

# TAMBORINE MOUNTAIN PROGRESS ASSOCIATION INC.

"Protecting the quality of living on Tamborine Mountain"

## ANNUAL REPORT - September, 2017

Throughout the year each monthly meeting brought forth new items of general community interest and whilst these generated animated discussions, the whole year was dominated once again by the two very large court cases TMPA has been involved with – the Gillion (Power Parade) water case and the Guanaba Experience mountain bike park proposed development on the mountain's eastern escarpment.

This hundred year old community organization has consistently worked to enrich and protect a quality of life that for years has been the envy of people far and wide. It is no accident and certainly no gift from up above that residents here enjoy a laid back and environmentally friendly existence so vastly different from immediate urban neighbours in the large cities of Brisbane and the Gold Coast. Successive waves of residents over the century have had their say in how the mountain has evolved.

To protect themselves from open slather, ad hoc unwelcome developments on the mountain, residents, for a measure of certainty, rely heavily on the local planning scheme. Thus, monitoring development applications has become an increasingly heavy burden on TMPA with wealthy and determined developers salivating at the thought of dollar signs springing from a valuable finite and attractive bit of real estate.

The local planning scheme is the residents' cloak of assurance and any development application which seeks to over ride the scheme and so threatening lifestyle, quite rightly attracts input from the potentially affected community. **But how powerful is the voice of the community?**

Legislation is set up for people to supposedly have a say. When a potential threat has loomed large, TMPA with appropriate research has been able to inform residents of significant formal codes from the planning scheme which people may then use to support their views. Without these, no one bothers to take any notice of what the residents say. Many thousands of submissions to Council over the years have gone, in the main, ignored. Whole binders full of resident responses have sat on shelves gathering dust.

Fronting these responses has been TMPA. It has been estimated that approximately 90% of the population arrives for a particular lifestyle, unlike any other moderately large community in the country. Seemingly not understood by Council in general is that TMPA's sole activity with regard to development applications has been to support Council's own planning schemes as they relate to Tamborine Mountain for the benefit of the residents. .

That Council is unable or unwilling to define the unique character of Tamborine Mountain and seek to preserve its attraction via the planning schemes presents a serious problem.

### Gillion Pty. Ltd. & Guanaba Experience

These two appeals consuming much time and energy (not to mention money) by teams of lawyers and experts on all sides can be tracked directly back to Scenic Rim Regional Council's questionable planning reports.

***Fassifern Guardian, 14th Dec. 2011.....A disturbing trend towards a bureaucratic autocracy is beginning to appear in the planning ranks of the Scenic Rim Regional Council.***

***If it continues it will give the planners unassailable powers in the decision-making processes of Council.***

***.....It works like this: An application is made to Council for a project that is unpopular with the public, is seen to be flawed in various planning aspects, and attracts hundred of submissions.***

**Council planners, though, say it is not the number of submissions against a project that counts but rather their content. The planners then identify about a dozen issues overall raised in the hundreds of objections and proceed to dismiss them as ‘not significant’ .....**

In court only several months ago Gillion’s barrister in outlining the history of the Power Parade site reminded the court that Council originally was of a mind to approve the development application despite the conflict with the planning scheme.

*(In October 2011 Council’s planning report recommended approval of the Gillion development application lodged earlier that year. This was published on the website. Phil Giffard made an urgent detailed submission to Council pointing out the flaws and urging the report be changed or removed from the website lest it form grounds for a possible appeal. Nothing happened and whilst Council did not support the recommendation for approval, this source remains a major reason we are still battling this development application today.)*

On the other hand the Guanaba Experience development application (with 560 objections from local residents) received not only a favourable report from Council’s planning department, but it was also affirmed by the majority of Councillors. The strong recommendations on planning grounds by the mountain’s two Councillors against the proposed development at this site were ignored. So much for democratic representation at local government level.

**It can be said, based on these two cases, that the power of the people, at least in Scenic Rim, is very weak indeed.**

In court whilst we are on the same side as Council in the Gillion case, the Guanaba Experience skeletal sub standard development application virtually obliged TMPA to appeal Council’s approval. This was for the benefit of residents as well as preservation of a key environmental area.

So how does this unsatisfactory situation come about?

In formulating a development application which is in conflict with the local area plan or which could be unpopular with residents, a developer generally spends much time massaging the application, sometimes for years. Typically he uses a lead agency which is well known for delivering the goods for developers. It is no surprise therefore that one such agency has its office directly across the street from the front door of Council chambers.

Time passes and a final version of the development application lands in Council’s lap.

Planners are faced with planning schemes which today are so complex even lawyers have difficulty formulating views. These plans have within them so many codes and multiple layers that by using a slanted subjective view one can cherry pick the codes required. However, Tamborine Mountain has been well covered in the planning schemes if only planners cared enough to select the codes which seek to protect the distinctive characteristics so evident to residents. .

The 1997 Development Control Plan by using a simpler format was much easier to understand than its 2009 version. This does not excuse planners’ tunnel vision to ignore the Council’s rate payers and the value they place on relevant codes in the planning scheme. Several months ago TMPA asked a group of environmental lawyers what is the answer when codes the planners support differ from the ones supported by residents. A long silence ensued.

