

# AL EDITION

## **FUTURE UNCERTAIN FOR AIRLIE CREEK CARPARK**

For some time the Council has been considering a Material Change of Use Application by Carmist Pty Ltd over the parcel of land commonly referred to as the Airlie Creek carpark and identified as 277 Shute Harbour Road, Airlie Beach.

In last week's Ordinary Council Meeting, Councillors resolved the following by minute OM.51/11/2006:

*That in relation to the Material Change of Use application on 277 Shute Harbour Road, Airlie Beach by Carmist Pty Ltd that Council let the decision making period lapse and advise the applicant of the Council's decision.*

### **WHY WAS THIS DECISION MADE?**

The Council had a number of options it may have taken with regard to this issue. They were:

1. Approve the application;
2. Refuse the application;
3. Allow the decision making period to lapse.

Option One would have gone against both Council's townplanners' recommendation, and the recommendation of the independent assessors, but was still an option that Councillors could have chosen.

Option Two may raise legal concerns for the Council with the applicant under the Infrastructure Agreement. The Infrastructure Agreement nominated Carmist Pty Ltd preferred developer status for the area. Further, Council was waiting for further reports from the applicant and clarification from the State as to its position following the press release. This information and clarification had not been provided to Council and it was considered premature to decide the application.

Option Three was the recommended course of action by Council's lawyers. The reasons for this recommendation were:

1. The position of the State Government is uncertain. The press statement issued prior to the recent State Election is no more than a statement of intent. The Government has not formally advised Council or the applicant of any further details of this press release in writing, and it would be unwise to decide the application until the Government has clarified its position.
2. Thus, this recommended course of action would maintain the status quo and not disadvantage anyone – the State, the applicant or the submitters.

### **WHAT DOES THE DECISION MEAN?**

The lawyers advise that there will be no adverse consequences of letting the decision making period expire. It will leave the application in 'limbo' – it could be decided by the Council at a later date or it could be withdrawn by the applicant. It is anticipated that a formal response from the State Government will provide some clarity for the decision making process to progress.

### **WHY NOT JUST REFUSE THE APPLICATION?**

The Council is required to consider all development applications fairly and wholly. The extension of time given to the applicant was in order for further information to be supplied regarding the flood study of Airlie Creek. This information was not supplied by the deadline. Furthermore, the press statement by the Queensland Government raises many potential issues for the decision making process, and these issues have yet to be clarified by the Government. Thus, Council could not consider the application with all the required information at hand, and that is why the recommended course of action was taken.

## **WHITSUNDAY CATCHMENT LANDCARE**

### **FISHWAY INFORMATION EVENING & GENERAL MEETING**



**WHITSUNDAY  
CATCHMENT  
LANDCARE**

Interested in your local waterways or local fishing? At our next meeting we will be hearing a presentation from Department of

Primary Industries and Fisheries personnel on the construction of

## **WHITSUNDAY CLOSURES**

### **WHITSUNDAY COUNCIL CHAMBERS:**

Officers will be closed to the public on Monday, 23 October 2006, through to Monday, 27 October 2006. Council's Parks and Recreation Services departments will continue