

PHOENIX!

NEWSLETTER OF

THE ALLIANCE TO SAVE HINCHINBROOK INC

Oyster Point round-up (left hand, right hand ...)

2005: The Port Hinchinbrook Stage II proposal (version 1) did not make it to public review – the *Queensland Environment Protection Agency*, said “NO”.

2006: Despite the best efforts of barrister Stephen Keim, ASH was unsuccessful in its attempt to have the Supreme Court overturn the marine parks permit given to Cardwell Shire Council by the *Queensland Parks and Wildlife Service*, for construction of breakwaters at Oyster Point.

It would seem that the discretion allowed the decision-maker in matters relating to a permit renders these decisions virtually beyond challenge, unless “unreasonable” in its special legal meaning; the content of the decision not being relevant in administrative law. Even though the decision maker acknowledged that there will be adverse impacts on the environment, the court upheld his legal right to choose the matters he wished to formally consider when making this decision.

Coming up soon

Public review of the breakwaters proposal under the *Environment Protection, Biodiversity and Conservation Act (Commonwealth)(EPBC Act)*. This is the **ONLY** opportunity to present your views on the **MERITS** of the breakwaters – that is, their likely future impacts in the real world of coastal processes and marine wildlife.

NOTICE

GENERAL MEETINGS

(1) *date/time* 3 June 2006, 2pm

(2) *date/time* 17 June 2006, 2pm

venue ‘Galmara’, Cardwell

ANNUAL GENERAL MEETING

date/time 24 June 2006, 2pm

To be followed by a General Meeting at 2.30pm.

venue ‘Galmara’, Cardwell

How to get there?

For directions to ‘Galmara’, the venue for ASH meetings, please phone Margaret Thorsborne on **07 40 668 537**.

MEMBERSHIP RENEWALS WERE DUE 31st MARCH 2006

WHY PROXIES ?

It is very important for you to send your proxy for any meeting that you cannot attend, because so many members will not be physically present because of distance.

Without a quorum of members present physically or by proxy, the meeting and its business must be deferred.

Proxies are your means to ensure that general meetings do not make

decisions against the interests of the organisation and its causes.

Although the latter may seem unlikely, the knowledge of a relatively large amount of money held by a small association could result in a meeting vote to override a committee decision.

It could also result in the election of a management committee whose views were not consistent with the

Objects of the Association.

It's the responsibility of ALL members to ensure that an appropriate management committee is elected and supported by the provision of their proxies for all general and annual general meetings.

Your proxy can be given to any member who will be physically present, or to the Chairperson.

Meunga Creek boatyard

The lessees are no longer supposed to be operating their boatbuilding business on land near the mouth of Meunga Creek, opposite Edmund Kennedy National Park and a fish habitat reserve.

Here some 20 displacement yachts and multihulls were being repaired, renovated or constructed, using Cardwell Shire's public boat ramp as the private haul-out facility.

Although the number of vessels has now been much reduced, boat repair and construction activities appear to be continuing.

Fire on Hinchinbrook Island

Controversy is raging over the rationale for the regular burning of Hinchinbrook Island (and some other protected areas). Locals, tourists and many conservationists hate it.

The issues include animal suffering, greenhouse contribution, loss of habitat, loss of soils, damage to species and ecosystems, aesthetic impacts, too frequent wildfire sequels, and opposition to the rationale for burning.

The responses of the Queensland Environment Protection Agency have not yet satisfied those who oppose the burning.

ASH does not yet have a clear position on the rationale for the burning, which is about preserving rare habitats that would otherwise be overtaken by rainforest. ASH is however aware of instances of QPWS burning extending beyond the planned areas.

ARE YOU ON EMAIL?

Or has your email address changed?

Please advise your current email address on your ASH renewal form.

Sometimes it is important to reach members quickly to facilitate urgent responses to an issue.

Fundraising Management

ASH is a frugal spender, seeking ways and means of carrying out its general tasks with a minimum of expenditure. Expenses by members may be reimbursed only if approved by the committee prior to the expenditure being made.

ASH has two bank accounts, the General Account and the Fighting Fund.

The ASH general account is to keep ASH afloat as an organisation: income mainly being from memberships and member donations and expenditure mainly on fees and charges, communications and stationery, and for issues and activism not relevant to the Fighting Fund.

The ASH Fighting Fund was established exclusively to assist ASH carry out legal and related activities to protect the Oyster Point area from the still threatening *Port Hinchinbrook Stage II* proposal.

