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| <b>ORDINARY MEETING</b><br><br><b>16 JUNE 2015</b> | <b>6.5</b> |
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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 16 June 2015:-

*“that in relation to the conditions attaching to Development Approval MCU (Code Assessable Development) Lot 1 Captain Cook Highway Intensive Animal Husbandry Etc Council:-*

- *Engage Mr Daniel Gore QC to advise Council on all matters relating to the issue of the Development Approval including interpretation and implementation of conditions and that the Council as a whole be given the opportunity to discuss matters with Mr Gore.*
- *Engage AECOM specialist noise engineers to advise Council on the appropriateness and validity of any submissions made by the developer which seek to fulfil the following condition:-*

*“5 Facilities that house animals incorporate noise attenuation measures. A report prepared by a qualified Acoustical Consultant must be submitted at the time of lodgement of an application for a Development Permit for Building Work and endorsed by the Chief Executive Officer prior to the issue of the Development Permit for Building Work. The report must indicate design and construction features to be incorporated in the development to ensure that the development is acoustically insulated having regard to the provisions of the Environmental Protection Act 1994, Environmental Protection (Noise) Policy 2008.”*

### **BACKGROUND**

This Development Approval has raised significant community concerns about the inappropriateness of the development relative to the amenity of the area and especially in relation to the noise which could be generated by the development.

This motion seeks to ensure that Council has senior and specialist town planning and noise control advice to assist in the interpretation and implementation of conditions.

The noise issue is a significant one because the development does not comply with the 1000 metre separation acceptable solution for this type of development and seeks to rely on noise attenuation measures yet to be provided which the applicant suggests will deal with noise concerns. In the circumstances it is more that reasonable that the community will expect the Council to rigorously review any alternate proposals (acceptable solutions) provided by the applicant.

**CEO'S COMMENT:****1. Engaging Mr Daniel Gore QC**

In a recent conversation with the CEO Mr Gore advised that he was engaged on a "kind of retainer" by the former Douglas Shire Council through an instructing solicitor. Mr Gore advises that he has never accepted a direct brief and would be unlikely to do so. He is not obliged to do so. Mr Gore's verbal quotation for his hourly rate, provided on the sole basis that an instructing solicitor would be involved, is \$800 per hour plus GST.

An instructing solicitor's charges will typically be in the range of \$300 - \$600 per hour plus GST. Staff costs will be additional to the above.

The scope of the Brief is unclear from this Notice of Motion, however if the advice to be sought and accompanying discussion is as proposed: *"to advise Council on all matters relating to the issue of the Development Approval including interpretation and implementation of conditions and that the Council as a whole be given the opportunity to discuss matters with Mr Gore"* it would be expected that the legal fees may run into many tens of thousands of dollars, if not more.

**2. Engaging AECOM**

Council may engage AECOM directly to provide acoustic engineering services as AECOM is on Local Buy's engineering consultancy services panel. However it is suggested that as no report has been received to review, the scope of consultancy services cannot be defined or costed, and therefore the appointment of an acoustic engineer would not be practical at this time.