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**For your diary...**

**Green Day  
Sunday, 25 March 2001**

10:00am – 1:00pm

BCC is holding a Green Day at the riverfront parklands on Thomas McLeod Drive, Sinnamon Park. See article p. 4.

**All welcome!!**

Join our happy group of weedbusters and tree planters. Bring hat, sturdy shoes, sunscreen, water, gardening gloves (if available). Our sessions conclude with a convivial cuppa.

**Sunday, 1 April**

8:00 to 10:00am

Meet at Fig Tree site, cnr Tennent St and Westlake Drive, Westlake.

**Sunday, 6 May**

8:00 to 10:00am

Meet at Balaton St riverfront, Westlake.

**Sunday, 3 June**

8:00 to 10:00am

Venue: TBA  
Refer noticeboard at Balaton St.

**Sunday, 1 July**

8:00 to 10:00am

Venue: TBA  
Refer noticeboard at Balaton St.

Enquiries: **Maree 3376 5803** (BH) or  
**Ed 3376 1389** (AH)

**Planning Appeal Win**

**Save Our Riverfront Bushland (SORB) has been successful in a major planning appeal against a development that would have destroyed bushland on a ridge overlooking the Brisbane River riverfront at Seventeen Mile Rocks.**

The appeal was against an approval by Brisbane City Council of the development proposal by Queensland Cement Limited (QCL) and Wingate Properties Pty Ltd that would have allowed up to 90 residential allotments on 7.355 hectares of QCL-owned land.

**The land included a bushland ridge, north of Fremont St, Seventeen Mile Rocks, which had been zoned in the 1987 Town Plan as Non Urban, Category A, a category for "natural or semi-natural areas having high value for habitat conservation, landscape protection or waterway protection".**

In a David and Goliath action, SORB led the appeal in the Brisbane's Planning & Environment Court which heard evidence in seven days of hearing in October and November 2000. Two other community groups were co-respondents in the court action. They were Centenary Riverfront Advisory Council (CRAC) and Seventeen Mile Rocks Progress Association.

The judgment handed down by the P&E Court on 2 February 2001 vindicates the action taken by SORB in challenging the development approval. The public consultation process undertaken by the developers encouraged residents to believe that unless residential was permitted on the bushland ridge, the proposal for a riverfront park could be replaced by industrial development.

"A large riverfront park at Seventeen Mile Rocks was a grand vision. Unfortunately, as determined by the P&E Court, it was flawed in planning terms", a spokesperson for SORB said.

"A grander vision is for Council to acquire the bushland ridge and slope as a 'scenic rim' to the proposed riverfront park."

SORB calls upon Brisbane City Council to honour the spirit of the judgment and acquire



View towards the city from the bushland ridge, Fremont St, Seventeen Mile Rocks.

SORB's successful planning appeal seeks to preserve this bushland for the public.

Refer SORB's website [www.sorb.org.au](http://www.sorb.org.au) for more details, including online access to the judgment. *Detailed report follows on p.2...*

the bushland ridge as part of an enlarged riverfront park proposal.

**Clean Up Australia Day held on 4 Mar 2001**

**Westlake Riverhills Bushcare Group (WRBG) has again contributed to the annual, nationwide Clean Up Australia Day campaign.**

Eleven people attended WRBG's regular working bee on 4 March was directed to a hard rubbish clean up at the "Big Fig Tree", at the Tennent St riverfront bushland. A two cubic metre bin was filled with dumped building materials and other rubbish collected from in and around the site.



Jenny gets into action at WRBG's CUA Day!

## Bushland Planning Appeal win for community

(Continued from page 1 article)

### The Judgment

On Friday, 2 February 2001, Judge Brabazon in the Planning and Environment Court, Brisbane, handed down his 44-page judgment which allowed SORB's appeal and dismissed the development approval. The Judgment came after seven (7) days of hearing in October and November, 2000.