Related activities include the commissioning of relevant reports. The value of such reports was well illustrated when, on the advice of Brisbane barrister Chris McGrath, ASH obtained expert hydrological and the other ecological reports and submitted these to the government when the departments were preparing their internal comments on the Application for *Stage II* for the expected public review stage of the Application. These reports were of exceptional quality and, we believe, crucial in ensuring that the EPA would exercise its power to refuse the Application – or face the prospect of going to court and losing. The Council could not further the Application in the face of the EPA's veto.

Members may recall that an initial call for donations brought in some \$13,000, pledges for more, and donations of art works – to a total value of some \$22,000.

“What to do with the art works” led eventually to the *Dugongs of*

Hinchinbrook II Art Exhibition in Cairns, driven by the enormous energy and dedication of Sydney Artist Peter Kingston and coordinated in Cairns by the ASH subcommittee known as the Hinchinbrook Action Group (HAG), formerly known for its publicity-gaining actions on site.

For this project HAG comprised members Di Horsburgh, Steven Nowakowski, Kristen Keane and James Crawford. They spent months negotiating with galleries, coordinating freight for art works, and reporting progress to the ASH committee.

It was however the earlier fundraising response that enabled ASH to commission two expert reports (hydrological and ecological) and submit them to government agencies in time for them to be effective, thus forestalling the need to make a formal challenge in the Planning and Environment Court against an expected approval of *Port Hinchinbrook Stage II* by Cardwell Shire Council.

Obtaining these reports involved two long days of site visits by barrister and solicitor with the two experts; their airfares, road travel and accommodation; and consultant fees for written reports.

Special thanks are due to this *Port Hinchinbrook Stage II* team. Chris McGrath, of flying fox fame, kindly donated his services as barrister; expert ecologist, Peter Stanton, generously donated his services as a member of the Thorsborne Trust; and expert hydrologist, Simon McNeilage, provided his company's services at a discounted rate.

Special thanks too for the contribution of EDONQ staff (who worked way over their hours), and their voluntary workers; and to the ASH members who contributed local knowledge for this inspection.

~~~~~ **Wild Rivers Declaration** ~~~~~

ASH, no stranger to controversy, has opposed the proposal for a Wild Rivers Declaration over Hinchinbrook Island.

After studying reams of legal and other advice, it became evident that Hinchinbrook Island National Park (where there are no rivers) headed the list of Wild River declarations to "green-badge" a scheme that was intended to give some protection to a number of otherwise unprotected rural riverine lands.

Scare tactics unfairly painted Queensland National Parks and Wildlife Service and legislation as weak and ineffectual, unable to protect national parks from water extraction.

We were told that a capped water allocation from Hinchinbrook Island (for "future resort expansion" and "urban use") would somehow be better than the present position of control by Queensland Parks and Wildlife Service.

The pro-Wild Rivers argument is that we should appease the threat of future water extraction by agreeing to give some water away now instead of making a stand and fighting for every drop.

The cardinal principle of national parks (no extraction) is clearly at stake.

The remarkable consistency of half truths coming from some of the scheme's

promoters should have been enough to make conservationists suspicious. We were!

There were spuriously argued scenarios and emotive attempts to persuade us that Hinchinbrook Island should be sacrificed to a greater good, that is, to ensure the Wild Rivers listing of other non-national park areas.

As it happens, there has also been furious opposition from rural quarters due to a perceived limitation of land use. It would be ironic if, after Hinchinbrook Island was opened for water extraction, the only Wild Rivers declarations that succeeded were national parks that have no rivers.

~~~~~ **Committee's year** ~~~~~

The ASH committee has functioned much as it always has – by very frequent informal telephone conversations.

The committee has always been kept small (restricted to the elected office bearers) for flexibility in rapid decision-making.

The committee regrets that we were unable to produce more issues of **Phoenix!** in the last year, as we know that our members are vitally interested in how our efforts to protect the Hinchinbrook region are progressing. We thank members for continuing to support the committee's efforts.

We wish to thank Noeleen Napoli for her careful work as Secretary/Treasurer. Sadly she is not continuing in this role, and ASH must urgently find another Treasurer and Secretary.

The year 2005-2006 was dominated by efforts to stem the environmental threats posed by the various proposals related to the *Port Hinchinbrook* development proposals.

Going to court is not only expensive: it is also time-consuming and exhausting. Every move in the legal process results in large volumes of papers and research to rebut or support argument.

One of the Cardwell Properties/Port Hinchinbrook Services affidavits amounted to some 300 pages. There was nothing in it of significance; but to discover its lack of substance required solicitors and ASH personnel going through it with the proverbial fine-toothed comb.

This had the effect of tying up time and other resources that could better have been spent elsewhere.

