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Date: 11 December 2013

Butler McDermott Lawyers
Attn: Mr Peter Boyce
PO Box 117
NAMBOUR QLD 4560

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Dear Colleagues,

**RE: LOADER v MORETON BAY REGIONAL COUNCIL –
P & E COURT APPEAL NO. 237 OF 2009
COURT OF APPEAL NO. 1099 OF 2013**

We refer to your letter dated 29 November 2013.

The Court of Appeal's decision

We note that despite the Court of Appeal's findings regarding the Enforcement Notice issued by the Council in 2008, the use of Lot 20 and Lot 1 by Toorbul Marine is still subject to the conditions contained in the Environmental Authority issued by the Council in 2007.

That Authority includes conditions that seek to minimize the environmental and amenity impacts of your client's business.

The Council remains concerned about these impacts and notes that the findings of fact made by Judge Griffin QC in the Planning and Environment Court about these matters, informed by the testimony of the Council's expert witness, remain unchallenged.

Complaints

The Council continues to receive complaints regarding alleged breaches of the *Environmental Protection Act 1994* (the Act) in relation to both Lot 20 and Lot 1.

The Council is obliged to investigate complaints and to take appropriate action in accordance with the relevant provisions of the Act, in its role as administering authority for ERA 49 – Boat Maintenance or Repair.

Given the above, and the unchallenged environmental and amenity concerns identified in the Planning and Environment Court, the Council does not accept it has acted unfairly or unreasonably towards your client in investigating those complaints or with regard to its conduct.

The Council intends to conduct further inspections to monitor the activities of the business to ensure it complies with the conditions of the Authority.

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0599 | E mbrcc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

Other matters

The Council rejects the other assertions raised in your letter as to its conduct, and denies it is responsible for any decision by your client to lodge a development application.

As to your client's legal and other costs, the Council's position is that it does not bear any responsibility towards your client's costs beyond those ordered by the Court.

Yours faithfully,

Legal Officer
Legal Services Department

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