# FRIENDS OF STRADBROKE ISLAND

Established in 1988, FOSI is dedicated to the protection of the natural environment of North Stradbroke Island and its surrounding waters. FOSI also works to ensure that urban and economic development of the island is founded upon the principles of environmental protection and preservation of the unique urban characteristics of its townships.

**MEMBERSHIP RATES, 2014: Individual \$15.00 Family \$20.00 Concession \$5.00** Friends of Stradbroke Island, PO Box 167, Point Lookout QLD 4183. Issue #68 April 2014



Photograph by Soren Martensen

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# Sibelco breaches bushfire prevention undertakings

The serious risks to human life, property and to flora and fauna associated with out of control bushfires on North Stradbroke are obvious.

The miners' Environmental Studies Report (2003), required before mining could commence under Queensland law at the Enterprise mine acknowledges the risks:-

"Bushfires frequently occur on North Stradbroke Island as a result of both natural (eg lightning strikes) and human induced events (eg arson). Periodic low intensity fires are essential for the reproduction processes of many native vegetation communities on the island. However high intensity or unnaturally frequent fires can result in loss of property, human life and significant harm to native flora and fauna communities" (ESR section 3.2.6)

Considering its enormous profits are derived from mining and permanently damaging an internationally recognised, sensitive sand island, most people are likely to consider that Sibelco should strictly comply with its bushfire obligations. Its mining leases still cover around 50% of the island.

# FRIENDS OF STRADBROKE ISLAND

**Front page article continued...** Incredibly, an examination of Plans of Operations and other official documents submitted by the mining companies to the Queensland government over the past decade expose Sibelco and its (now) subsidiary CRL as thumbing their noses at Queenslanders, yet again.

The formal, written undertakings to the Queensland Government are contained initially in the Environmental Management Overview Strategy (EMOS 2003). These are repeated in the Plans of Operations submitted each year by the miner to government for approval to continue mining operations. Two of the undertakings are relevant:-

**Undertaking No.2** – "Sibelco Australia Limited will mine in accordance with its non-standard EA and the undertakings made in this Environmental Management Overview Strategy."

**Undertaking no. 21** – "Sibelco Australia Limited will operate in accordance with, and regularly review, a Bushfire Management Plan specific to its operations on North Stradbroke Island".

Astonishingly, year after year, since at least 2003, the Plans of Operations have claimed that the mining company is "currently developing" a Bushfire Management Plan (BMP).

This is an extract from the 2012 Plans of Operations for example:-

#### "4.2.11 Land Resources – Bushfire Management

**Undertaking no. 21** - Sibelco Australia Limited will operate in accordance with, and regularly review, a Bushfire Management Plan specific to its operations on North Stradbroke Island"

#### **Control Strategy**

Sibelco is currently developing a Bushfire Management Plan (BMP)".

Curiously, as if conscious of the non-compliances, in the 2013 Plans of Operations, for the first time, Sibelco did not set out its undertakings or control strategies. Instead, under the heading "EMOS undertakings and control strategies", it simply stated in section 4.2.1 :-

"No changes to control strategies have occurred since the 2012 plan of operations report".

Year after year, the company's Plans of Operations have acknowledged that a BMP should include:-

- Identification of fire risks areas;
- Dedicated 4WD 'slip-on' fire response appliance;
- The use of controlled burns to reduce fuel loads;
- Fire break management;
- Bushfire response procedures.

But despite all the known facts, by their own admissions, neither CRL (before the takeover in 2009) nor Sibelco, concluded developing a BMP. Why weren't these breaches of undertakings challenged by government before approving, annually, the following year's mining plans and before renewing expired mining leases?



Many other questions arise, such as:-

- 1. How much did the recent fires cost the taxpayer?
- 2. Did the Newman government carry out 'due diligence' before deciding its sand mining policy?
- 3. If so, did it discover that Sibelco did not have a concluded bushfire management plan in place, or that it has also breached its undertakings to eradicate pests (such as foxes) and weeds on its leases? If not, why not?
- 4. If Sibelco had operated in accordance with undertaking no. 21 what was the likely impact of compliance on the extent and intensity of the recent bushfire?
- 5. Will the government require Sibelco to revegetate the burnt, previously mined areas to assist post-fire recovery in these biodiversity poor areas?
- 6. Should there be an independent investigation into the fire, the impact/s of Sibelco's non-compliance with EMOS undertakings no. 21 and no.2 and the re-planting of the mined areas?

