

## FURTHER AND BETTER PARTICULARS

In the Planning and Environment Court  
Registry: Brisbane

**Appeal No. 1625** of 2000

Between: **SAVE OUR RIVERFRONT BUSHLAND** Appellant  
And: **BRISBANE CITY COUNCIL** Respondent  
And: **WINGATE PROPERTIES PTY LTD**  
and  
**QUEENSLAND CEMENT LIMITED** Co-Respondents

The appellant **SAVE OUR RIVERFRONT BUSHLAND** provides the following further and better particulars of its Notice of Appeal in accordance with the request of the co-respondents **WINGATE PROPERTIES PTY LTD** and **QUEENSLAND CEMENT LIMITED** pursuant to the order of His Honour Senior Judge Skoien made on 12 May 2000:

1. In respect of paragraph 1(a) of the Notice of Appeal:
  - (a) The specific provisions of the Strategic Plan for the City of Brisbane with which the proposed development is in conflict are sections 3.2, 3.2.1.7, 3.2.3.5, 3.2.4.1, 3.3.1, 3.3.1.1, 3.3.1.4, 3.3.2.1, 3.4, 3.5, 3.5.4.2, 3.5.4.4.
  - (b) The respects in which the proposed development conflicts with such provisions and the facts, matters and circumstances upon which this conflict exists are that:
    - i) s.3.2 - The conflict is a general conflict involving all facts, matters and circumstances relating to the proposed residential development;
    - ii) s.3.2.1.7 - The conflict is that the proposed development will not secure, maintain and enhance the City's biodiversity. The relevant facts, matters and circumstances are that the proposed residential development between Fremont Street and the ridge overlooking the Brisbane River in the subject area (hereinafter termed the proposed residential development) will adversely affect the biodiversity of the area;
    - iii) s.3.2.3.5 - The conflict is that the proposed residential development will not provide adequately for provisions such as item (d). The relevant facts, matters and circumstances are that the use of the land for the proposed residential development will not result in the objectives of the provision being achieved due to the exclusion from the proposed parkland of the bulk of the major landform feature, namely the ridgeline, peak and the slope down to Fremont Street.
    - iv) s.3.2.4.1 – The conflict is that the proposed residential development will fail to maintain and enhance the scenic and visual amenity of the City through the enumerated mechanisms.

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**Further and Better Particulars**  
Filed by the Appellant

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- v) s.3.3.1 - The conflict is a general conflict with the Green Space System involving all facts, matters and circumstances relating to the proposed residential development;
- vi) s.3.3.1.1 – The conflict is that the proposed residential development will not uphold the provisions contained herein, including those relating to habitat value, natural scenic value, corridor value and lands with environmental or scenic constraints;
- vii) s.3.3.1.4 – The conflict is that the proposed residential development will prevent the protection of significant topographic, landscape, scenic, bushland, ecological values and flora and fauna habitat;
- viii) s.3.3.2.1 – The conflict is that the proposed residential development will not be compatible with the Brisbane Green Space System and the land designated as having environmental and scenic constraints;
- ix) s.3.4 – The conflict is that the proposed residential development is incompatible with the Category A designation of the subject land in the Non Urban zone as enumerated in sections elsewhere in this document;
- x) s.3.5 - The conflict is a general conflict involving all facts, matters and circumstances relating to the proposed residential development;
- xi) s.3.5.4.2 – The conflict is that the proposed residential development is not compatible with the environmental and bushland values of the subject land; does not constitute low impact development forms; contravenes the requirement not to protrude above ridgelines; and the bushfire management measures proposed are inconsistent within themselves and/or conflict with the environmental, bushland and scenic values identified in the Town Plan;
- xii) s.3.5.4.4 – The conflict is that the proposed development is incompatible with the combination of constraints including gradient, vegetation coverage and natural and topographical features, and the subject land cannot be retained in its natural or semi-natural state under the residential development as proposed.

2. In respect of paragraph 1(b) of the Notice of Appeal:

- (a) The specific provisions of the Western Gateway Local Area Outline Plan for Preferred Land Uses with which the proposed development conflicts are sections 3.5.13.7, 3.5.13.10 and 3.5.13.16.
- (b) The respect or respects in which the proposed development conflicts with such provisions and the facts, matters and circumstances upon which this conflict exists are that:
  - i) s.3.5.13.7 - The conflict is that the proposed residential development contravenes the requirement which does not permit development forward of the ridge overlooking the Brisbane River;
  - ii) s.3.5.13.10 - The conflict is that the proposed residential development contravenes the Category A designation of the Future Urban zoned land and the Town Plan's expressed desire to preserve important natural area values;

