

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.

Issue #63
August 2012

MEMBERSHIP RATES, 2012: Individual \$15.00 Family \$20.00 Concession \$5.00
Friends of Stradbroke Island, PO Box 167, Point Lookout QLD 4183.



SPOTTED: An Eagle Ray in front of Surf Club Point Lookout 6 August 2012

In this issue

The Sibelco prosecution continues – the new evidence....	1#
Tax deductible donations to FOSI!	3#
Pittas at the Point.....	5#
What’s Happening over on Moreton Island?	6#
Stradbroke Chamber Music	6#
Mistletoe Bird.....	7#
NZ Fur Seals visit Straddie	7#
Microbats	9#
Koala Listing-“Vulnerable”	10#
Is your newsletter still arriving by post?	11#
Check out our blog!	11#

The Sibelco prosecution continues – the new evidence

The non-prosecution of Sibelco for stealing and fraud is fast becoming a scandal for our criminal justice system. If the average citizen unlawfully took and sold someone else’s property, particularly if it was worth millions of dollars, he or she naturally would be charged immediately with stealing. They might even have to remain in gaol until the trial.

Mysteriously, so far Sibelco has only been charged with minor criminal offences alleging lack of permits to take the sand. One of those, a charge under the Forestry Act, was recently dismissed by the Magistrates Court because it was brought one day after the 6 month limitation period expired. That occurred despite FOSI’s lawyers writing to the former government the week beforehand to point out that it was about to expire. The dismissal of the charge was reported in the Courier-Mail last month, as was FOSI’s call for an independent investigation into how the limitation period was missed.

However, of at least equal importance, from a criminal justice perspective, is the revelation in the court judgement of damning self-incriminating evidence against Sibelco, previously unknown to FOSI.

As members know, in November 2010, Mr Peter Callaghan, Senior Counsel, and Mr Andrew Boe, barrister, in their joint legal opinion, concluded that there was a case against Unimin for stealing and fraud. (Unimin changed its name to Sibelco in December 2010). But the barristers did not know about this new evidence. They based their opinion on statements of public servants referring to discussions and email exchanges with key Sibelco representatives, showing that Sibelco knew that it could not lawfully take or sell sand from the silica mine site for use in building or landscaping.

To date, this evidence of stealing and fraud has not been acted on. The only explanation seems to be that the government has preferred Sibelco’s denials of intentional wrongdoing to the evidence of public servants. But now new evidence has come to light, which corroborates the public servants and flies in the face of Sibelco’s version of events. It renders the government preference for Sibelco’s denials untenable.

Before going to the new evidence, here is a reminder of the company’s claims, including during a national edition of the 7.30 Report.

STOP PRESS! The two remaining charges against Sibelco are to be mentioned again in court on August 22. It is expected that a trial date will then be set.



Pied Oystercatchers, Caspian, Crested & Common Terns, Eastern Curlews, a Silver Gull and a Tattler? Photo 6 June 2012 – NSI correspondent

The Sibelco prosecution. Con't.

10 Feb 2010 7.30 Report extract

“PETER McCUTCHEON: When did Unimin first realise it may have a legal problem with the selling of building sand?”

CAMPBELL JONES: Well, that was in late 2008, and as soon as we were... You know, had thought that we had a problem, we stopped production...”

Mr Jones is the CEO of Sibelco. Members may recall that in December 2008 the company’s Stradbroke island office was raided by EPA investigators, who stopped the sand sales.

Another Sibelco spokesman has since made a number of similar denials of intentional wrongdoing. He has also claimed publicly that the payment of royalties excused the company - even **after** the Queensland Court of Appeal found that it did not. The Court’s ruling makes sense when you think about

it. Otherwise anarchy would prevail. We’d have car thieves claiming they were entitled to steal cars if they paid the rego!

The new evidence

As already mentioned, the new evidence came to light last month in a Magistrates Court judgement on an application by Sibelco for dismissal of the three charges against it. The magistrate dismissed the Forestry Act charge, but ruled that the other two charges, under the Planning law and the Environmental Protection Act, will go to trial. In his judgement the magistrate referred to some of the documents allegedly seized on 16 December 2008 during a raid on the silica mine office by former EPA investigators.