SORB's website provides background information on the case. Refer the public website at: [www.sorb.org.au/qcl/index.htm](http://www.sorb.org.au/qcl/index.htm)  
A map of the subject site and the development as previously approved is at: [www.sorb.org.au/qcl/maps/overlay02c.jpg](http://www.sorb.org.au/qcl/maps/overlay02c.jpg)

### Some observations

Some learnings and principles gleaned, and implications of the successful appeal, are listed here:

- ▶ **Community groups can mount a successful planning challenge** with persistence, having a well-researched case and pulling in appropriate key resources in a timely and cost effective manner.
- ▶ **The judgment sends a strong message to Council planners and assessment managers** who will be reminded that it is not acceptable to contravene planning intents in one location (bushland ridgetop in this case) for the sake of achieving planning outcomes elsewhere (possible riverfront park on derelict industrial land);
- ▶ **It also sends a strong message to expert witnesses**, who under P&E Court rules are servants of the Court, not their paying Clients, in having their primary obligation to the Court to give impartial advice and to assist the Court in eliciting the true facts. SORB-engaged expert witnesses, who were harshly and personally denigrated by opposition counsel in the hearing, in the Judgment gained the imprimatur of His Honour on several key points where their evidence "was preferred" against the evidence of experts engaged by Council and the Developers - a significant win for fairness and justice. SORB's experts' evidence was preferred against that of three major consultancy firms in the fields of planning, landscape architecture and visual assessment.

▶ Among those personal attacks launched in the court room was the implication that some of SORB's experts, by virtue of the fact they had sat in the past in a voluntary capacity on other unrelated BCC community advisory committees, somehow were tainted in providing the Court with objective, expert witness statements. The Judge clearly was not swayed by those attempts to discredit SORB's experts.

Incidentally, of interest and concern, was the fact that BCC files of other public participation activities were trawled for the express purpose of obtain documentation to attempt to show these (community-minded) voluntary participants in those other BCC activities must be too tainted to express impartial expert advice in this case.

### The Development

The part of the development which was the subject of the appeal by SORB would have allowed up to 90 residential allotments on 7.355 hectares of QCL-owned land. The subject land included a bushland ridge, north of Fremont St, Seventeen Mile Rocks, overlooking the Brisbane River, which had been zoned in the recently superseded City of Brisbane 1987 Town Plan as Non Urban, Category A, a category for "natural or semi-natural areas having high value for habitat conservation, landscape protection or waterway protection".

The comprehensive 2-year Western Gateway Strategy planning and public participation process, culminating in 1998, reconfirmed those natural values and town plan zoning of the subject land. The Draft City Plan issued for public comment in March 1999 sought in part to negate those findings, and further tinkering with subsequent drafts, without public consultation, sought to further revise the draft City Plan until the new City Plan 2000 of 30 Oct 2000 had almost entirely modified the relevant area's classifications and boundaries to coincide virtually exactly with the boundaries and intent of the development proposal.

### SORB's response

In a nutshell, SORB believed BCC had unreasonably ignored key, explicit elements of the Brisbane 1987 Town Plan in relation to the zones and issues mentioned in the Notice of Appeal. SORB opposed the extent of loss of bushland and other natural values due to

the proposed housing development on top of the ridge and the bushland slope down from the ridge to Fremont St.

SORB contended BCC's approval contravened a number of key elements in the various sections of the town plan which exist to protect the natural and scenic values of the bushland in question.

### Where to from here

The developer and Council have the option of appealing the decision, only on the following bases:

- Cannot appeal against facts established in the Judgment;
- Cannot appeal against the Judge's discretion where exercised, eg. in how much weight His Honour gave to the new City Plan;
- Appeals possible only on errors in points of law; and
- Appeal is not as of right; the intending Appellant against the judgment must seek and obtain leave to appeal.

Comments from Council indicate while it is disappointed with the appeal it will not contest the judgment.

**SORB calls upon Brisbane City Council to honour the spirit of the judgment and acquire the bushland ridge as part of an enlarged riverfront park proposal.**

### Acknowledgements

SORB mounted and prepared its case from within its own resources, with the assistance of the Environmental Defenders Office Qld who provided advice on legal processes and issues.

