

Between:	<b>SDA PROPERTY NOMINEES PTY. LTD. ACN 634 072 030 ATF SDA HOLDINGS TRUST</b>	Appellant
And:	<b>SCENIC RIM REGIONAL COUNCIL</b>	Respondent
And:	<b>AMANDA HAY</b>	Eighth Co-Respondent By Election
And:	<b>TAMBORINE MOUNTAIN PROGRESS PROGRESS ASSOCIATION INC.</b>	Twentieth Co-Respondent By Election

### AFFIDAVIT

Filed on:

Filed by: Tamborine Mountain Progress Association Inc.  
Service Address: P.O. Box 106, North Tamborine, Q. 4272  
Phone: 07 5545 2202  
Email: [jwren@futureweb.com.au](mailto:jwren@futureweb.com.au)

I, **JEANETTE LOCKEY**, retired, of 578 Main Western Road, Tamborine Mountain, 4272, in the State of Queensland, solemnly and sincerely affirm as follows:

1. I am the Honorary President of the Tamborine Mountain Progress Association Incorporated and I am authorized to make this affidavit on its behalf.
2. My concerns regarding the above development application centred upon **community expectations** and the **harm and adverse impact** this proposed over development of the site would impose on immediate neighbours, the extremely quiet cul-de-sac and the Tamborine Mountain plateau (including myself).
3. Exhibits **JL-1** to this affidavit are true and correct copies of emails from immediate neighbours sent to me regarding the resultant impacts on where they live and conduct business.
4. That 243 residents objected to this development application is a significant community statement.
5. This included 221 pro formas. These pro formas set out in brief key issues of concern.

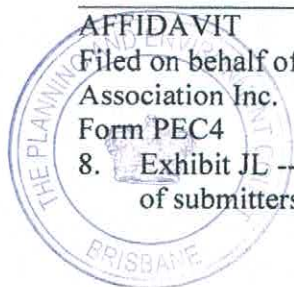
page 1

#### AFFIDAVIT

Filed on behalf of Tamborine Mountain Progress  
Association Inc.  
Form PEC4

8. Exhibit JL -- to this affidavit is a true and correct copy of the covering pages to individual PEC 9's of submitters in appeal No. BD 4014 of 2013.

c/o Jeanette Lockey  
578 Main Street, Tamborine Mt, Qld,4272  
Ph: 07 5545 2202  
email: [jwren@futureweb.com.au](mailto:jwren@futureweb.com.au)

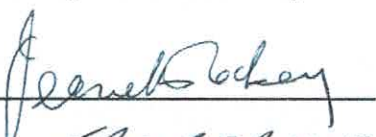


page 1 of 25  
JL

- 6 Exhibit **JL-2** to this affidavit is a true and correct copy of the pro forma submitted to Council for its estimation of community expectations. This pro forma lists 13 town planning points which residents can endorse, cross out and add to.
7. For more than a decade TMPA has been encouraging residents, as objection submitters to Council, to have their say in Court regarding respective appeals. .
8. Understandably daunted by venturing into unknown Court territory, residents have agreed to come in as Co-Respondents, at least till mediation, with a TMPA executive member acting as their agent. This became standard practice for TMPA and the community.
9. All community members electing to become Co-Respondents have done so on the assurance by TMPA that they could stay in the appeal till mediation before costs considerations came into play.
- 10 Exhibit **JL-3** to this affidavit is a true and correct copy of the letter written to MacDonnell’s Law on 26th November, 2021, last paragraph, confirming the use of TMPA’s town planner’s submission by the Co-Respondents till mediation in the event of TMPA being knocked out of the appeal.
11. TMPA has been following this procedure for more than a decade to remind the court that the community has a strong interest in various perceived inappropriate development applications.
12. Exhibit **JL-4** to this affidavit is a true and correct copy of covering forms attached to the individual PEC-6 forms in P& E Court matter No. BD 4014 of 2013. These covering forms, dated 2013, list for convenience of all parties all residents who chose to Co-Respond by electing then TMPA Secretary to act as their representative.
- 13 The gross over development of this site opens the door for large scale commercial development on residential sites across the mountain.
- 14 This has been of deep concern for the community, having arrived for a non-urban semi-rural lifestyle in an area described by the State town planner as “recognized for its country town and hinterland village feel”. .
- 15 Many residents are also mindful that it is exactly this mountain character which attracts one to two million visitors each year thus being a key asset in the region’s “Green behind the Gold” credentials. The probability for large scale commercial resorts/developments proliferating across the plateau poses unwelcome change to the core mountain character and potential loss of a regional asset.
- 16 .As a resident living on a residential site I would not like a resort such as this appearing on my doorstep.