Below is the new evidence, with the references to the relevant paragraphs of the judgement:

1. The letter from Clayton Utz dated 30 August 1996 (Para 54 & 55 judgement)

The letter enclosed part of a Mining Warden’s judgment that stated:

“Silica sand or sand, when used in conjunction with concrete (eg to make blocks) without heat is not being utilized for its chemical properties, and is therefore quarry material under the Forestry Act 1959.”

(The Mineral Resources Act states that sand is only a mineral if it is used for its chemical properties).

This letter to ACI, (Sibelco bought this company in 2001) located in Sibelco’s filing cabinet contradicts the claim that Sibelco believed that it could lawfully take the sand under its mining lease and sell it for building or landscaping, without any permit.

Sibelco, part of an international mining conglomerate, obviously would know that it would need the permission of the local council, in addition to a Forestry Act permit. It also had another problem which it ignored – its mining lease required the sand to be used for rehabilitation, not sold for profit!

2. The pre-lodgement meeting – notes of meeting held 21 November, 2007 and 12 December, 2007 (paragraph 56)

Such meetings occur before the lodgement of an application for planning approval for a proposed extractive industry.

The notes indicate that these meetings were attended by three representatives of Unimin/ Sibelco including Greg Watkins (the company’s environment officer) and a number of departmental and council officers. The proposal discussed was the selling of sand by the company to the local construction and landscaping industries!

3. Unimin/Sibelco’s own report dated 14 July 2008 by the mine site manager (paragraph 57)

In the report the site manager notes that Greg Watkins requested the site cease the sale of construction material as the Minister had questioned the EPA *“weather (sic) we are selling this product (the site doesn’t have the appropriate licence)”*. Under the heading *“Action Plans/Required Actions”* it said *“Progress application for an extractive industries licence”*.

This company report was also taken under the EPA warrant executed on 16 December 2008. Obviously, this is very powerful evidence that Sibelco was fully aware that it did not have a necessary permit to take the sand.

Other evidence shows that Unimin/Sibelco did not make any application for planning approval to the Council. It just wilfully continued to take and sell the sand right up until the raid on its premises.

Conclusion

The question must be asked. Why is the company still being protected from charges of stealing and fraud? After all, the retail value of the hundreds of thousands of tonnes of sand unlawfully taken over two decades by Sibelco and ACI, has been estimated at \$80 million! Hardly minor offences!

Do mining companies have some form of licence to commit serious criminal offences without being prosecuted for them? If so, this should be revealed, so the public are at least aware of their special position. If not, then given the new, self-incriminating evidence referred to in the recent court judgement, when will Sibelco be charged with offences which reflect serious, intentional wrongdoing? ♦

Tax deductible donations to FOSI!

Supporters may now claim tax deductions for donations made to Friends of Stradbroke Island

In June 2012, FOSI was endorsed by the Australian Taxation Office as a deductible gift recipient (DGR).

This means that FOSI members and supporters can now claim tax deductions for their gifts of \$2 or more to FOSI’s Environment Fund which has been set up for the specific purpose of supporting the environmental protection of NSI.

To make a **tax-deductible donation** to FOSI -

- Post your cheque to Edith McPhee, Acting Treasurer at PO Box 167, Point Lookout 4183
- by EFT - transfer money to The FOSI Environment Fund BSB 124029 Account number 21645410 - and email Edith at emcphee@westnet.com.au and let her know that you have made a donation.

All donors will be sent an official receipt! **Thank you!**



TOP: Darter at Deadman's beach.

BOTTOM: Eroded cliffs on Frenchman's beach after heavy winter weather.

Pittas at the Point



A Noisy Pitta flew into the verandah door, traumatized, but thankfully recovered and flew off. Winter 2011 Point Lookout

In early June, Point Lookout locals reported the first sightings of Noisy Pittas for the season. This beautifully coloured bird has a creamy breast and bright orange belly, a black mask with chocolate brown cap and, when it flies, brilliant turquoise on its wings and tail and sudden white wing spots. Pittas are predominantly a rainforest bird and are common in SEQ rainforests such as Lamington National Park in spring and summer. Most leave their rainforest home during autumn and it's thought that they disperse to drier lowland forest areas. We don't know in which rainforests the pittas that visit Straddie spend their summer.