Once it became clear the other parties were not willing to enter into meaningful discussions for a negotiated solution, and the case was clearly going to go to a full hearing, SORB engaged the following:

Barrister - **Stephen Keliher**

Instructing Solicitor - **Rob Stevenson**,  
Environmental Defenders Office (Qld)

SORB also commissioned the following to produce expert witness reports and appear in Court:

Planning - **Brian Feeney** (Humphreys Reynolds Perkins)

Visual Assessment - **Raquel Bitá**

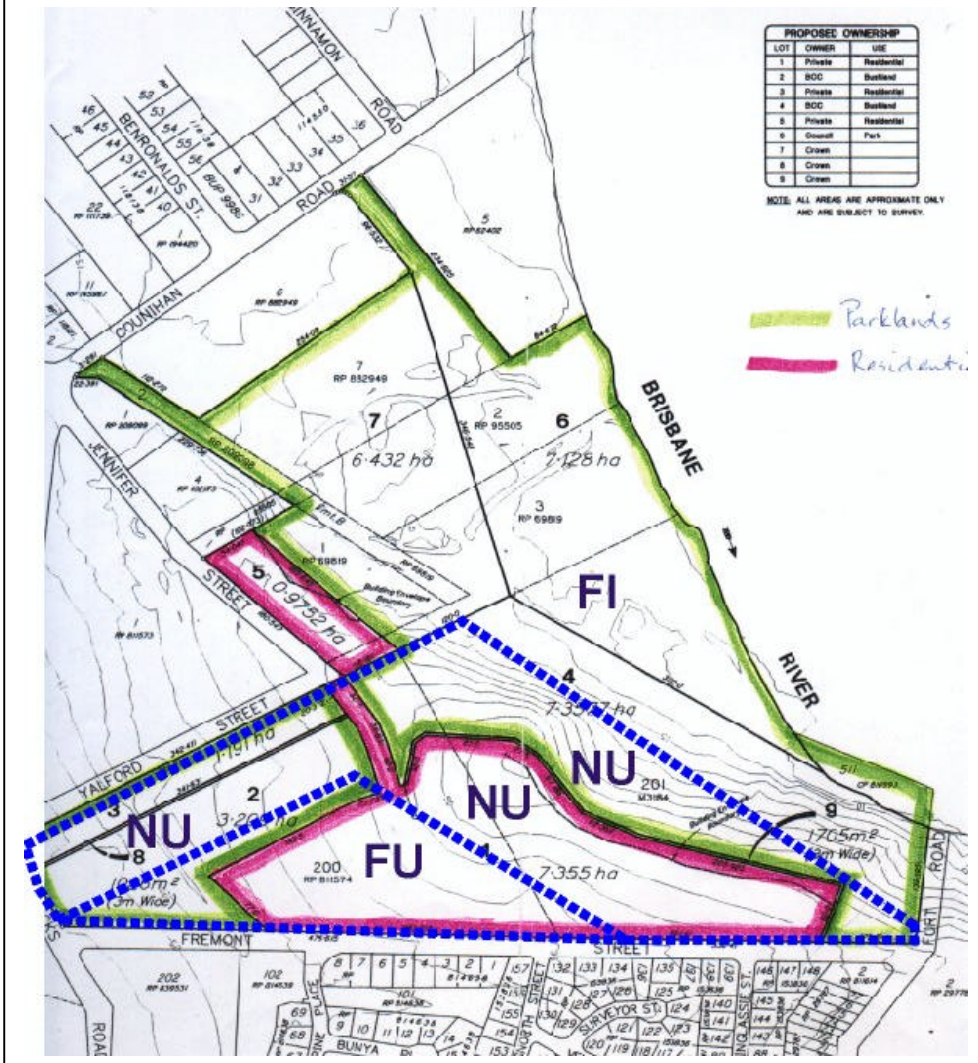
Landscape Architect - **Shealagh Savage**

Ecological - **Chris Wiley**

## QCL Proposal at Fremont St, Seventeen Miles Rocks

The following diagram shows the QCL proposal, overlaid on with the (now superseded) 1987 Brisbane Town Plan zoning boundaries. SORB successfully challenged this proposal in the Planning & Environment Court, as outlined in the articles on pages 1 & 2.

The BCC-approved plan had proposed residential development abutting Fremont St, but crossing beyond the limits of the **Future Urban (FU)** zone. The residential development was to extend well into the **Non Urban (NU)** zone which had been classified for protection of its natural features, including the bushland ridge overlooking the riverfront derelict industrial land zoned **Future Industry (FI)**.



## Habitat Brisbane staff changes

As a bushland care group, WRBG operates under the auspices of BCC's Habitat Brisbane program. Apart from supplying goods in kind (plants, mulch, etc.), Habitat Brisbane provides technical advice through the HB Officers.