# **Recovery**



New leaves for koalas – Eucalyptus robusta



Mallee gums sprouting – Eucalyptus planchoniana



Conifer Podocarpus spinulosa – regenerating



Blackbutt forest survives



Fire adapted Banksia aemula

# **Bushfire – The Aftermath**

Stradbroke is no stranger to bushfire. We all have our recollections of fires of past years, power cuts and close shaves. Many an interesting conversation on the island gets on to how different areas are recovering: Blue Lake regenerated quickly after the fire of '95, but the slopes near the S-Bends had bare trunks visible for many years. But the fierce 2014 fire will go down in history and will, we hope, be a turning point in the adoption of proper fire management strategies for the island.

Although the bush looks devastated in parts, the natural processes will in time bring it back. In areas where the natural biodiversity has been replaced by miners' revegetation the bush is reportedly more severely damaged and will likely need human intervention to replant and keep weeds under control.

Some plants of the coastal bushlands on Stradbroke Island have developed defences to survive fire, for example: pale reflective bark helps the ubiquitous scribbly gum hang on, while the thick insulating layers of warty-barked banksias and rugged ironbarks and blackbutt eucalypts help them tough it out, a multiplicity of delicate layers protect paperbarks. Survival of wetland species is high as long as there is standing water, but if the swamps are dry, peat fires can ignite and do immense harm.

One of the toughest plants on the island must be the amazingly fire resistant Xanthorrhoea johnsonii (grass tree). The trunk contains a protective resin which, when damaged, oozes like blood. But these wounded soldiers are survivors standing sentinel on the bare slopes of the high dunes watching for recovery.

Large parts of the island have fire dependant ecosystems with different species of plants having evolved mechanisms to reproduce, as they draw sustenance from the nutrient bearing ash bed. An indication of the continuing resiliance of the island bush is the pace of regeneration which has been quite astounding in many areas considering how little rainfall we have seen this year.

No one could help but feel for the poor creatures that had to endure the fire and for those who could not survive the onslaught. Not many dead or harmed animals were found after the fire. While there was no doubt a toll, animals have well known survival instincts and strategies. Faster moving animals have the ability to flee from fires while the slower creatures can sometimes successfully seek shelter by burrowing in the ground, under logs, hollows or in the base of tufted plants. Bushfires are uneven in intensity and moist gullies and creeks can provide nearby protection for a quick escape. According to reports some koalas were found in moist dips after the fire.

Recent scientific research does indicate that fortunately even after intense fires koalas recolonize burnt trees for food and shelter within 3 months. Other good news is that research also indicates that the specialized acid frogs that inhabit coastal wetlands tolerate fires as long as standing water is available.

Fires, it must be remembered, also create habitat. Dead trunks and burnt out hollows in old growth trees become homes for insects, reptiles, birds and gliders.

Clearing for mining and destruction of bushland in extremely hot burns puts recovery of the animals at risk. The fragmentation of habitat that we are seeing on Stradbroke, may prevent effective recolonisation of areas by different species. The best way to ensure the survival of animals and the island's biodiversity and resilience is to retain large areas of intact and diverse bushland. Only well researched and effectively implemented fire management and cessation of clearing for sand mining can achieve this aim.

Fire management is undoubtedly a hot topic in Australia with preservation of human life always rightly given the first priority. But for those authorities and businesses who are given custody of our natural areas this often comes with a regulated obligation to manage fire regimes and on Stradbroke there has been a breakdown of miner Sibelco's obligations. There is an urgent imperative for all landholders to develop fire management strategies consistent with their particular responsibilities. After all, out of control bushfires, contributed to by lack of fire management, don't only threaten bushland but threaten life, homes and probably real estate values.

Traditional owners of the land understood fire much better than Europeans and an increased knowledge of their practices must inform future fire management.

