

## **Newsletter.....December, 2017**

The whole of 2017, from January onwards, has been nearly fully occupied by TMPA’s two important court cases. One is about our water, and the second about our environment which is a defining characteristic of Tamborine Mountain.

The state of the mountain’s aquifer has long been concerning mountain residents. Letters to local papers about industrial size tankers taking water off the mountain for sale as bottled water go back to the turn of the century. TMPA’s commitment to the Gillion water extraction case remained strong despite the very long tortuous journey as set out in the Timeline in the July Newsletter.

Our environment took a big hit when in May, 2015 the previous Council passed a seriously sub-standard development application for an “outdoor recreation facility and camping grounds” in Guanaba Gorge. This was in spite of Council’s new comprehensive Biodiversity Strategy which lists the amazing flora and fauna the shire should be proud of.

TMPA did not oppose the concept of a mountain trail bike facility. It was simply a good idea in the wrong place. .

The 500 acre Protected Conservation Area on the mountain’s eastern escarpment which is Guanaba Gorge should have lit warning signals within Council. This area had the highest possible protection under our Planning Schemes. After narrowly missing status as a national park in the 1920’s, many people over many decades worked hard to protect its integrity. The Federal Government spent some of its Telstra money to establish management strategies for its protection via a newly formed management committee which eventually morphed into Landcare.

We now breathe a sigh of relief as both these cases are now finalized, with a judgment already handed down in one and the other expected in the New Year.

### **Guanaba Experience development**

Finally, after nearly a year’s diversion through the Federal Department of Environment, this development application reached its conclusion in the Judgment handed down by Judge Kefford on 1st December - all one thousand and sixty eight pages of it!

In the two years of this appeal process much of the time has been spent setting conditions “mitigating” the problems being identified after Council rolled over and ticked off a development application which contravened the Escarpment Protection Precinct (Tamborine Mountain zone) in which Guanaba Gorge sits.

It is not surprising therefore that most the Judgment of 1st December consists of lists of conditions.

The link to the court judgment is as follows:

[https://qudaaustralia-my.sharepoint.com/personal/andrew\\_davis\\_quda\\_com\\_au/\\_layouts/15/guestaccess.aspx?docid=0043225a4b297404aa244af4f59eee02a&authkey=AQIFzZjNRr9SD92-qqrQj9E&e=38b07a3c13354248840f55f90df6e722](https://qudaaustralia-my.sharepoint.com/personal/andrew_davis_quda_com_au/_layouts/15/guestaccess.aspx?docid=0043225a4b297404aa244af4f59eee02a&authkey=AQIFzZjNRr9SD92-qqrQj9E&e=38b07a3c13354248840f55f90df6e722)

The conditions handed down from the Federal Dept of Environment below form part of the 1068 pages of the Final Judgment and are found within the Conservation Management Plan.

EPBC approval conditions (only six pages) here:

[www.saveguanaba.com/CAR/EPBC\\_approval\\_conditions.pdf](http://www.saveguanaba.com/CAR/EPBC_approval_conditions.pdf)

Council conditions which were drafted by the developer's solicitor and generally accepted by Council can be found from page 1 to page 23 in the Judgment.

Conditions set by the Stage Government Department, SARA, can be found from pages 162 to 174.

The staff at SARA (Ipswich) initially adopted a lackluster, relatively careless approach to the development application when it first landed in their lap. In its job of forwarding the application to the relevant State Government departments as concurrence agencies, it missed sending the application to the Department of Environment & Heritage, but did send it to the Department of Forestry and Mines. So a critical early assessment of the gorge's environment was missed.

Of course the priceless value of Guanaba Gorge is its environment. It took the Federal Department of Environment to identify a section of critically endangered lowland rainforest within the gorge, establish it as a koala habitat (a threatened species) and generally lay down strict conditions before it too ticked off the then amended development application.

In the final months, SARA appeared to have recognized the many flaws in the development application and their final conditions are strong and satisfactory.

The Department of Main Road also seems to have gotten its finger out towards the end and set a number of welcome strong conditions. The developer has to do some hefty road works before he can start his business. A triangle at the corner of Guanaba and Kaiser Roads has to be cleared and sight lines need to be adjusted to make this dangerous intersection safer. Kaiser Road is to be widened up to the entry point and vehicular access for three fire trails off Guanaba Road have to be constructed. The plans for these road works need to be initially approved by Main Roads Dept. before works (at the developer's expense) can commence.