Clearly there is wide gulf between Scenic Rim Regional Council and the residents it is supposed to serve. The Fassifern Guardian again :

***Fassifern Guardian 14-12-11 again .....*” .... a topsy turvy situation in which unelected, unconsulted planners becoming more powerful than the legislation they are supposed to uphold in the interests of the community – creating an unhealthy perception of them as virtual allies of developers.”**

Gillion Pty. Ltd (Power Pde) – commercial water extraction

This case is nearing its final stages in the Planning and Environment Court. The four lead people for the 104 mountain Co-Respondents have just supplied a second round of Statements setting out basically that the over riding need for this facility has not been established.

As Gillion has sold its bottling plant, Wetfix, it now proposes to sell water “at the gate” to third parties. It is envisaged supplying unlimited unknown tankers with an array of different drivers who have consented to Water Supply Agreements. It is questionable that compliance and accountability can be monitored effectively by the supplier, particularly with Council’s record.

There is now the stated “need” for a further water supply being available for fire fighting purposes. This is what the court convoy came up here in March this year to check by visiting all available sources from north to south of the mountain.

The actual trial is now set for the week beginning 25th September. Anyone can attend the court which is located across the road from Roma Street station. An attendant on the ground floor is able to direct people to the appropriate court room. Hearings generally start at 10 am, and you can come and go as you wish. Just bow to the judge as you exit the door.

Guanaba Experience development

This appeal is grinding along in its final stages and interestingly the trial date is also set for the week commencing 25th September.

All the experts’ reports have been finalized with many adjustments and additions requiring multiple visitations back and forth to the lawyers and experts.

What we are left with is the transformation of a highly protected large environmental area into a mountain bike park reminiscent of Whistler in Canada. There are now so many conditions proposed it will require a large book to list them all.

Imposing conditions supposedly mitigating problems with a development is an easy cop out. Once the Conservation Precinct is changed to a sporting area, there is nothing to stop the developer applying to Council for changes to the conditions, or even to eliminate them. This is common practice and Council’s record has been far from great. On the other hand as time passes and Council staff changes, conditions attached to a development tend to be forgotten and ignored.

Whilst Council’s ability to monitor compliance has improved, it nevertheless has a strong reputation of simply caving in and ticking off whatever request regarding conditions comes in. One famous case in the shire was the Cryna quarry development application. Lots of objections flowed in, but Council approved this by imposing about twenty conditions. These included a requirement for the developer to build a portion of the Beaudesert bypass. In time all conditions were lifted and in the end Council even agreed to remove the rock rubbish the quarry generated.

Guanaba was similarly approved by Council with addition of conditions. A lot of time was spent during the court process waiting for the developer to provide much further information and compile reports which should have been supplied with the original development application. So how Council could have made an informed decision in recommending approval remains a mystery. It smacks of a cavalier attitude to an area widely acknowledged to be a regional asset.

As a valuable addition to the mountain’s famous environmental character the loss of Guanaba gorge would be severe indeed.

### Other issues

*The New Planning Act 2016* came out on 3rd July. This now replaces the *Sustainable Planning Act 2009 (SPA)*. Several members of TMPA recently attended at Robina an Environmental Defender's Office briefing on details of the new scheme. The new Act is claimed to be easier to navigate and the complex previous system has been simplified. There are tighter bounds of assessment and there should be more time for communities to have their say. With assessment managers now required to publish the reasons for their assessments, it is to be hoped that planners do not just cite that by applying conditions any claimed adverse effects of a development application can be satisfactorily mitigated. Council's ability to monitor and enforce compliance is not brilliant.

**The big question is now that we have a new planning scheme which is clearer and simpler, will it be enough for Council to open its other eye.**

There was a near disaster at the hang gliders' site where road works on the western side were about to be started. Swift action by Councillor Nigel Waistell saw an immediate early morning meeting of representatives of a number of organizations, police department and fire fighting groups to discuss the matter with Council's Works Manager. A satisfactory decision was made to have car parking on the eastern side as previously as earlier envisaged, thus avoiding further blocking the wide view to the west – probably the mountain's best known natural attraction.

We were pleased to hear of the extensive renovations to Roslyn Lodge which was nearly lost to the community earlier in the year. With a larger than usual older population this is a great comfort to many people.

TMPA has now received ABN and GST registration. We need the ABN for grant applications. This potential source of wealth is being diligently explored by Hilary Furlong. With the GST we can now claim input tax credits from the considerable legal and expert expenses that were generated during the Guanaba appeal.

TMPA has been fortunate to have many dedicated hard working members who have donated their time and energies to the core matters the association has been dealing with. Thanks must go to executive members Jenny Peat, Secretary and Amanda Hay, Treasurer for productively dealing with their continual heavy work load. We are grateful for the input from the rest of the team – management committee members Derek Swanborough, Stuart Wright, Roly Lindenmayer and David Henderson as well as the further support from the enthusiastic regulars at TMPA much animated meetings. Of course a very special thanks must go to David and Lesley Sandiford for the incredible amount of work done in dealing with the Guanaba case. With support from Jason Gray and Sarah Hanley, their level of dedication and detailed research would surely be difficult to match.

And thanks to all the TMPA members and supporters for your continual support and interest. Together we just may preserve much of this great place for everyone to enjoy.

Jeanette Lockey,  
Hon. President, TMPA