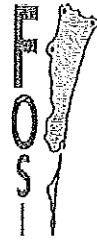
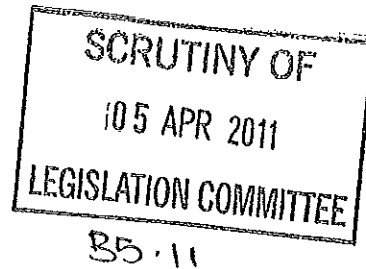


Stradbroke Island Management Organisation



Friends of Stradbroke Island Association Inc.
PO Box 167
POINT LOOKOUT, Q 4183



Mrs J R Miller MP
PO Box 122
GOODNA QLD 4300

4 April 2011

Dear Mrs Miller MP,

The *North Stradbroke Island Protection and Sustainability Bill 2011* is a misnomer. A more accurate title would be the *North Stradbroke Island Extension of Expired Leases (to allow more Mining before Declaration of National Park) Bill 2011*.

Before the 2009 state election, the Premier told voters that the Bligh government recognised the need to protect and preserve the island for future generations. The Bill reflects the opposite view. It ignores scientific opinions, including from Associate Professor Carla Catterall that further mining on the island created a "greater risk that the island's ecological values will be irreversibly degraded". (see attached).

Apply existing laws – legislating around the current rules is fundamentally flawed

The critical importance of ML1117 is now recognised in the Explanatory Notes to the Bill. If the Bligh government wishes to protect the island, all it need do is apply the existing Mineral Resources Act (MRA) expired lease provisions to ML1117 (expired 31/10/07). This would result in the end of mining at the giant Enterprise mine.

The Minister should also apply the cancellation provisions of the MRA to ML1108 at the Vance lease. In July, 2010 the Queensland Court of Appeal ruled to the effect that Unimin Australia Limited (now called Sibelco) had unlawfully removed and sold substantial quantities of non-mineral sand over a decade. This involved breaching the terms of the lease.

The proper application of the MRA would see the early closure of Enterprise and Vance mines and mining ending on the Island when Yarraman closes in 2015. As the

explanatory notes to the Bill recognise, rehabilitation of all three mines would still be required. This would involve the employment of significant numbers of residents for a period of at least five years ie. at least until 2020 – a reasonable transition period.

We agree with the Courier-Mail commentator who said last week that when the government introduces new legislation to bypass existing legislation, "someone is getting dudded." However we disagree with his conclusion that it is Sibelco/ Unimin. For a detailed argument as to why, **see attached**.

Despite the spin, there is no balance in this Bill

The government claims that the bill strikes a balance, but where is the balance? The mining company started the exercise with three mines. It ends with three mines. The bill extends all significant leases, including ML 1117 (Enterprise) 1124 and 7064 (Vance). This results in the Enterprise mine being permitted to continue until 2019 and the Vance silica mine until 2025. Yarraman continues until 2015 -when it runs out of minerals. The result is that the mining company ends up with a score of at least 2 1/2 out of 3 -more than 80% of what it started with. Where is the balance ?

As can be seen in the **attached** map, the Island has three mines - two mineral sand mines, Enterprise and Yarraman and one silica sand mine, Vance. We comment further as follows:-

Enterprise Mine – key lease ML 1117 extended to allow mining until 2019.

In May 2009, Consolidated Rutile Limited, a public company which then owned Enterprise and Yarraman mines, told the Australian Securities Exchange that, if permitted to continue, Enterprise would run out of minerals by 2027 - perhaps as early as 2023, if a second dredge were to be used (the letter may be viewed at savestraddle.com – library section). As a public company with Australian shareholders, CRL had duties to report honestly to shareholders and to the ASX.

If the expired lease provisions of the MRA were to be genuinely applied, Enterprise mine could not continue because the minister could not be genuinely satisfied of an essential factor – that further mining would be an appropriate use of land which the government intends to declare National Park by 2021.

To circumvent the inevitable result of the non-renewal of ML 1117 under the existing law, the government, by decree, intends to renew it (see clause 11(3) of the bill).

In our view this represents a serious flouting of the rule of law. The scale of this flouting is unprecedented in terms of environmental impact. The by-passing of the existing legislation has only one purpose – to help out the mining company at the expense of the environment. Sibelco still complains despite the government bending over backwards for it!

The Bill purports to restrict the mine path of Enterprise (cl.17) However, many believe that this restricted mine path (depicted in the map NSI 2) is likely to be substantially increased by the Minister (or on review by the Courts) as a result of the vagueness and unrestricted nature of clause 19. The criteria for increase of mine path area under cl. 19 are primarily in the hands of the mining company and the Minister's hands are tied.