Satisfactory conditions have been set for bushfire management. These are as good as we could have hoped for. There is to be more clearing around buildings. The undergrowth along Guanaba Road is to be cleared with a thirty meter set back. There are various fire trails within the property. .

The environment received its best protection from the Federal Department of Environment which recognized the koala as an endangered species. The gorge is a koala habitat and measures are in place to hopefully lessen the annihilation of this threatened species in this area.

The Alberts Lyrebird is recognized by the State (as well as by the Federal D O E) as also endangered. It has scored a plus on the master plan where a small thin strip marked "Reserve" beside Guanaba Road is to remain uncleared presumably so that the lyrebirds can safely cross to the empty block on the other side of the road. .

The Vegetation Management Plan is still to be written.

In appealing the Council's approval of the development application, TMPA has managed to get the best possible set of restrictions and safeguards in place for this adventure park to be better managed.

Council ??....What can one say? Clearly it facilitated the developer's application all the way. Even at the stage where Council could have pulled the plug on the inappropriate application, it reverted to its well practiced habit of sitting on its hands.

This was at the Minor Change stage in March this year. The development application Council approved was the Mt. Tamborine Camping and Activities Pty. Ltd. This was subsequently changed in amended plans to Guanaba Experience Pty. Ltd. The development changed itself from a family/tourist oriented multi-function facility to a park solely focused on attracting visitors for adrenaline based activities. These central activities are mountain biking together with camping and day clinics plus high ropes courses and zip lines. There is no longer provision for an onsite caretaker and public camping for families and use of private vehicles in the park is no longer being offered.

It would take a large leap of the imagination to consider this change as “minor”, bearing in mind the definition of “minor change” – Section 495(2)(b) of the State Planning Act (SPA).. Council had the opportunity to disentangle itself from its earlier poorly thought through decisions but chose to do nothing, with the result that we have lost a priceless highly protected environmental area to an “adventure park”.

A key feature of the “Green behind the Gold” which is a significant State regional asset has vanished.

When the judge was presented with the 1068 page Judgment (25 cm high minus binding), a member of our team made the following observation .....

“Her Honour looked nonplussed but when offered a copy of the front page serenity was returned. All was deemed well and Her Honour exited stage left followed by clerk carrying paperwork. It reminded me of the final scene of Raiders of the Lost Ark where the ark is wheeled into a vast warehouse, never to be seen again.”

Meanwhile, down in Aratula.....a study of the koala population by Council and a number of landowners in a 40-hectare area there expects to reveal how one of our national icons is bearing up there.

“Mayor Greg Christensen said Council was committed to working with the community to preserve and enhance the Scenic Rim's unique natural environment in line with its Biodiversity Strategy, a 10 year framework supporting the shared Community Plan vision for the region's environmental outcomes.”

He said “the Scenic Rim is home to more than 200 rare or threatened plant and animal species, including the koala, and Council acknowledges the important role of landowners as stewards of the local environment” (*Tamb. Mt. News, 24th Oct. 17*)

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

Judge Morzone conducted the final court session from his court in Cairns on 15th November. Proceedings were relayed to the court in Brisbane via video link. The full day was basically a summary of key points brought up throughout the whole trial during the week commencing 25th September. Council's QC, Roger Traves, flew to Cairns to present Council's case in person.

Council understandably has made a huge effort to bring this expensive long winded saga to an end. Their lawyers explored all possible avenues, interviewed many mountain residents and enlisted their aid where applicable. All in all a commendable effort by Council's lawyers and illustrates how the combined effort could hopefully bring a result satisfactory to both Council and residents.

Judge Morzone expects to release his judgment in the New Year.

.Both court cases presented great challenges to the TMPA team and their many helpers. The Guanaba development application attracted 566 objections. Two hundred residents supported the appeal. A further 900 signed the petition to the Federal Minister of Environment and 500 people sent colourful creature postcards to the Federal Minister. That's a really big effort.

The latest Gillion water case (the third) saw 103 residents stand as co-respondents. Effectively they were supporting Council and its lawyers. The latter thoughtfully kept us in the loop right through the appeal which smoothed the path somewhat for us.

So, here's hoping on this one.

On behalf of TMPA's management team I wish all members and our many supporters a safe and festive Christmas and New Year.

Jeanette



**When an animal has a home range, where it's lived all its life and you destroy it you can't expect it to just move next door and be happy" ,**

Dr. Michael Pyne, senior vet  
Currumbin sanctuary hospital.

*(Gold Coast Bulletin, 26th October, 17)*