**Kylie Withers** has joined BCC as the new officer serving our area. In welcoming Kylie aboard, we extend our appreciation to her predecessor, **Trish Waite**, who has moved to the West team of HB.

The HB Officers have always been the friendly face of Council on the ground, always willing to help where possible, within the bushland care partnership which we value.

We also acknowledge Trish's predecessor, **Mike Noble** who last year left BCC to take up a position in Tasmania. Mike had a long involvement with us, having assisted our establishment as WRBG in 1993. WRBG wishes him well in his new field of work.

## WRBG obtains Environment Grant

Westlake Riverhills Bushcare Group (WRBG) has again been successful in attracting a grant under the Brisbane City Council Environment Grants program. An amount of \$800 has been allocated based on a total project cost of \$3,000 which includes a nominal allowance for voluntary time and in-kind community contributions.

Outcomes include: Community education on bushland values through bushland rehabilitation activities, newsletter, bushland website ([www.sorb.org.au](http://www.sorb.org.au)) and further development of on-line information resources regarding remnant bushland and biodiversity in the south-western suburbs of Brisbane.

## Balaton Street subdivision removes public access to riverfront

In January 1992 came the original, visionary decision announced by Lord Mayor Jim Soorley to preserve the riverfront at Pullen Reach as a publicly accessible riverfront bushland reserve.

The community, and SORB in particular which was formed on this issue, congratulated BCC for such foresight.

Unfortunately, south of the Balaton Street, the boundary was incorrectly set, contravening Waterways Policy and allowing the private boundary down a steep unstable slope (which collapsed in May 1996). This mistake will prevent public access along the full length of the riverfront and creates management problems for bushland protection and maintenance.

SORB persistently raised this oversight with BCC since 1993, but this had been ignored by BCC over those years since then. The only concession made was to revise the proposed street layout for a pedestrian connection from the new cul-de-sac off Balaton St to connect with Westlake Drive at Cascade Close.

**The subdivision, being constructed at present, is the final development along Pullen Reach but will leave the legacy of a break in linear riverfront access as a permanent reminder of this planning blunder.**

## Dollarbirds

by Matthew Palmer

Over Summer in the Centenary suburbs the cackling call of the Dollarbird is often heard through the day.

**The Dollarbird (*Eurystomus orientalis*) is a summer migrant to Australian shores where they breed in suitable tree hollows. They are a stocky bird in shape approximately 30 centimetres long. They have a bright red beak and a short dark tail with an overall blue green wing colouring turning darker around the head and tail.**

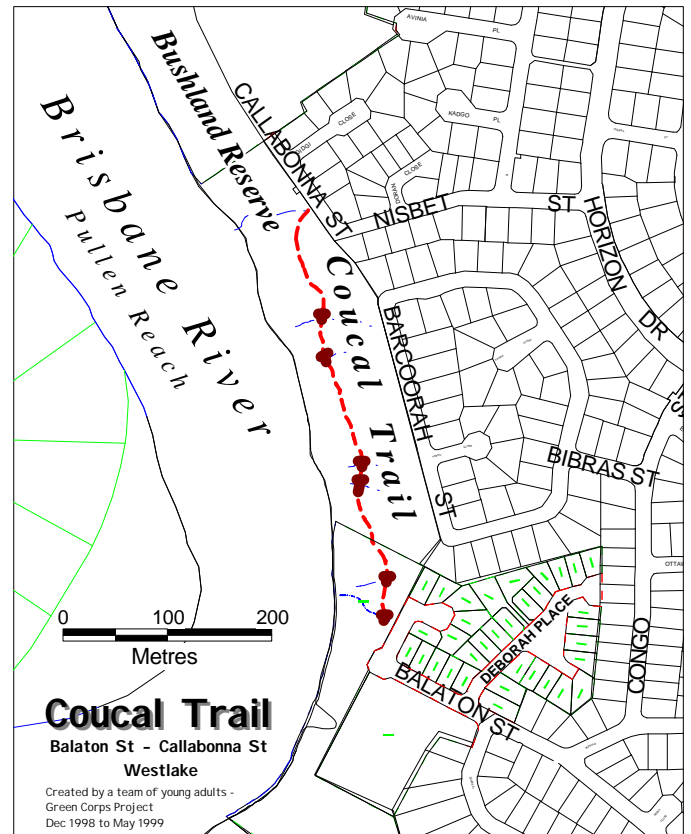
As they are quite often very high up in the top of the canopy, they can be easier to identify by their call. The call is a distinctive "kak kak kak kak" sounding like a croaky frog.

