



20 April 2004

For Immediate Release

Woolworths and Cornerstone Supermarket Development

Caloundra City Council today said it was disappointed at the public statement made by Woolworths in today's media which aimed to distance itself from the community outcry against its development at Maleny.

Caloundra City Mayor, Cr Don Aldous, said both Woolworths and Cornerstone had made decisions in relation to the development of the supermarket based on commercial decisions.

"Council, will respond to the letter it received from Woolworth's yesterday, and which was published today by asking them to confirm that Woolworths themselves, or any other party that may be proposed tenants, will seek compensation from Council in the event that Council purchases the Cornerstone property," Cr Aldous said

"Any decision to purchase the land, or not, will be made by Council. Council must also remember it is spending ratepayer money when it makes its decision."

Cr Aldous said public may not be aware of the full sequence of events leading up to the approval by the Planning and Appeals Court for this development.

These included:

1. Cornerstone lodged an application with Council to establish a Shopping Centre at 2-4 Bunya Street in August 2002
2. The application was discussed at the Council meeting on 6 February 2003 and approved with conditions.
3. Advice to Council indicated that it could not refuse the development application. Approval was given on the basis that the area was zoned Local Business under the Planning Scheme (1993) and Business Area and Open Space under the Development Control Plan 2001.
4. In March 2003, Council received a Notice of Appeal which was lodged by Cornerstone in the Planning and Environment Court against Council's conditions of approval for the development.
5. In August 2003, the Planning and Appeals Court upheld Cornerstone's appeal. Some conditions were agreed to prior to the Court hearing. One of the conditions required land adjacent to the creek to be set aside for an Esplanade. The court rejected this condition. It was satisfied with landscaping and a pathway as proposed by the applicant.
6. Legal advice stated that Council had no further basis to appeal the Court decision.
7. An application for operational works (civil and landscaping works) was lodged in November 2003.

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8. The applicant requested permission to selectively clear vegetation to remove an existing house in March 2004.
9. Work began on 14 April and were stopped the same day after a notice was served by the Department of Natural Resources. This order is based on the interpretation of the Water Act and what it means by 'top of bank'.
10. Today, there is still ambiguity over what is "top of bank", the line which decides where Council's jurisdiction ends and DNR's begins. The Water Act 2000 is managed by the Department of Natural resources. While Council waits this determination, it will put on hold consideration of any operational works applications for this site.

Cr Aldous said questions over whether or not the Bunya Rd site should have been bought by Council at an earlier time and whether or not it should have refused the original application outright, were still being asked.

"Council could not have *refused* the application in February 2003, when it was approved," Cr Aldous said.

"The application for the proposed supermarket fell within the planning scheme criteria and was code assessable. A refusal by Council would have been deemed unlawful. Council is aware that while a refusal would have achieved the community's wishes such a recommendation would see the applicant take Council to court. A costly exercise which history has shown, we could not have won.

"What Council did decide to do was to heavily **condition** the application. These conditions were designed to address and significantly reduce the environmental and traffic issues on which the development would impact and the concerns of the community.

"Council made this decision on the basis that it would be better to have some control over the development through the conditions than to have a refusal overturned by the Court and approval given without such conditions.

"Also, as the land was not zoned conservation or environmentally sensitive, there would not have been a reason to buy the land. Such zonings require certain criteria to be met.

"Council could not have purchased the land after the application was lodged and public outcry established because to have refused an application and then proceed to buy the site itself would be inappropriate."

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