Sworn by Jeanette Lockey

Before me

  
 at TAMBORINE MOUNTAIN  
 this 24 day of November, 2022


Between: **SDA PROPERTY NOMINEES PTY. LTD. ACN  
634 072 030 ATF SDA HOLDINGS TRUST** Appellant

And: **SCENIC RIM REGIONAL COUNCIL** Respondent

And: **AMANDA HAY** Eighth Co-Respondent  
By Election

And: **TAMBORINE MOUNTAIN PROGRESS  
PROGRESS ASSOCIATION INC.** Twentieth Co-Respondent  
By Election

Bound and marked "JL-ALL" are the exhibits to the affidavit of Jeanette Lockey affirmed 25th November, 2022 at Tamborine Mountain before:

  
Deponent

taken by   


**INDEX TO EXHIBITS**

No.	Description	Page(s)
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JL-3	A true and correct copy of the letter written to MacDonnell's Law on 26/11/21, last paragraph, confirming the use of TMPA's town planner's submission by the Co-Respondents till mediation, in the event of TMPA's being knocked out of the appeal.	10 - 11
JL-4	A true and correct copy of covering forms attached to the individual PEC-6 forms in P & E Court matter No. BD 4014 of 2013. These covering forms, dated 2013, list for convenience of all parties all residents who chose to Co-Respond by electing then TMPA Secretary to act as their representative.	12 - 15

**BUNDLE OF EXHIBITS MARKED 'JL - ALL/**

JL-1

**Jeanette Lockey**

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**From:** "Corlia Roos" <roos.corlia@gmail.com>  
**To:** "Jeanette Lockey" <jwren@futureweb.com.au>  
**Sent:** Tuesday, 11 October 2022 7:52 AM  
**Subject:** DA impact

Dear Jeanette

The development next door is now proceeding, despite the Council refusing the application and the independent professional advice I obtained from a Townplanner that it is very unlikely the DA will be approved due to the myriad of ways the application is non-compliant with the Planning Scheme. But for some unknown reason Council reneged it's own decision, which has a significant impact on me.


As you know, I now face the reality of the large three storey central facilities building with its pool, bbq area etc being built within 40 metres of my living area and study. And 15 metres from my bedroom, they will be building 3 storey cabins.

Given this, I have no choice but to try and sell my property, and have listed it with an agent recently. I work from home, and conduct sensitive interviews via videoconference, which I have to audio record. (My professional profile is available online.) The reality is I will be unable to continue working here while they are building. The acoustics in this area is such that noise is amplified. I have built my own house and know what to expect, except that in this case 11 "cabins" larger than my own house will be built, plus the central facilities building. Given the significant earthworks required because of the terrain, I can not imagine in the current environment that the building works will take less than a year, most likely it will take two years to complete.

Then, when the building works finish, I will live next to a resort which will operate, apparently, from 7am to 10pm, with up to 55 guests plus staff right on my doorstep, 365 days a year.

I bought a property in a low density rural residential zone, with a special overlay for the scenic escarpment, protecting the natural environment. My property borders on the National Park. I did not in my wildest dreams expect that Council could, and would, approve a commercial resort development in this type of zoning.

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24/11/2022

JL-1

It leaves me no choice but to try to sell and move somewhere else so I can continue working from home. I had imagined living here until retirement in 10 to 15 years time, and do not want to sell, and I potentially will suffer financial loss due to the current market conditions and the impact that the development next door will have on potential buyers' interest. But I can't continue to live here, given what's coming.