Noisy Pittas bounce (they never walk) around on the forest floor foraging for insects, woodlice, worms, snails, other small animals as well as berries and fruit. Snails are held in the pitta's beak and struck repeatedly against a stone until the shell is broken. Favoured dining spots - known as Pitta feeding

"anvils" - are marked by small piles of broken snail shells. It gets the name "noisy" because its call is one of the main sounds of the rainforest. People describe its noisy call as 'walk-to-work' - the first note is low in pitch and the last is higher and slightly drawn out.

The sighting of these ground dwelling birds at the Point highlights the need for us all to do what we can to ensure that the Pittas can have a great winter break at Straddie. In particular this means keeping cats belled and in-doors – especially at night - and reporting any fox sightings to the RCC.

Look out and listen for this special winter visitor! ♦

Reference:

<http://www.lamingtonnationalpark.net.au/Documents/Birds/noisypitta.htm>

Mary Barram

What's Happening over on Moreton Island?

Beach Safety Zones established 5 years ago to exclude traffic in areas commonly used by beachgoers were reopened to vehicles within a few weeks of the new government taking office. The zones are being reviewed over a three-month period depending on surveys and dune condition. MIPC (Moreton Island Protection Committee), who have an illustrious history in successfully opposing sand mining and pushing for National Park for most of the Island, also campaigned for these pedestrian only zones for some years.

Although the main purpose in curtailing traffic was safety, environmental benefits for an area which is after all National Park were already obvious with

increased sightings of Sooty Oystercatchers, the threatened Beach stone Curlew, Ospreys and Terns. MIPC were also hoping for a return of the soldier crabs that were common before the traffic increased.

MIPC is also concerned about the Newman government possibly allowing resort development within the National Park, which in fact was originally flagged by the Bligh government.

Let's hope the Moreton Island Protection Committee can continue their record of defending Moreton's hard fought for National Park into the future. ♦

Sue Ellen Carew

Stradbroke Chamber Music

Once again a wonderful weekend of music, in perfect winter weather, was enjoyed by audience and musicians alike.

The world-class musicians were provided with accommodation by Point Lookout house-holders, while they rehearsed and performed, occasionally finding the time to enjoy the beautiful scenery and whale watching. All are keen to return to perform in such idyllic surrounds. The audience only worked hard while absorbing the intensive dose of beautiful music over six concerts in 3 days.

Everyone had a favourite moment; whether it was the lively Jazz at the packed Surf Club, the moving and thought-provoking Shostakovich string quartet, the Voice of the Whale late on Saturday night, an amusing Brass performance with pieces from West Side Story at the Little Ship's Club on Sunday morning, or the piano pieces for four hands at Amity. The attractive new community hall performed well too with surprisingly good acoustics.

While there were lots of the usual suspects, including many FOSI members and their friends, I met a number of people who had come to the island especially for the festival from Brisbane, the Sunshine Coast, Gold Coast and Bay Islands. These people were greatly impressed by the natural beauty of the island. We do have something very special at Stradbroke, something worth preserving.

Please remember to set aside time next year, usually late July, to come along to this remarkable festival.

FOSI has a particular connection to the festival since it was founded by members and continues to benefit from the Jani Haenke Charitable Trust. Special recognition of the Festival's director and violinist, Rachel Smith, is warranted. She continues to provide inspiration and organisational skills, as well as her exceptional musical talent.

Thank you to all FOSI members who supported the music festival and provided accommodation for musicians. If you can offer accommodation for musicians for next year please contact a FOSI committee member.

Go to www.stradmusic.org to keep up to date with next year's festival. ♦

Sue Ellen Carew





A FOSI member was lucky to capture this image of a brilliantly coloured male Mistletoebird [Dicaeum hirundinaceum](#) at Point Lookout last month. These birds are swift and erratic fliers usually high in or above the canopy and don't like to stay still to pose for photos!

Mistletoe Bird

The Mistletoebird is highly adapted to its diet of mistletoe berries and is found wherever mistletoe grows throughout mainland Australia, Papua New Guinea and eastern Indonesia. It lacks the muscular gizzard (food-grinding organ) of most birds, and like many fruit-eating birds, has a relatively simple digestive tract, so that the seed passes through the bird quickly. The seeds emerge from the bird intact and undamaged and are wiped by the bird onto the branch on which the bird is perched, rather than dropping them to the ground. The sticky layer dries and cements the seed in place on the branch, where it germinates spontaneously. The mistletoe plant and the mistletoe bird thus show complementary adaptations for 'mutual benefit' - the plant attaining efficient dispersal and the bird ensuring a continuing food supply. ♦

Mary Barram

NZ Fur Seals visit Straddie

Since mid-July the rocky headlands of Point Lookout have been used as resting places by a small group of New Zealand fur seals with up to three being sighted 'hauled up' in North Gorge and another at Adder Rock. FOSI understands that staff from Seaworld have checked the animals and that they appear well.

