APPLICATION FOR APPROVAL TO EXHIBIT AN OFF-SITE FREESTANDING REAL ESTATE BILLBOARD ADVERTISEMENT – DIVISION 9

Aemelia Steblina: 8/1/3-31: #2342241

RECOMMENDATION:

That Council refuse the application to exhibit an off-site freestanding real estate billboard advertisement at Lot 6 on RP804481, Captain Cook Highway, Kewarra Beach.

INTRODUCTION:

An application for approval to exhibit an advertisement has been received on 7 September 2009 seeking approval to exhibit an off-site freestanding real estate billboard advertisement, at Lot 6 Captain Cook Highway, Kewarra Beach, for the purpose of displaying an advertisement for the sale & rent of ‘The Keys’ apartment and land development, which is located in Moore Road, Kewarra Beach.

The intent of the advertisement is for off-site real estate advertising, meaning that the advertisement, which shows information about apartments and land for sale and rent, is not at the premises or property that is subject to sale or rent.

At a Planning, Development & Community Services meeting held 13 March 2001, Council resolved to approve the replacement of the existing freestanding sign on Paradise Palms land at the corner of Captain Cook Highway & Poolwood Road with a smaller sign subject to the following conditions: -

1. The maximum size of the sign is to be 6m x 3m;
2. The overall height of the sign is not to exceed 4m;
3. The sign is to be predominantly pictorial in nature, only carry basic directions and the name ‘Paradise Palms Golf Course’.

The billboard advertisement no longer meets the requirements of this approval and furthermore does not meet the classifications, conditions and criteria of approval under Cairns City Council Local Law 28 (Control of Advertising) and Cairns City Council Local Law Policy No. 6 (Control of Advertising).

As the advertisement is considered as a prohibited advertisement, the application is being referred to Council for consideration.
BACKGROUND:

The proposed location for the off-site freestanding real estate billboard advertisement is situated at Lot 6 Captain Cook Highway, Kewarra Beach and described as Lot 6 on RP804481. The site is designated as a Residential 1 Planning area in accordance with Cairns Plan.

The classification of advertisement is an ‘off-site freestanding real estate billboard advertisement’ under Cairns City Council Local Law Policy No. 6 (Control of Advertising), as being:-

“Off-site advertisement” means an advertisement, either freestanding or affixed to a building or structure, that is intended to promote goods, services, a business, commercial enterprise or industry not available or conducted on-site”.

‘Freestanding advertisement’ means an advertisement which:

(a) is erected on a pole or poles, or on a pylon structure (‘a freestanding pole advertisement’); or

(b) a solid, freestanding structure, and does not form part of any building or other structure.

‘Real Estate advertisement’ means a temporary advertisement on-site, advising of the owner’s intention to sell, lease, tender or auction the land and/or building.

Schedule 5 of Cairns City Council Local Law Policy No. 6 (Control of Advertising) clearly identifies that the proposed advertisement would be situated in the Residential/Rural Environment and is considered as Prohibited Advertisements.

In accordance with Cairns City Council Local Law 28 (Control of Advertising), Council must have regard to the following criteria when deciding to grant or refuse an approval:-

Part 5, Section 12(2)

Criteria for Approval - Council may only grant an approval for an advertiser to exhibit an advertisement if:

(a) The advertisement is structurally sound; and

(b) The advertisement causes no significant obstruction of, or distraction to, vehicular or pedestrian traffic; and

(c) The exhibition of the advertisement is consistent with applicable environmental protection policies; and
(d) The dimensions of the advertisement bear a reasonable relationship to the dimensions of surrounding buildings and lots so that:

i) Its presence is not unduly dominating or oppressive; and

ii) It does not unreasonably obstruct existing views; and

(e) The advertisement is consistent in colour and appearance, with the buildings and natural features of the environment in which it is to be situated; and

(f) The advertisement is in other respects consistent with the character and values of the environment in which it is to be situated; and

(g) The approval is consistent with the local law policies.

Furthermore, in accordance with Cairns City Council Local Law Policy No. 6 (Control of Advertising), Council must have regard to the following conditions and criteria when deciding to grant or refuse an approval:

5. Conditions on which Advertisements are classified as Permitted Advertisements

5.1 Advertisements in all areas

(l) Advertisements must be consistent with the character of the surrounding area and pose no hazard to pedestrians or distraction to motorists;

5.7 Real Estate Advertisements

(a) A real estate advertisement must be displayed on the property or premises for sale, lease, tender or auction only, and shall be removed within a reasonable period after sale or lease of the property or premises;

(b) The maximum height of the advertisement must not exceed 3.6 metres;

(c) Advertisements are limited to one advertisement per street frontage.

6. Criteria for Approval

6.5. Advertisements in All Areas

(b) The impact of the proposed advertisement on the amenity of the area.

7. Prohibited Advertisements

(g) Those advertisements listed as “prohibited forms of advertisements” in the Residential-Rural Environment area as set out in Schedule 5.