Sue Ellen Carew

# Indigenous burning and Stradbroke's environment

The devastating New Year fires raise serious questions about current fire-management on Straddie. It is hard to believe the Minjerribah people would have tolerated the kind of destructive fires the island now endures, that they would not have used fire as a controlling tool. For this reason those in authority might do well to look to the indigenous community for advice on traditional methods of guarding against uncontrolled fires.

During the nineteenth century when the Minjerribah people still retained a large measure of control over their environment, there is no record of damaging fires. As evidence of their fire-management here are two historical references.

On October 13, 1873, Gustavus Birch who lived at Amity, recorded in his diary that local clansmen had returned with honey 'after having set fire to country.' In an article in the Queenslander in June 1877, a white visitor to Amity described seeing an indigenous man using a firebrand at night to spot-burn the long grass on the foreshore. Presumably he chose nighttime because the grass would then be damp from dew or an afternoon shower.

How different the island looked before British settlement we can only guess. Bill Gammage's book The Greatest Estate on Earth provides clues – firemanaged grasslands on the headlands, as is consistent with evidence he documents on Australia's mainland, more grassland created inland as an aid to hunting kangaroos, and on flat foreshores for use as meeting-grounds. Such native grassland, as Gammage has established, needed to be maintained regularly with burnings conducted by men and women skilled in the variables of grass type and season.

Long-time resident of the island, Ellie Durbidge, remembers the headlands above Point Lookout's beaches as being grassed, not forested as they are now. Nineteenth century photos of the Dunwich area reveal it was similarly lawn-like. As the Minjerribah people gradually lost control over their environment, horses unwittingly continued the job of maintaining these parklike expanses. They were, Ellie Durbidge recalls in her book Historic North Stradbroke Island, the island's only lawn-mowers. But when the horses were removed from the island, vegetation began encroaching on what was, in effect, a sophisticated system of fire-breaks.

This letter to the editor by Julie Kearney (FOSI committee member) was published in the latest issue of SIN.

## **Progress on Fox eradication**

Good news for native animals, National Parks and Wildlife, with QYAC, has commenced a fox capture program. Now this program and the Redland Council program will cover large parts of the island. And now, will Sibelco, controlling around 50% of the island under their mining leases, come to the party and fulfil their obligations to control foxes? Or will there be more excuses?



Brahminy Kites, photo by Bruce Martin





Estimated numbers of foxes on Stradbroke now run to well over 1000. Foxes are declared feral pests and were introduced into Australia for hunting. Now they are the hunters of our native wildlife.

Only serious fox control can save Stradbroke's endangered nesting turtles, bandicoots, wallaby and koala joeys and remarkable birds.



# Foxes don't belong on Straddie!

Redland City Council Fox Control have trapped 150 so far. Please help their efforts by reporting all fox sightings.

# Phone 0404 150 809



# **Native Title Rights Prevail Over Mining Leases**

Last month, the High Court finally considered whether mining leases, which do not grant exclusive possession to miners, extinguish non-exclusive native title rights. The High Court held, unanimously, that the mining leases did not extinguish the claimed native title rights, which therefore were revived on the expiry of the mining leases.

#### http://www.austlii.edu.au/au/cases/cth/HCA/2014/8 .html

Stradbroke mining leases also do not grant the miners exclusive possession. Government representatives and others with 'rights of way' can access the land without consent. The High Court decision provides support for the legitimacy of the Quandamooka peoples' native title rights prevailing on the expiry of Enterprise mining leases in 2019 and weakens the validity of the Newman's government's legislative amendments to allow further renewal of the leases in 2019. All parties involved in the native title claim over Stradbroke accepted this end date when consenting to the Federal Court determination on 4 July, 2011. The end date had been legislated by the Bligh government in April, 2011.

We understand that QYAC is awaiting final legal advice before launching a legal challenge to the Newman government's amendments, foreshadowed by QYAC last October –

http://www.sbs.com.au/news/article/2013/10/30/ql d-sand-mining-contempt-native-title



Green sea turtle, photograph by Bruce Martin

# Sand mining extension is no certainty

#### This is the unedited version of an article published in the latest Stradbroke Island News.

Contrary to the misleading claims by some State politicians, the amendments to the North Stradbroke Island Protection and Sustainability Act passed by parliament on 21 November, 2013 did not extend sand mining to 2035. That could have been done, but it wasn't. The release, on 6 February, of a consolidated North Stradbroke Act incorporating the amendments exposes the politicians' misinformation. This is a link to it –

#### https://www.legislation.qld.gov.au/LEGISLTN/CURRE NT/N/NorthStradA11.pdf

The truth is that no extension of sand mining is scheduled to take place until 2019.