We are immensely grateful for the enthusiasm and unwavering support of our solicitor, EDONQ's Kirsty Ruddock, and other EDO staff and voluntary workers.

Also to Brisbane barristers Stephen Keim, who led the breakwaters case; and Chris McGrath, whose wise advice led to ASH obtaining the two expert witness reports that spelt the end of the 2005 *Port Hinchinbrook Stage II* Application.

A modified *Stage II* proposal has been publicised but no Application has been made as yet. And we have yet to go through the Commonwealth impact assessment process for the breakwaters at Oyster Point.

It seems that the coming year may be another gruelling one in terms of important submissions and legal action.

A number of other regional issues needing attention include the after effects of Cyclone Larry on wildlife and habitat; the urgent plight of cassowaries; and the failure of town planning to contain urban development to environmentally sustainable levels.

Oyster Point issues include the continued government delay in converting USL Lot 33 to national park and the Queensland Environment Minister's silence on the need to remove from the development land the spoil ponds that are killing Lot 33's high conservation value freshwater habitat.

Your retiring officers:

President: Margaret Thorsborne;
Vice President: Margaret Moorhouse;
Treasurer/Secretary: Noeleen Napoli

Can you help?

ASH must find a new Secretary/Treasurer. It is a legal requirement to elect a person to this office.

This role does not require residence in Cardwell or Townsville. It need not involve minute taking, which can be delegated to others.

Please phone Margaret Thorsborne (07 40 668 537) if you can help.

First EDONQ Life Member The power of planning

Margaret Thorsborne, President of ASH, has once again been given formal recognition for her outstanding contributions to conservation.

At the AGM of the Environment Defender's Office North Queensland, Margaret was awarded life membership of the EDONQ in acknowledgement of her extensive involvement in conservation causes and community education in North Queensland.

Margaret never lets an opportunity pass to soften the hearts of politicians; and she is an inspirational leader to all who know her.

Under the *Integrated Planning Act* (IPA) the Queensland Environment Department (EPA) has only "advice agency" status over most lands outside national parks.

This means that local Councils can and do approve developments in the face of contrary advice from the EPA. This advice is provided before the public review stage.

In the *Cardwell/Hinchinbrook Regional Coastal Management Plan*, the entire *Port Hinchinbrook Stage I and II* site was given a designation that empowered the EPA (as a "concurrency

agency" under that designation), to say NO to any development application affecting that land, thus preventing the *Stage II* Application from proceeding to public review and the expected Council approval.

A heartfelt *THANKYOU* to those brave planners in the EPA's northern region office, whose perseverance resulted in appropriate measures being written into the coastal plan. These professional officers often battle to give their best professional advice in an unsupportive management environment.

OBJECTS of the ASSOCIATION (ASH)

To protect and promote the conservation of biodiversity generally, and to do so specifically in the area approximately bounded to the east by the Great Barrier Reef from approximately Dunk Island in the north southward of the Palm Group of Islands, and to the west by the Cardwell and Kirrama Ranges from approximately Tully in the north southwards to Ingham.

To protect the ecological, aesthetic and wilderness integrity and values of Hinchinbrook Island, Hinchinbrook Passage, the Family and Brook Groups of Islands, Garden and Goold Islands, other nearby islands and the marine area described above;

To protect the ecological, aesthetic and wilderness integrity and values of the Cardwell and Kirrama Range district and of the area between these ranges and the sea;

To protect and promote appreciation of the terrestrial, intertidal and marine environs described in the objects above for its relevant World Heritage, National Estate, National Park and Marine Park integrity, values, and conservation purpose;

To contribute and to support management planning and review of management planning related to human use of the terrestrial, intertidal and marine environs described in the objects above, to be consistent with the objects above;

To encourage and actively contribute to monitoring and rehabilitation measures of the terrestrial, intertidal and marine environs described in the objects above and consistent with those objects.

VALE THELMA MARTEL

ASH has lost one of its original members - Thelma Martel, historian and life member of North Queensland Conservation Council (NQCC), an original member of ASH and a former member of Friends of Hinchinbrook.

Coming from a rural life to Townsville, Thelma became involved in local council affairs, attending every Townsville City Council meeting. A staunch supporter of many and diverse conservation and social causes, she was always prompt with her renewals and generous with her donations and her skills.

In 1999, under the presidentship of David Haigh, NQCC created a biennial *Thelma Martel Award* for outstanding contribution to environmental protection. The inaugural holder of this award was Margaret Moorhouse.

Thelma will be missed for her sharply inquiring mind, her friendliness and openness, and her dedicated support for environmental, political and social causes.