This is the second year in a row that seals have been spotted at Straddie. There have also been reports of NZ Fur Seals from nearby coastal areas including Scarborough and Redcliffe and of a young seal found at Cabarita now recovering at Seaworld Gold Coast from shark bite wounds.

New Zealand fur seals are not usually found so far north. However seals once used to visit Straddie regularly. Beryl Moore recalls in her 1993 book "Island Eden – Point Lookout and Its Pioneers" that Straddie winters in the 1950s were... **Cont'd**

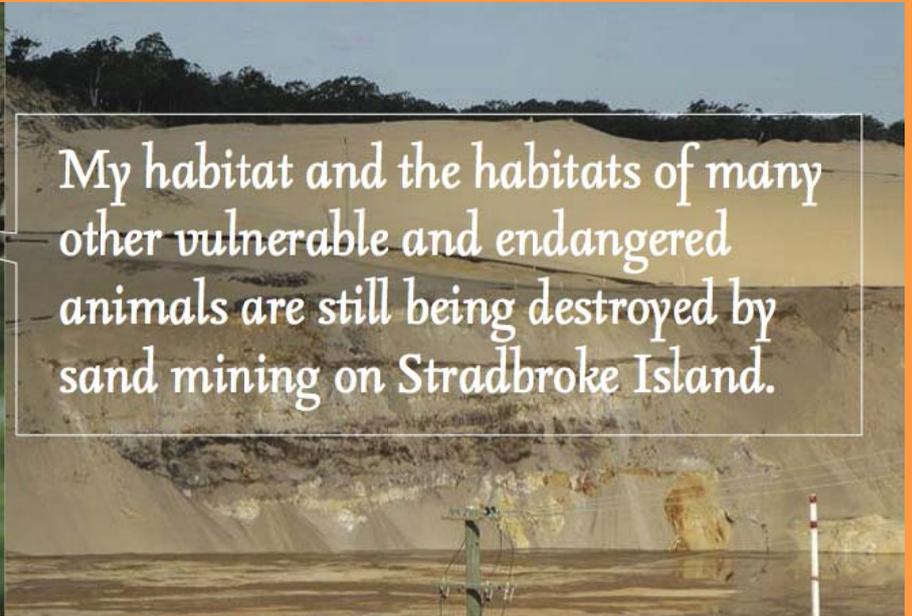
...were bitterly cold and 'it was common then to see seals basking in the early morning sun on the rocks



below the house. Also there were others to be seen on Shag Rock...' Seals are now more likely to be spotted further south on the NSW North Coast in winter. There are colonies of New Zealand fur seals along the southern part of the Australian coastline as well as in New Zealand and it's thought that the seals could have come from either area.

Seal watching etiquette:- Seal experts advise that the animals should not be approached under any circumstances. We should stay well back (at least 40 m) 'look and enjoy' and keep in mind that while it may be tempting to approach them or try and 'help', that in most cases the animals are not in trouble but are merely resting on shore and will return to the sea without any assistance. Keep dogs under control and well away from the vicinity of the seal, for the safety of both animals as seals have large, very sharp teeth with strong jaws and can inflict severe injuries. It's important not to handle the animal even if it is a cute-looking pup –if the seal appears to be injured or unwell, report any concerns to 1300 ANIMAL (1300 264 625) who coordinate marine animal rescues. ♦

Mary Barram



My habitat and the habitats of many other vulnerable and endangered animals are still being destroyed by sand mining on Stradbroke Island.

SAVE  STRADDIE.COM
NATIONAL PARK - NOT MINING!

Microbats

Following from the recent FOSI article about flying-foxes on Straddie is an article about our other much smaller and more elusive winged cousin, the microbat.