Another indisputable fact is that the current expiry date for the Enterprise mine's leases remains as 31 December, 2019. The November amendments allow Sibelco to apply for renewal of the relevant mining leases to 2035 – but the applications cannot be made until 2019.

As with all legislation, the Act can be amended again by a future parliament, including by repealing the Newman government's amendments.

A key section of the Act is section 11, in all its parts. It now provides for the future extension of sand mining at Enterprise mine by permitting Sibelco to apply for (and be granted) the renewal of the Enterprise mine leases. Usual rights which allow public interest objections from community groups and individuals are extinguished by the section. Court appeals on the merits of a renewal are also extinguished.

The 31 December, 2019 lease expiry dates enacted by parliament in April 2011, have not been altered. Instead, the new section 11C permits Sibelco to apply for renewal of the leases within the "renewal period":-

**11C Application for renewal of mining leases** (1) The holder of mining lease 1105, 1109, 1117 or 1120 may, within the renewal period, apply to the Minister for renewal of the mining lease. Subsection 3 of section 11C defines "renewal period" as :-

(a) at least 6 months, or any shorter period allowed by the Minister, before the current term of the lease expires; and

(b) not more than 1 year before the current term expires.

Schedule 1 of the Act provides that the "current term" of the relevant leases expires on 31 December, 2019. Because of the definition of "renewal period", no application for renewal of these leases can be made before 1 January, 2019.

The November amendments also removed other restrictions on areas permitted to be mined at the Enterprise mine. If the mining leases are renewed in 2019, this is likely to result in a total area approximating 14 sq.km being cleared of all vegetation and sand mined to a depth of up to 100 metres, destroying complex dune structures formed up to 300,000 years ago. Based on the number of past admitted incidents of damage to island water bodies, the expansion of sand mining will also increase the risk of damage to the adjoining, internationally recognised RAMSAR wetlands.

As reported in the last SIN, native title owners have indicated an intention to challenge in the courts the Newman government's amendments. A successful legal challenge would render them invalid. But even if a successful challenge is not made, as this article illustrates, a future parliament could still amend the North Stradbroke Island Protection and Sustainability Act by repealing the Newman government amendments. If that occurs, it would result in sand mining ending at Enterprise mine on 31 December, 2019. No compensation would be payable to Sibelco because section 6 of the Act prohibits it. As recognised in the explanatory notes to the 2011 Bill, Sibelco would still be bound by the mining lease conditions to rehabilitate the mined land.

#### **Richard Carew**

# **Proposed law changes:**

### FOSI submission on lease notifications and objections

Below is the text of the FOSI submission dated 28 March 2014 to Department of Natural Resources & Mines.



#### Proposal to change the law relating to mining lease notifications and objections

Thank you for the opportunity to make a submission.

Mines have such massive impacts on our environment and communities that it is essential that any person or group can stand up and raise public interest issues, including in an open court. We know from bitter experience this proposal, if implemented, will tip the balance too far in favour of the destruction of the environment by mining companies and cause greater community division. It would be a backward step for the State government to change the law that provides public interest safeguards for the community.

From our own recent experience on North Stradbroke Island, where special legislation has been used to extinguish pre-existing community rights to object to and challenge the renewal of expired sand mining leases in open court, it is fair to ask – are foreign owned mining companies behind this antidemocratic proposal to stop groups and citizens from having a fair say?

The only stakeholder who would benefit from the proposed changes is the mining industry.

For the three reasons below, which we adopt, we absolutely oppose the proposals to limit objection rights to a mining lease to 'directly affected' landholders and to effectively restrict objection rights to environmental authority applications to only 10% of mining projects in Queensland:

1. The reasons put forward for removing community rights to object to mining lease applications are extremely weak and without any proper basis. This is a reduction in our fundamental democratic right to partake in government decisions that affect us all.