As the proposed advertisement is visible from a State Controlled road, Council referred the application to Department of Transport & Main Roads for their consideration. The Department advised that it does not support the application.
**COMMENT:**

The site is at the corner of Captain Cook Highway and Discovery Drive which is a buffer zone between the residential area and the highway and it faces the Kewarra Beach roundabout, therefore the presence of the advertisement will not be consistent with the surrounding environment and will dominate the visual outlook, particularly for vehicular traffic on the highway.

The Captain Cook Highway in this area has an 80kph speed limit which changes to 60kph as it approaches the roundabout, therefore the proposed advertisement, having a very dominant visual focus, could cause a significant distraction to traffic, consequently posing a serious risk to public health and safety.

It is also considered that should the proposed off-site freestanding real estate billboard advertisement be approved contrary to requirements of the local law, a precedent may be set for future applications for similar types of advertisements and a proliferation of off-site real estate advertisements may occur within the Cairns Regional Council area, which would not make a positive contribution to the visual amenity of the area.

**CONSIDERATIONS:**

**Corporate & Operational Plan:**

This report is in accordance with Corporate Plan Goal 1.9 – Implement relevant Legislation and Local Laws. In accordance with the Operational Plan aim – To ensure that the enforcement of and compliance with Council’s Local Laws, Cairns Plan and relevant Legislation is taken efficiently and effectively.

**Statutory:**

Council regulates the exhibition of advertisements visible from a road or public place by considering classifications, criteria and conditions set down in *Cairns City Council Local Law 28 (Control of Advertising)* and *Cairns City Council Local Law Policy No. 6 (Control of Advertising)*. Applications for approval to exhibit advertisements which are visible from State Controlled roads are also referred for assessment by the Department of Transport & Main Roads in accordance with Transport Operations (Road Use Management) Regulations 1995 for comment.

**Policy:**

Should the proposed advertisement be approved contrary to classifications and criteria of approval in *Cairns City Council’s Local Law 28 (Control of Advertising)* and *Cairns City Council Local Law Policy No. 6 (Control of Advertising)*, a precedent may be set for similar off-site advertisements, therefore causing a proliferation of advertisements resulting in a detrimental affect on the amenity of the area and the city of Cairns.
Financial:
N/A

Sustainability:
N/A

CONSULTATION:
Department of Transport & Main Roads
Coordinator Local Laws Compliance Unit
Manager Environmental Assessment

OPTIONS:
The following options are suggested for Council’s consideration:

Option 1
That Council refuse the application to exhibit an off-site freestanding real estate billboard advertisement at Lot 6 on RP804481, Captain Cook Highway, Kewarra Beach.

Option 2
That Council grant approval to exhibit an off-site freestanding real estate billboard advertisement at Lot 6 on RP804481, Captain Cook Highway, Kewarra Beach, subject to conditions; including, that the advertisement content must feature 50% Paradise Palms Country Club and 50% Real Estate for ‘The Keys’ development only; and that the advertisement must not exceed the maximum size of 18m²; and that the approval is subject to a renewable period of 24 months.

CONCLUSION:
It is recommended considered Council approve Option 1 as the application does not comply with Cairns City Council’s Local Law 28 (Control of Advertising) and Cairns City Council Local Law Policy No. 6 (Control of Advertising). Issuing an approval for an off-site advertisement, contrary to the Local Laws, has potential to be detrimental to the amenity of the Cairns Regional area, as a precedent may be set for similar prohibited off-site advertisements.

That Council approve Option 1.
ATTACHMENTS:

Appendix One – Locality map
Appendix Two – Locality map
Appendix Three – Referral advise from Department Transport & Main Roads
Appendix Four – Photos of proposed site and surrounding area

AEMELIA STEBLINA
Local Laws Compliance Officer

LAURIE PHIPPS
Manager Environmental Assessment
APPENDIX ONE

Locality Plan - highlighted property (Lot 6 on RP804481) is site of existing advertisement. Arrow indicates location of advertisement.

APPENDIX TWO

Locality Plan – highlighted property (Lot 0 on PLN212600), is location of ‘The Keys’ development.
APPENDIX THREE

Steblina Aemelia

From: jeff.z.madsen@tmr.qld.gov.au
Sent: Tuesday, 20 October 2009 4:00 PM
To: Steblina Aemelia
Subject: Re: Paradise Palms billboard at Kewarra roundabout

Aemelia

The Department of Transport and Main Roads does not support the unapproved existing billboard facing, as it does not conform with council or this departments guidelines for roadside advertising.

Kind regards,

Jeffrey Madsen
Technical Program Administration Officer | Far North Region / Cairns District Office
Road Operations / Regional Operations Division | Department of Transport and Main Roads
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Please consider the environment before printing this email

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APPENDIX FOUR

Subject off-site advertisement at Lot 6 Captain Cook Highway, Kewarra Beach

Subject off-site advertisement, as viewed by northbound traffic approaching roundabout
Area surrounding subject advertisement, Kewarra Beach roundabout

Area immediately surrounding subject advertisement