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| ORDINARY MEETING 18 AUGUST 2015 | 6.1 |
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NOTICE OF MOTION – CR MELCHERT

ROADSIDE BUSINESS SIGNAGE – DEPARTMENT OF MAIN ROADS CONTROLLED ROADS

NOTICE OF MOTION

I hereby give Notice of my intention to move the following Motion at the Council meeting scheduled for Tuesday 18th August 2015.

“That Council seek urgent discussions with the Department of Main Roads and Member for Cook Mr Billy Gordon to facilitate practical approach to the provision and retention of business signage within the DTMR road reserve including discussion on the existing business signage for IGA and other businesses at the intersection of the Captain Cook Highway and Port Douglas Road.

BACKGROUND

At the Council meeting of 5th May 2015 in a notice of motion seeking the retention of business signage I included the following background:-

“As reported In Port Douglas and Mossman Gazette and by some property owners, there is a growing view in the Shire that Council Officers have commenced a “blitz” on advertising signage in Port Douglas.

In recent cases the signs affected have been pre-existing signs which have been in place for between 10 and 40 years.

In my view any such review should be holistic, equitable and take into account relevant Planning and Local Law requirements. It should also be done in a strategic way which involves consultation with all Councillors and other stakeholders, including in particular small business owners.

From my individual perspective the Shire has been very successful in encouraging commercial and accommodation property owners to densely landscape their properties. A natural outcome of this is a need for location signage to identify the business or property.

I am concerned that at time when Council is indicating it is encouraging new businesses to establish it should also be very considerate of the needs and aspirations of existing businesses.”

Since that time as a result of what appears to be action from Council, DTMR has required signs to be removed from Mantra, Verandas and Port Douglas Motel, and now it appears the IGA/Chemist and Habitat sign is next for the “chop”.

While my view seems to be minority view, at least in Council (my previous signage motion was lost with only myself and Councillor Clarke supporting it) I do believe there is a growing small business concern expressed recently in the local press that more has to be done to help businesses identify their services and location, especially when the businesses are hidden by heavy landscaping.

CEO'S COMMENT:

With regard to the Motion proposed by Cr Melchert officers note following:-

1. Under the current Douglas Shire Council Planning Scheme 2008 signage (known as "off premises signage") proposed to be located other than on the land from which the business in question is operated from including State Controlled Roads, Council Roads or other private land requires a Development Approval for a Material Change of Use – Off Premises Advertising Device. Applications for off premises signage are impact inconsistent ie in the first instance not supported by the Planning Scheme.
2. Signage proposed to be located on the same land as the business that it advertises (known as 'on-premises signage') also requires an approval under the current Planning Scheme which is Code assessable ie supported provided that it meets Code requirements.
3. In addition to the requirements of the Planning Scheme any signage proposed to be located on a State Controlled Road requires a Road Corridor Permit from the Department of Transport and Main Roads. This has been the case for many years. The considerations for the Department are different than those of Council and include the efficient operation of their roads and driver safety. One of considerations regarding conditions for the IGA/Chemist/Habitat site was the potential for driver distraction by signage and headlights from the supermarket car park. As Councillors would be aware the intersection at the Cook Highway and Port Douglas Road had a poor accident track record.
4. The position regarding off-premises signage under the current Planning Scheme is very different from the position under the previous 1996 Douglas Shire Planning Scheme. The previous Planning Scheme did not regulate signage on roads and did encourage landscaping outside the boundaries of private land. The current Scheme regulates, and as stated above does not support, signage on roads and generally requires that development including associated landscaping be contained within the boundaries of the private land. The differences between the two Planning Schemes were deliberate and intended to reflect community expectations and protect the village atmosphere particularly of Port Douglas. The village atmosphere has often been identified as one of the draw cards for tourists. The changes re signage were directed at preventing a proliferation of road side signage including large pylon signs such as the one at the turn off to the Mowbray Valley.
5. While some of the landscaping located on roads is appropriate and has been well maintained by the adjoining landowner, much of it has created issues and cost for Council particularly upon change of ownership eg the 4 Mile Roundabout. The Planning Scheme still has a requirement for appropriate landscaping but generally requires it to be located within the boundaries of the private property.
6. As has been advised to Councillors previously there is no 'blitz' being undertaken with regard to signage in Port Douglas nor is there any current intention to do so. However, where complaints are received or potential illegality comes to the attention of officers an investigation will be undertaken and enforcement action taken where appropriate.
7. The instances cited by Cr Melchert in the background to the Motion regarding Mantra, Verandas and IGA/Chemist/Habitat are instances where the signage in question was erected in breach of the specific development conditions imposed by Council at the direction of the Department of Transport and Main Roads as the concurrence agency, when the respective developments were approved. The offending signage at these locations has now been removed.

8. The notion that individual businesses acting in breach of their development approvals (whether regarding signage or otherwise) should be permitted to continue to act unlawfully on the basis that they have been doing it for a long time is without merit.
9. With respect to the IGA/Chemist/Habitat signage officers note that the previous Douglas Shire Council sought its removal in approximately 2006. Councillors should also note that part of the original development approval regarding the IGA/Chemist/Habitat site was the subject of a Court Appeal. Once an Appeal is involved the potential role of the Planning and Environment Court needs to be considered. Should a new sign be proposed to be erected on the adjacent State Controlled Road, the Applicant must:
 - Gain approval from the Planning and Environment Court to amend the conditions of the original approval;
 - Gain support from Council and DTMR for the application to the P&E Court;
 - Gain an approval for a Development Permit for a Material Change of Use – Off Premises Advertising Device. As noted already the Planning Scheme is not supportive of such signage.
10. As far as officers are aware the Port Douglas Motel previously had signage on its roof not the State Controlled Road. That land owner has applied for and been granted approval to locate signage on their own property.
11. Council officers are concerned that the approach suggested in the Notice of Motion effectively seeks to advantage those acting unlawfully and will result in a proliferation of undesirable signage. Councillors should also be aware that complaints have been received from business owners including in relation to signage at 1 Jewel Close advertising a removal business and adjacent to the Cook Highway advertising Auto Pro. These signs are located on private property and are the subject of compliance action. The complainants regarding these signs quite rightly raise concerns that their businesses are being unfairly disadvantaged by the unlawful actions of competitors.
12. In the view of Officers Council should be promoting a fair and even playing field for all, not selectively favouring individuals.