Kind regards  
Corlia Roos  
7 Central Avenue  
Tamborine Mountain

6

24/11/2022 

52-1

**Jeanette Lockey**

---

**From:** <info@tmbb.com.au>  
**To:** <jwren@futureweb.com.au>  
**Sent:** Wednesday, 12 October 2022 12:59 PM  
**Subject:** Fwd: Issues relevant to: The Owners and Operators of Tamborine Mountain...

----- Original Message -----

**Subject:** Issues relevant to: The Owners and Operators of Tamborine Mountain...

**Date:** 2022-10-12 12:56

**From:** Jacqui Larkings <jacqui.larkings@icloud.com>

**To:** info@tmbb.com.au

**ISSUES RELEVANT TO: THE OWNERS AND OPERATORS OF  
TAMBORINE MOUNTAIN BED  
AND BREAKFAST**

Hi Jeanette,

We sincerely would like to thank both you and Amanda and greatly appreciate your tireless efforts, supporting the best interests of the Community expectations, interests and concerns.

Sorry we haven't been in contact since hearing the unexpected gobsmacking decision, regarding 1-11 Eagles Retreat, Place. Unfortunately I suffer from a Neurological disease and this stress severely effects my health and well-being. This massive development will absolutely destroy our Business and livelihood, being a purpose built B&B that has been operating for 28 years with a 5 star rating where our guests that book are seeking a peaceful and serene environment, for their Mountain stay experience.

The construction stage for the eleven (11) separate 2-3 storey free-standing "cabins" the large central facilities, earthworks, retaining walls, etc. We would need to openly disclose to potential guests that there is a major construction site directly opposite the B&B and as the resultant noise, dust, trucks etc would definitely deter potential guests and which no doubt would make a booking at alternative accommodation.

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osf

24/11/2022

JL-1

As Honourable Judge Williamson has visited the site and has visualised how close the proximity is to our B&B. We would kindly request that Judge Williamson, would sincerely consider that one (1) of the "Conditions" to the decisions of Approval. Based on the following:

That the only way our B&B with such an outstanding reputation could possibly survive in any form not robbing us of our livelihood:

\* To be able to operate our business on weekends, we would need the Developer's construction site to not to be operational from Friday 3.30 pm until Monday 7.30 am. and as we will not able to operate mid-week stays, that the Developer compensate us or book our cabins.

\* Would be to temporarily close down, for the entirety of the construction of the development. Thus robbing us of our entire livelihood and therefore it it would only be fair to request, that the Developer compensate us until the completion of the development based on our 2021-22 sales approximately \$13,500 per month.

Kindest regards,

Jacqui & Simon Larkings.

Sent from my iPad

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24/11/2022



JL-2

The Assessment Manager  
Development Assessment Unit  
Scenic Rim Regional Council  
PO Box 25 Beaudesert Qld 4285

Dear Sir,

**Re: Development Application MCU20/050 - Impact - Tourist park - Tourist Cabins (1-11 Eagles Retreat Place, Tamborine Mtn)**

I wish to object to the above inappropriate development for the following reasons:

