be referred for full Council consideration, and that in relation to this development approval no matter whatsoever is to be dealt under delegated authority and all matters are to be referred to full Council".*

### **BACKGROUND**

This Development Approval has raised significant community concerns not only about the inappropriateness of the development relative to the amenity of the area, but also about the level of openness and transparency of Council's operations. Accordingly in my view all matters relating to the approval should be dealt with at open Council meetings within the full gaze of the Community.

### **CEO'S COMMENT:**

#### **1. Motion to change conditions of Development Approval**

An application for permissible change is lodged and assessed in the same way as the initial application. In essence an application is lodged, an assessment is made and a report/recommendation is made to Council. This type of application is quite limited in its scope and an Applicant may instead choose to request a negotiated decision as referred to below. In either case, the officer recommendation would be put to Council as it was Council that made the initial decision. While officers may technically have delegated authority it would not be exercised. Given the issues below the ambit of Cr Melchert's motion would effectively fetter the ability of the applicant/officers to act on the approval as granted.

#### **Negotiated Decision Notice**

Should the Applicant seek a Negotiated Decision Notice then as a normal occurrence a report is prepared and listed on Council's Ordinary Meeting for consideration. Should the Applicant seek to act on the approval as it currently stands then the following further approvals are required:

### **Development Permit for Building Work**

A Development Permit for Building Work is lodged with the Private Certifier of the Applicant's choice and determined by that Certifier. The application for a Development Permit for Building Work is a code assessable application. The Code against which the application is assessed is the Building Code of Australia.

### **Permit for Plumbing Work**

This is not an application under the Sustainable Planning Act 2009.

The application is lodged with Council and assessed by Council's Plumbing Inspector.

This is a technical assessment against the following:

- Queensland Plumbing and Wastewater Code
- Plumbing and Drainage Act 2002
- Plumbing and Drainage Regulation 2003
- Standard Plumbing and Drainage Regulation 2003

The issue of a Plumbing Approval is a delegated decision and requires technical expertise.

### **Work within the State-controlled Road**

The conditions of the approval, as directed to be placed on the approval by the State, require the Applicant to achieve a written approval from the Department of Transport and Main Roads to undertake the required works as per Sections 62 and 33 of the Transport Infrastructure Act 1994.

### **External work required by Council**

This work is for the concreting of the crossover to the adjacent Mackay Sugar railway. This work is nominated through a condition of the approval to require a Development Permit for Operational Work. The work is required to be RPEQ certified. This is a technical approval against engineering standards. This is a delegated approval. This work is physically undertaken in conjunction with the work undertaken on the state-controlled road.

### **Conditions of the Decision Notice**

Certain conditions of the approval have already delegated considerations to the Chief Executive Officer. These are operational matters and cannot now be changed as they form part of the conditions of the Decision Notice.

## **2. Openness and transparency of Council's operations.**

Cr Melchert's comment infers that planning matters and assessments are conducted in a manner that is not open and transparent. Such a suggestion is completely and utterly refuted.

This application was lodged with Council and was assessed strictly in accordance with both legislation and Council's usual procedures. Nothing about the application, the applicant, nor the process demanded any variation from Council's standard assessment practices. Neither the application, the report, nor the officer's recommendations were workshopped with Councillors prior to the meeting and no decisions, could have been made or were made, prior to the Council meeting.

The planning report was submitted to Council within its usual agenda timeframe and was listed publicly on Council's website in accordance with standard practice, for anyone in the community to read. Any member of the community, if they so desired, could have contacted any Councillor, at any time prior to the meeting, and were also welcome to attend the meeting. In fact, members of the community did attend the meeting.

The report was considered in an open Council meeting, under the “full gaze” of the community members who were in attendance in the gallery.

After considering the report, Councillors unanimously resolved to accept the officer’s recommendation.