Microbats belong to the sub-order Microchiroptera, meaning “little hand-wing”. Like us bats have hands, but their hands have elongated bones connected by a highly vascularized membrane forming the wings. Bats are the only true flying mammals. Microbats share all the same key mammalian features as flying-foxes and humans – they’re warm-blooded placental mammals, covered in fur and nourish young on milk produced by the mother. As their name suggests microbats are small and most are no bigger than a house mouse.

While flying-foxes are much more visible, microbats tend to go about their business generally unnoticed by the public. But just stand near a street light in Amity at night and you will see microbats swooping insects. These bats are voracious eaters and can consume their own body weight in one night such is the metabolic needs of this tiny creature. Microbats are insectivores and utilise echolocation to locate and feed on small moths, flying termites, cockroaches, lawn grubs as well as mosquitoes and midges. Microbats are economically important for their role in maintaining insect populations.

Call-outs for wildlife rescuers on NSI about microbats often relate to healthy animals found inside houses and sheds. Small spaces in brick-work, rafters and other nooks and crannies in houses make great spaces for microbats to live in the face of habitat degradation and destruction. Competition for limited space for key niches such as tree hollows drives microbats into human spaces. While flying-foxes are nomadic and congregate in colonies at preferred roost sites, microbats are clan based and very territorial. An injured or rescued microbat must be returned to the location he was originally found for any chance of survival.

Microbats do not pose a health risk to humans if left unhandled. Microbats do not carry Hendra virus and only three species of microbat have been identified to carry Australian Bat Lyssavirus (ABLV) which is a very rare, but fatal disease not treated. For emergencies regarding bats contact NSI Wildlife Rescue on 0407766052 or the Bat Care Brisbane hotline on 0488228134.

For general information about bats call Bat Care Brisbane on (07) 33211229.

Emma Lewis





The morning light along Deadman's Beach with a distant sea fog was something to behold.

Koala Listing-“Vulnerable”

The Koala (*Phascolarctos cinerus*) of South-East Queensland has recently been listed as Vulnerable under national environmental laws. Years of lobbying by local koala conservation groups and the serious decline, bordering on imminent extinction, has finally prompted official recognition. This listing includes genetically distinct koalas of North Stradbroke Island, a rare, endemic island population. The other great sand islands, Moreton and Fraser, don't have koalas.

The Federal Government specifies the significant threats in the South -East as urban expansion, disease, habitat loss, vehicle strikes, predation by dogs and susceptibility to drought and climate change.

These threats exist on Stradbroke too. Future urban expansion around the existing townships has been proposed. We have all encountered the locals living in the nearby trees of the Point, Amity and Dunwich who may lose their homes. Habitat loss is currently

happening in land clearing activities in and around mining sites. The Enterprise mine Environmental Studies Report in 2003, prepared for the mining company before mining commenced, lists koalas as one of the species whose habitat is in the path of the mine.

Vehicle strikes have taken a sad toll on the island koala, with one killed recently in the middle of Point Lookout. Wildlife carers' figures put the number of koalas hit by cars since 2009 as 43 with 26 dying from their injuries. Stradbroke suffers from a potent cocktail of high-speed roads, narrow sand tracks, including many kilometres of private mining roads, and heavy 4WD's and huge mining trucks. The road toll may well be much greater than is thought due to strikes that are not noticed on the mining roads.

Dog breeds with predatory habits have become popular human companions in recent times. Many of us have had wary encounters with such dogs on the

beaches. These dogs are often present in bush campgrounds, since dogs are not permitted in other accommodation options on the island. Unrestrained dogs on Straddie present a clear danger to koalas.

Threats like land clearing, speeding traffic, heavy vehicles and large dogs seem so incongruous on an island which is now in large part National Park and, in consequence, wildlife refuge. If the Stradbroke Island koala is to survive, reining in of these threats has to be achieved somehow!

There is a very special reason why the Stradbroke koala should be preserved at all costs. The Government listing indicates that “conservation should also recognize the importance of sub-populations to ensure genetic variations and resilience are maintained”. With Stradbroke having a genetically distinct population which is also robust and less susceptible to disease, the koalas here may possess the genetic material which could just save the species if the future continues to look dire. ♦

#



Waiting for the bus?

Is your newsletter still arriving by post? If you'd prefer to receive it by email, please send your email address to Edith McPhee at emcphee@westnet.com.au. Thank you. ♦

Check out our blog! You may access many of our articles from past editions on our blog at <http://www.fosi.org.au>

This is a great way to share articles with friends!