- The development proposes twelve (12), two (2) to (3) three-storey accommodation buildings with substantial central facilities (including a massage room, wellness centre, gymnasium, clubhouse and pool) included on land contained in the 'Escarpment Protection Precinct' of the Tamborine Mountain Zone.
- The development is not consistent with the 'outcomes' sought for Tamborine Mountain Zone of the *Beaudesert Planning Scheme 2007* & in particular the provisions of the Tamborine Mountain Zone 'Escarpment Protection Precinct'.
- The proposal is a significant over-development of the site and does not represent a scale, form and intensity intended in the Zone and is not consistent with the reasonable expectations of surrounding residents.
- The development includes multiple three (3) storey buildings on site that are not 'low-impact' and have excessive building heights of over 8.5m. The development is visually intrusive.
- The development is proposed as 'tourist cabins' however the bulk, scale and nature of buildings exceeds what would be reasonably expected of a typical 'tourist cabin' use. The Tourist Cabin code provides that each cabin has a maximum gross floor area (GFA) excluding verandahs of 100m<sup>2</sup>. All 12 proposed "cabins" have a GFA significantly exceeding 100m<sup>2</sup> (ie between 148m<sup>2</sup> to 196m<sup>2</sup>).
- The development is inappropriate for the topography of the site as the development will require extensive cut and fill (3m and 6m respectively) which will ultimately impact upon scenic amenity and the landscape character values associated with the Tamborine Mountain escarpment.
- The development is expected to alter overland flow and hydrological conditions on site and requires significant stormwater management infrastructure to be introduced to mitigate runoff from extensive new hardstand and impervious surfaces.
- The site is contained in a mapped 'Ecological Corridor of Conservation Significance' under SRRC's Nature Conservation Overlay and the development negatively impacts on the ecological values of the site and in particular a State mapped 'Core koala habitat area'. The development involves further interfering with 'koala habitat' in a mapped 'Core koala habitat area'.
- The site is specifically mapped to protect 'Landscape Amenity' under the Nature Conservation Overlay, however the nature of the development, including its bulk and scale fails to protect the landscape amenity of the site.
- The development increases traffic and introduces new traffic impacts into a predominantly semi-rural area.
- The development increases noise and introduces additional and unexpected noise impacts into the local area that are required to be mitigated.
- The site is identified as a bushfire prone area - 'Very High Potential Bushfire Intensity' and it is considered inappropriate to introduce a 'vulnerable use' (i.e. accommodation uses for people with a disability) to a site subject to a bushfire risk.
- There is no demonstrated need for "short-term disability accommodation" in this location.

Additional comments: Attached/Not attached.

Name:.....Signature.....

Address:.....

.....Date.....

Please **ATTACH** any personal comments and return this form by **COB Monday**

**12<sup>th</sup> October 2020** by hand to: Customer Service Centre at the Library (by 4.30 pm); by email to: [mail@scenicrim.qld.gov.au](mailto:mail@scenicrim.qld.gov.au) or post to: Scenic Rim

Regional Council, PO Box 25 Beaudesert Q. 4285  
Regional Council, PO Box 25 Beaudesert Q. 4285

JL-3

**TAMBORINE MOUNTAIN PROGRESS ASSOCIATION INC.**

"Protecting the quality of Living on Tamborine Mountain"

26th November, 2021

Your ref: PJD:MJB:210977

**MacDonnell's Law**

by email: [mbryant@macdonnells.com.au](mailto:mbryant@macdonnells.com.au)

Dear Sirs,

**SDA Property Nominees Pty Ltd ATF SDA Holdings Trust v Scenic Rim Regional Council & Ors - PEC Appeal No. 2001of 2021**

I refer to your email letter of 24th November 2021 and earlier email letters dated 11th October 2021 (MacDonnell's Law) and 11th October 2021 (Jeanette Lockey).

On 11th October, 2021, you forwarded to me your Application in Pending Proceedings whereby you sought to permanently remove Tamborine Mountain Progress Association (20th Correspondent by Election) from these proceedings. Your further email of the same time on 11th October 2021 implied some urgency to make an adjustment to our planning submission. To enable proper court procedure I immediately replied, advising that anything missing would be remedied with the court as per the Application in Pending Proceedings.

TMPA is currently involved in two court cases and regularly deals with many submissions. The Association has engaged in twenty (20) previous court appeals and at no time has a submission prepared by a qualified Town Planner on its behalf been challenged in relation to the Association's consequent eligibility to be a party to an appeal.

I subsequently sought legal advice.

At no time before the Application in Pending Proceedings was made on 6th October, 2021 did the Co-Respondent notify the TMPA or its Town Planner, J D Nicholls, that the submission lodged on 12 October 2020 and recorded on SRRC's DAP-Online on 13 October 2020 was deemed "not properly made".