- iii) s.3.5.13.16 - The conflict is that the proposed residential development will have a significant detrimental impact on scenic amenity and protection of the environmental and natural area values of the subject land.
3. In respect of paragraph 1(c) of the Notice of Appeal:
- (a) The specific provisions of the intent of the Respondent's Non-Urban Zone with which the proposed residential development conflicts are those in section 5.1 relating to the Category A designation of the subject land;
  - (b) The respects in which the proposed residential development conflicts with such provisions and the facts, matters and circumstances upon which this conflict exists are that the development:
    - i) Will not allow the subject land to be retained in a natural or semi-natural state to protect the values enumerated therein, such as those stated below;
    - ii) Will conflict with features of the subject land which form important parts of the City's landscape, being visually prominent and of scenic quality and a landscape feature, as well as satisfying ecological criteria;
    - iii) Is contrary to the provision that suburban development of any kind will be opposed by the Respondent; and
    - iv) Is contrary to aspects of Planning Policy 5.02 as enumerated in paragraph 6. below.
4. In respect of paragraph 1(d) of the Notice of Appeal:
- (a) The specific provisions of the intent of the Respondent's Future Urban Zone with which the proposed development conflicts are those in section 6.1 relating to the Respondent's intention to preserve areas of significant topographic, landscape, scenic, bushland, ecological interest and protection or preservation of fauna habitats and fauna movement corridors;
  - (b) The respect or respects in which the proposed development conflicts with such provisions and the facts, matters and circumstances upon which this conflict exists are due to the subject land's values as enumerated in 4(a) above, and the circumstances in Planning Policy 6.01 that render certain Future Urban zoned land unsuitable for development, as enumerated in paragraph 6. below.
5. In respect of paragraph 1(e) of the Notice of Appeal:
- (a) The proposed development contravenes good town planning principles and practice by virtue of: (i) causing major adverse impacts on the prominent, scenic and bushland covered slopes and ridgelines; (ii) creating potential conflict and management problems at joint residential and bushland or parkland boundaries; and (iii) allowing development to continue across a major natural bushland ridge and watershed.
  - (b) The respect or respects in which the proposed development conflicts with such principles and practice and the facts, matters and circumstances relied upon are:
    - i) Good landscape design principles for natural bushland areas and major topographical features include avoiding visual impacts on ridgelines;

- ii) Good practice in the planning and management of natural bushland areas and public parkland includes avoiding private property boundaries abutting directly to the bushland or parkland; and
  - iii) Further to (ii), the proposed development at the ridgeline will allow development to intrude across a watershed into natural areas on the downhill slope to the Brisbane River. This adds to prospective land management problems for the proposed public land, through nutrient pollution, weed dispersal, rubbish dumping and illegal removal of trees and other vegetation on neighbouring parkland to obtain views unobstructed by vegetation.
6. In respect of paragraph 1(f) of the Notice of Appeal:
- (a) The specific planning policies with which the proposed development is contrary are those already identified in paragraph 1(f) of the Notice of Appeal, viz. Planning Policies 5.02, 6.01 and 19.07.
  - (b) The respect or respects in which the proposed development does not conform with the planning policies identified in paragraph 1(f) of the Notice of Appeal and paragraph 6 of these Further and Better Particulars and the facts, matters and circumstances relied upon are that:
    - i) The proposed development contravenes the provisions and guidelines in Planning Policy 5.02 for any new development to be carried out at appropriately low densities;
    - ii) The proposed development contravenes not just one but several of the provisions of Planning Policy 6.01, including sections 1(i), (j), (l), (p)(i), (p)(ii), (p)(iv), (p)(v), as well as elements of sections 2, 4 and 5;
    - iii) The subject land in the Future Urban and Non Urban zones is listed in the Brisbane Conservation Atlas (as referenced in Planning Policy 19.07) as having important visual significance and local significance biologically and scenically. The vegetated slope and ridgeline are a dominant and key component of these values which would be drastically, adversely and irreversibly impacted by the proposed residential development.
7. In respect of paragraph 1(g) of the Notice of Appeal:
- (a) The environment or the characteristics of the environment on which the proposed development will adversely impact are bushland, biodiversity, flora, fauna and scenic and landscape values.
  - (b) The specific adverse impacts on the environment which the proposed development will cause are significant earthworks and removal of much of the natural vegetation which will irreversibly and drastically impact on the values outlined.
  - (c) The respects in which the proposed development will have that adverse impact, and the facts, matters and circumstances relied upon, are the density, nature and extent of the residential development.

8. In respect of paragraph 1(h) of the Notice of Appeal:
- (a) The scenic and landscape characteristics of the site and the surrounding area on which the proposed development will adversely impact are the viewsheds towards the vegetated slopes and ridgeline from surrounding areas, such as from Seventeen Miles Rocks Road, the suburb of Seventeen Miles Rocks, the Brisbane River and Brisbane River corridor and the suburb of Fig Tree Pocket and beyond. The development will also impact on current and future generations by preventing the opportunity for such a significant landscape feature from being preserved intact and in public ownership.
  - (b) The specific adverse impacts on the scenic and landscape characteristics of the site and surrounding area which the proposed development will cause are the loss of views of vegetated ridgelines and highpoints from nearby and more distant viewsheds, as well as from within the land itself.
  - (c) The respect or respects in which the proposed development will have that adverse impact and the facts, matters and circumstances relied upon are visual and photographic analysis of the various viewsheds. Further, this vegetated ridge is a unique feature within the Brisbane River corridor, within the suburban reaches of the river.
9. As to paragraph 1(i) of the Notice of Appeal, the respect or respects in which the proposed development does not advance the purpose of the Integrated Planning Act 1997 (Qld) and the facts, matters and circumstances relied upon are the failure to uphold the objectives of ecological sustainability, including biodiversity and the precautionary principle.
10. As to paragraph 1(j) of the Notice of Appeal, the respect or respects in which the proposed development is not needed and the facts, matters and circumstances relied upon are that there is no demonstrated and critical social or public need for this particular residential development. This lack of critical need should be viewed against the benefits for the public good of the subject land being preserved for its intrinsic values as enumerated herein, as well as in the interest of intergenerational equity to preserve such a unique and significant topographical feature.

Signed:

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Description of signatory:

Secretary, Save Our Riverfront Bushland (SORB)

Dated:

06 June 2000