2. Removing the public notification process for mining lease applications will mean that the vast majority of mining lease applications in Queensland will have no public notification at all. If this was to become law, then a community may have no idea that mining activities could occur down the road from them if they aren't 'directly affected' landholders.

3. Limiting community objection rights to "site-specific" environmental authority applications will totally remove existing community participation rights in up to 90% of mining projects in Queensland.

We call on the State Government to adopt a policy position which empowers, rather than disempowers, our communities to take responsibility for our state and stand up for our environment. In Queensland for decades, any person or group has been entitled to object to any mining proposal in open court, to have the evidence scrutinised about the benefits and detriments of a proposed mine.

We request that you do not make the changes but instead keep existing provisions that allow any person or incorporated group to object to all mining leases and environmental authorities. The North Stradbroke legislation's extinguishment of community rights to object to and appeal against expired mining lease renewals set a bad recent precedent and has caused on-going community division on and off the island. There are often legitimate and soundly based objections to mines, particularly in sensitive environments. The conventional and fair process to follow in a democracy, is for the courts to ultimately resolve conflicts between the rights of the mining industry and community rights to protect and conserve the natural and/or social environments.

# FRIENDS OF STRADBROKE ISLAND



Female loggerhead returning to sea



Green turtle close up







ABOVE: Fox prints in the sand

MIDDLE LEFT: As yet unidentified, Deadman's Beach BOTTOM LEFT: Possible ID –Corrugated Jellyfish Crambione cooki Main Beach

# **D**NN **OR STRADDIE** 6107 TAND UP F



The November 2013 Newman government amendments to the North Stradbroke Island Act allow Belgian miners Sibelco to apply for an extension of sand mining to 2035. But the applications to extend cannot be made until 2019. Parliament can repeal the Newman government amendments before then. You can help by starting to spread the word.

Together we can bring about the repeal of the amendments. ■

Together we can save the habitat of Straddie's threatened and vulnerable animals.



Friends of Stradbroke Island fosi.org.au

# **Stop Press! Final prosecution hearing date set**

After an unprecedented 5 year long criminal trial, the prosecution of Sibelco for illegal removal of island nonmineral sand is finally drawing to a close. The final hearing date has been set – **22 August, 2014**! It will be heard in Warwick, as the magistrate hearing the case has been transferred there. The evidence against the company was obtained by the former EPA in late 2008. The evidence included incriminating company records seized from Sibelco's Stradbroke office.

# **Turtle Hatchling Success at Straddie**

Stradbroke Island, with its protected beaches and dunes, has always been a favoured nesting location for Loggerhead, Flatback and Green turtles. Each year, female turtles come ashore from November to March,



crawling to above the high water mark to lay approximately 100 eggs. Some 6-8 weeks later, the tiny hatchlings emerge from their sandy nests to follow the light and head towards the ocean. The sex of a turtle is determined by the temperature of their nests, with warm sand generally producing females, and cool sand leading to male development.

This season was no exception. In just a short few days in March it was reported that 113 Loggerhead babies reached the water from their nest on Frenchmans Beach, another 96 Green turtle babies made it to the water from their nest on Main Beach, and over 60 Green turtle babies swam away on Cylinder Beach.

Successful breeding at Stradbroke Island for these turtles is critical for the survival of these protected and endangered species. We can all help protect sea turtles by collecting floating plastics and by not interfering with turtle nesting sites. Also, on North Stradbroke, foxes are a serious threat to eggs and hatchlings. Please report all fox sightings anywhere on the island by calling 0404 150 809.

#### Article by F. McLeod

# AUTUMN SIN 2014 (Straddie Island News) out now

There are a number of contributions from FOSI members in the Autumn edition. The magazine is available at newsagents and shops on the island. Get a copy and support island businesses.

# Help support FOSI's ongoing work

FOSI makes a high priority of continuing its public information and education campaigns to highlight the increasing environmental harm and risks on the island. Thank you very much to all the generous members who have made donations. Donations to the Environment Fund are tax deductible and support our ongoing efforts.

Donations may be made by bank transfer to:

#### BSB 124029, Acc 90491260

Receipts will be mailed to donors so please put your name on the transaction and if possible follow up with an email to our Membership Secretary Edith McPhee (<u>emcphee@westnet.com.au</u>).