The Dollarbird is the only member of the roller family that is found in Australia (there are 11 species world wide).

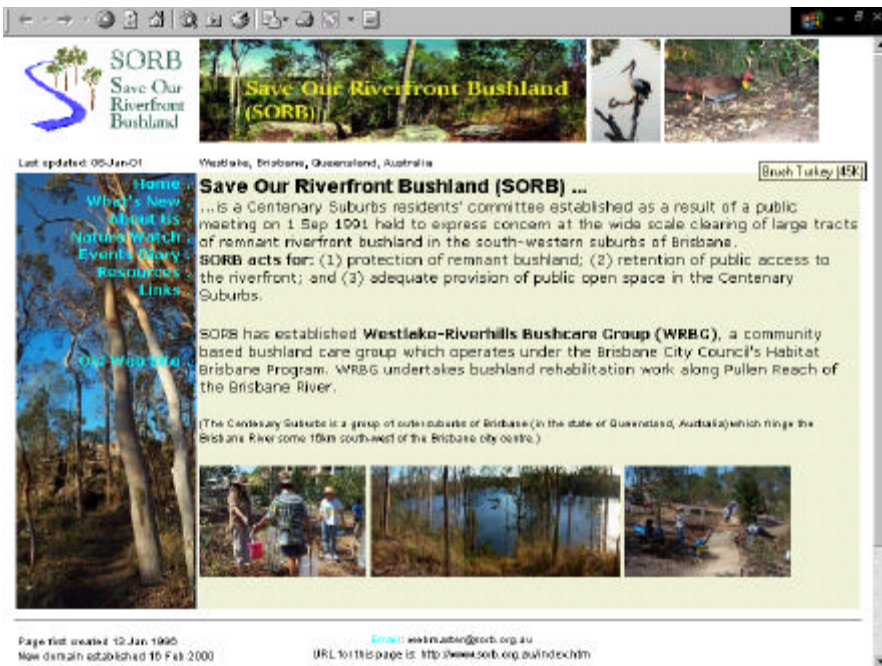
The Dollarbirds are beautiful in flight and can often be seen performing a series of dives, loops and spirals which is believed to be a kind of mating ritual. When they are viewed at the right angle the iridescent blue-green of their wings is outstanding. A significant light-coloured round circle is visible in the centre of both wings when they are seen flying overhead.

Unfortunately the Dollarbirds are coming under threat. The reduction of available nesting hollows has reduced their breeding sites as the most common nesting site is in old dead Eucalypts.

This is being compounded by the introduced Common Myna or Indian Myna (*Acridotheres tristis*) which now appears in larger numbers through the Centenary suburbs than ever before. The Myna is an aggressive breeder which overtakes the nesting site of the Dollarbird and many other hollow users such as parrots, lorikeets and Kookaburras. Consequently the Dollarbird can be left with no suitable sites to breed in.



**Map of the Coucal Trail Walking track at Pullen Reach, Westlake.** This area covers some of the the sites of Westlake Riverhills Bushcare Group bushland rehabilitation. Refer to page 1 for the events calendar.



## Web site re-vamp

The SORB website has undergone a facelift since the last newsletter, shifting to its own domain name.

Acknowledgements to BCC for Environment Grant support and to WebCentral for web-hosting.

For a range of local bushland information, maps and photos, check it out at [www.sorb.org.au](http://www.sorb.org.au)

← View of SORB's new home page.

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Save Our Riverfront Bushland (SORB) is a Centenary Suburbs residents' committee established as a result of a public meeting on 1 Sep 1991 held to express concern at the clearing of large tracts of remnant riverfront bushland. SORB embraces the joint goals of:

- protection of remnant bushland;
- retention of public access to the riverfront; and
- adequate provision of public open space in the Centenary Suburbs.

SORB formed the **Westlake-Riverhills Bushcare Group (WRBG)**, a community group operating under BCC's Bushland Care Program which supports community bushland rehabilitation activities in Brisbane. Established since 1993, WRBG's focus at present is the bushland remnant on the eastern flank of Pullen Reach of the Brisbane River.

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