In fact, on 01 September 2020 the Respondent's solicitors provided by way of e-mail (c.c. to Mr Trappett) a list of persons (and their addresses) Council considers are properly made submitters and persons whose submission Council has chosen to accept. TMPA is included on that list. This email appears in Nathaniel Trappett's Affidavit of 6th October, Index of Exhibits NJT-02, No. 3, "Updated list of Submitters". 1/9/21, pages 3-5. Tamborine Mountain Progress Association is listed as No. 144 with its address as c/- Jeff Nicholls Town Planning, Level 1, Brunswick Street, Fortitude Valley, 4006.

This association holds that the submission lodged by Jeff Nicholls on TMPA's behalf was duly properly signed and a signature was not missing as your letter of 11th October, 2021 implied. The Affidavits of J D Nicholls, Town Planner, and J Lockey filed on 16 November 2021 adequately cover and address the Appellant's concerns, in my view.

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5L-3

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11

Item 5 of the Order issued on 25th October, 2021 states that the parties must exchange any further written submission they wish to rely on at the hearing of the Appellant's application at least two clear business days before the hearing of the Appellant's Application.

I intend to further clarify TMPA's position in a written submission to be exchanged on Monday, 29th November, 2021 as per this Order. The Association will be seeking to have the Court determine/rule on the contentious issue of the TMPA's proper or improper inclusion as a party to the appeal at the first opportunity, there being no reason for an adjournment until the New Year to allow time for your client to consider its position. The Appellant would have considered his position prior to issuing the Application in Pending Proceedings dated 6th October, 2021 to permanently remove the Tamborine Mountain Progress Association Inc. (Twentieth Co-Respondent by Election) from these proceedings.

In the event that that the Court rules that TMPA has been improperly included as a party to the appeal on the basis that (a) TMPA did not make a properly made submission about the development application as required by the relevant provisions of the *Planning Act 2016 (Qld)*, and (b) were therefore not able to elect to become a Co-Respondent to the appeal pursuant to Schedule 1, Table 1, Item 1 of the Planning Act, the content of J D Nicholls' submission made on behalf of TMPA will be contained in the material relied upon by the remaining 44 Co-Respondents by Election and will form the basis of their material provided to the Court prior to mediation.

Yours faithfully,

Jeanette Lockey,  
Hon. President,  
Tamborine Mountain Progress Association

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BETWEEN:

Appellant PURE MOUNTAIN PTY LTD  
ACN 1074 472 748

AND

Respondent SCENIC RIM REGIONAL COUNCIL

For the convenience off all parties, we, the undersigned, who have filed elections to co-respond in this appeal, wish to be represented in this matter by Jennifer Peat who has also elected to co-respond :

Printed Name	Signature	Date
EVE CURTIS	<i>[Signature]</i>	24.10.13
BARRY LINDO	<i>[Signature]</i>	26.10.13
NORENE LINDO	<i>[Signature]</i>	26.10.13
GEORGE FISHER	<i>[Signature]</i>	26-10-13
JOAN FISHER	<i>[Signature]</i>	26-10-13
PETER ROCKEY	<i>[Signature]</i>	26-10-13
C SIDDINS	<i>[Signature]</i>	
C SIDDINS	<i>[Signature]</i>	
R. INGLIS	<i>[Signature]</i>	26 10 13
DETLEF M. D. HASENBEIN	<i>[Signature]</i>	26.10.13
JOY RANKINE	<i>[Signature]</i>	26.10.13
DAVID RANKINE	<i>[Signature]</i>	26.10.13
Sandra McDonald	<i>[Signature]</i>	26.10.13
ATHOL McDONALD	<i>[Signature]</i>	26.10.13
MICKE SYMON	<i>[Signature]</i>	26-10-13
ANTHONY MAY	<i>[Signature]</i>	26.10.13
BRIAN JAMES ALLENDER	<i>[Signature]</i>	26.10.13
WENDY ELIZABETH ALLENDER	<i>[Signature]</i>	26-10-13

Filed by  
Form PEC-6

Name  
Service address  
Phone no.  
Fax no.  
Email

BETWEEN:

Appellant PURE MOUNTAIN PTY LTD  
ACN 1074 472 748

AND

Respondent SCENIC RIM REGIONAL COUNCIL

For the convenience off all parties, we, the undersigned, who have filed elections to co-respond in this appeal, wish to be represented in this matter by Jennifer Peat who has also elected to co-respond :