Further, the rationale for the mine path currently depicted in NSI 2 is that some of it has been mined before. It is not revealed that this was in the 1960's and was relatively small-scale dry mining. The mining now occurring is by dredge and up to 100 metres deep, which completely destroys the dune structures and puts at risk the Island's aquifer. The rationale also ignores the scientific opinion of Assoc Professor Carla Catterall and the conservative approach of the precautionary principle.

Vance mine -- two key leases extended to allow mining until 2025.

Unimin Australia Limited bought this silica sand mine in 2001 from ACI. In July 2010 the Queensland Court of Appeal ruled Unimin's removal and sale of non-mineral sand over the previous decade was not authorised and therefore unlawful. The court ruled that it did not matter that Unimin had paid some royalties. Despite claims to the contrary, Unimin did not seek leave to appeal to the High Court against this decision.

Against this background it seems extraordinary that rather than apply the Mineral Resources Act to cancel the Vance leases, the bill extends two of these same leases until 2025. Where is the balance in that? Where is the respect for the rule of law?

Yarraman mine

The CRL letter to the ASX stated that Yarraman runs out of minerals at the end of 2013 and half of the Island's mines workforce would lose their jobs. Unimin/ Sibelco has claimed that the mine will run until 2015. The Bill accepts this. As a result there is no change to the life of this mine.

Summary and Conclusion

The bill fails to protect North Stradbroke Island from the damage caused by sand mining. Its real intention is to bypass existing laws. The genuine application of the existing provisions of the Mineral Resources Act (MRA) would protect the Island by bringing to a speedy end the giant Enterprise mine and the Vance silica mine.

To bring about that result, the Government need only apply the MRA to two key leases ML 1117 and ML 1108. The Bill could then deal with all of the other matters it presently includes, with appropriate amendments. The explanatory notes acknowledge that Enterprise mine could not continue without ML 1117 being extended. The government should apply the MRA expired lease provisions to this lease and end it. Similarly, the MRA cancellation provision should be applied to cancel the Vance lease ML 1108 for breaches of the lease, following the 2010 decision of the Court of Appeal in *Unimin v State of Queensland* – - <http://archive.scofild.org.au/qjudgment/2010/QCA10-169.pdf>

The proper application of the MRA would therefore result in mining ending in 2015 when the Yarraman mine closes. According to Unimin/ Sibelco, only about half of the island's mining employees (around 120) live on the island. Many of these could be employed in the rehabilitation which Sibelco is obliged to carry out. There is at least five years rehabilitation work at the three mine sites.

Before logging ended on Fraser Island, it was claimed that hundreds of workers would lose their livelihoods. Despite a generous compensation package only about 60 applied as the others obtained alternative employment. For those who do not wish to be employed in the rehabilitation work on Stradbroke, as we all know there are numerous other job opportunities given the current skill shortage in the mining industry. For example, Unimin/ Sibelco itself has 40 other mine sites in Australasia including 8 in Queensland.

Mining on the island was always going to end by 2027 anyway. There was always going to be some social dislocation, as occurs whenever a mine or other business comes to an end. It makes little sense, in the interests of all Queenslanders, to delay the inevitable by extending expired mining leases to facilitate further damage to the island. This is not a balanced approach. It puts short-term destructive jobs ahead of future long-term sustainable jobs.

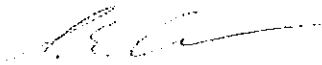
These future jobs and the integrity of the National Park depend upon the island's environment being protected and preserved. Subjecting the Island to further damage for another 15 years is irresponsible and will be condemned by current and future generations of Queenslanders. It is also an insult to the majority of the families who are claimants in the Island's Native Title proceedings. It is well known that the majority is opposed to more destructive mining of their Island.

The views expressed in this letter concerning the Bill are supported by two other legal opinions from two separate counsel regarding the operation of the expired lease provisions of the Mineral Resources Act. The opinions establish:-

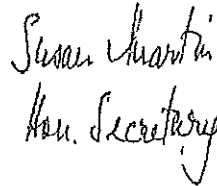
1. There is no such thing as a right to a renewal of an expired mining lease (the explanatory notes to the Bill concede this);
2. There is no existing power to renew an expired lease unless the minister is satisfied of each of the factors set out in section 286A of the MRA;
3. Mining companies are not entitled to compensation if expired leases are not renewed.

If you would like a copy of these legal opinions, please email your request to nikki@savestraddie.com.

Yours sincerely



Sue Ellen Carew
President
Friends of Stradbroke Island



Susan Martin
Stradbroke Island Management Organisation

PS In this letter we refer to the Island miner as "Unimin/ Sibelco". Until late last year the company was called Unimin Australia Limited. It changed its name to Sibelco, after its Belgian parent company. It remains a private company owned by the same Belgian family. The name change has not been explained as far as we know.

For more information go to www.savestraddie.com