Printed Name	Signature	Date
OLIVE CAMPION	<i>[Signature]</i>	27.10.13
PATRICIA CAMPION	<i>[Signature]</i>	27.10.13
HARVEY RUGLEN	<i>[Signature]</i>	27.10.13
LINDA RUGLEN	<i>[Signature]</i>	27.10.13
ASTRID KENNEDY	<i>[Signature]</i>	27-10-13
DAVID HENDERSON	<i>[Signature]</i>	27 Oct 13
Elizabeth Adams	<i>[Signature]</i>	27 Oct 13
LEWIS ADAMS	<i>[Signature]</i>	27/10/13
DAVID SAUERVILLE	<i>[Signature]</i>	28/10/13
AMANDA HAY	<i>[Signature]</i>	28/10/13
SUSAN TOMKINS	<i>[Signature]</i>	28/10/13
JIM CASTLETON	<i>[Signature]</i>	28/10/13
BEVAN G. PRESSLER	<i>[Signature]</i>	28-10-13
STEPHEN F PINDER	<i>[Signature]</i>	29-10-13
PAULINE PINDER	<i>[Signature]</i>	29-10-13
DELLA DI PIETRO	<i>[Signature]</i>	29-10-13
SAM DI PIETRO	<i>[Signature]</i>	29-10-13

Filed by  
Form PEC-6

Name  
Service address  
Phone no.  
Fax no.  
Email

BETWEEN:

Appellant PURE MOUNTAIN PTY LTD  
ACN 1074 472 748

AND

Respondent SCENIC RIM REGIONAL COUNCIL

For the convenience off all parties, we, the undersigned, who have filed elections to co-respond in this appeal, wish to be represented in this matter by ..Jennifer Peat who has also elected to co-respond :

Printed Name	Signature	Date
MICHAEL DAINES	<i>[Signature]</i>	29 Oct 13
Hjordis Bailhuusite	<i>[Signature]</i>	29 Oct 13
LEONIE KONNIE	<i>[Signature]</i>	29 <sup>th</sup> Oct 13
IAN RENNIE	<i>[Signature]</i>	29/10/13
M. Gibbon	<i>[Signature]</i>	30/10/13
BANK VAN LIESHOOT	<i>[Signature]</i>	30/10/13
Margaret Goldsmith	MARGARET GOLDSMITH	30/10/13
JENNIFER WILTON	<i>[Signature]</i>	30/10/13
Hannelore BRAUN	<i>[Signature]</i>	30.10.13
GWENDOLYN SMITH-PICARD	GN Smith-Picard	30.10.13
THOMAS SMITH-PICARD	<i>[Signature]</i>	30.10.13
DAVID GIBBONS	<i>[Signature]</i>	30.10.13
NGAIRE MALOUF	<i>[Signature]</i>	31-10-13
GEORGE MALOUF	<i>[Signature]</i>	31-10-13
ANNE NOARY	<i>[Signature]</i>	31.10.13
MARGARET SMIT	<i>[Signature]</i>	31-10-13
SANDY SILABON	<i>[Signature]</i>	31-10-13

Filed by  
Form PEC-6

Name  
Service address  
Phone no.  
Fax no.

JL-4

No: BD 4014 of 2013

15

In the Planning and Environment Court  
Held at: Brisbane





BETWEEN:

Appellant                     PURE MOUNTAIN PTY LTD  
                                    ACN 1074 472 748

AND

Respondent                 SCENIC RIM REGIONAL COUNCIL

For the convenience off all parties, we, the undersigned, who have filed elections to co-respond in this appeal, wish to be represented in this matter by JENNIFER PEAT who has also elected to co-respond :

Printed Name	Signature	Date
MARTIN SMIT		31-10-13
FRANK ROTHEMAN		31-10-13
SHARLE MUGGT		31-10-13
Geoffrey Moore		31.10.13

Filed by  
Form PEC-6

Name  
Service address  
Phone no.  
Fax no.

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JPEG