

Newsletter.....April, 2017

Our two long running court cases continue to occupy nearly all of TMPA's time. No end in sight yet, but we keep on trying.

Guanaba Experience development

Although much was expected of the Minor Change argument, the approximately two hour hearing on 24th March before Judge Everson turned out to be a fizzer. The judge was not in a happy mood. An adjournment was needed so that a succinct list of changes to the original development application (2014) could be made and whilst the judge waved off the trolley full of Guanaba Experience files prepared to argue for the "Minor Change", he was eventually persuaded to read the submission from TMPA's barrister.

Unfortunately we were unsuccessful with the arguments against GE's Minor Change with the judge reading out his verdict complete with two precedents from other trials. As far as the judge was concerned, the original application was for a recreation facility, and as it still is a recreation facility, the changes must be minor.

However, there is a further requirement under the Minor Change category which is that it should not result in a substantially different development. And what was originally purported to be a family friendly recreation facility is now one centered on bike sports and teaching classes.

Council and the lacklustre State Government Dept, SARA (established in 2013 to fast track development applications) said nothing more than that they did not object to the changes.

The biker numbers have changed from 10,000 in year 1 rising to 50,000 in year 5 to 50,000 in year 1 rising to 60,000 in year 3. Some original proposals or variations thereof are now years down the track as the developer concentrates on his preferred activity.

The original proposal promoted family/tourist camping of up to 150 people across several parts of the site. Campers could use their own vehicles, thus being able to attend local shops and restaurants with relative ease. Campers are now restricted to a single demographic – people who attend mountain biking clinics and enjoy adrenaline based activities. There is one remaining campsite with campers no longer having vehicular access with shuttle buses now providing transport to the site.

There is now no provision for a caretaker, leaving nuisance activities to be controlled by "embedded" coaches – people of the same demographic as the bikers themselves. This camp site for up to 100 bikers is remote from other areas such as the proposed restaurant area and it is difficult to see how monitoring can occur over such a large area.

Residents do not have the opportunity to respond to the changed application, and the Appeal proceedings are now back to square one.

The Appeal was reviewed on 29th March and Guanaba Experience was then required to file and serve comprehensive plans depicting the changed development application. In reply TMPA was required by 12th April to provide further and better particulars about disputed issues in this changed application. All our six experts have made further strong reports - a difficult task considering the short time and availability of the experts. Of interest is that our Ecology expert co-worked on the Chenoweth Report that helped create the Escarpment Protection Precinct. . .

As experienced with earlier G E submissions, the plans submitted were woefully inadequate and we have asked for further specific information and clarification of many points. These include impacts on clearing, effects on ecosystems, bushfire management and traffic at the Guanaba Road/Kaiser Road intersection. The plans do

not provide adequate protection against loss of native vegetation and habitat for flora and fauna. There is also a problem with different structures, bearing in mind the steepness of some of the slopes which are over 20 degrees.

There are further noise issues to be sorted out. These impact on residents – there are about 350 houses within 500 meters of the site boundary..

All such issues are of concern to residents in general. Much community effort has been put into maintaining the biodiversity of this small, forbidding and hilly gorge embedded into the side of Tamborine Mountain. Federal funding has helped produce a comprehensive study and management plan and the State Government was close to purchasing it to add to the national parks estate. It adjoins Tamborine Mountain National Park and provides a rich corridor for animals, birds and insects as is evidenced by the 400 colour photos of these creatures photographed in adjoining properties. The mountain's "green" space is on its flanks and studies have found that up to 80% of the Gold Coast flora and fauna is found on Tamborine Mountain (*Chenowith Report*).

On 11th May the parties and their experts will attend a "Without Prejudice Conference". This seeks to narrow down disputed points. The experts then meet and produce a joint report. On 22nd June a further "Without Prejudice Conference" is to be held. More statements of evidence are then exchanged by the parties with Callovers (2) to be held in July. The Appeal is allocated seven days in the August (2017) Sittings.

Any weather event such as the recent cyclone would have caused major damage to bike trails and sealed shuttle bus roads. Four inches and sometimes six inches are not infrequent. One water expert told us that in such an event, silt and sediment would cascade down the mountain, be carried along Guanaba Creek, into the Coomera River and then be visible in Moreton Bay in two days.

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

Because of a recently raised Minor Change issue, the Gillion hearing set down for the week commencing 27th February in the Planning & Environment Court could not proceed. Gillion had filed an application for the Appeal to proceed but the judge decided that the Appeal could not proceed until the Minor Change issue was resolved. .

Meanwhile, before the judge returned to Cairns (he was in Brisbane for two weeks), a general inspection of water tank sites across Tamborine Mountain was made on Wednesday, 1st March. A convoy of judge, lawyers and co-respondent representatives duly inspected numerous sites from the Eagle Heights Hotel to Laheys Lookout at the south end. Gillion's barrister had stressed that the facility at Power Parade was well placed for fire fighting purposes, especially if there is an outbreak at the south end.

The Minor Change issue was listed for 10th March, the final day of Judge Morzone's stay in Brisbane. This was postponed because one of Gillion's experts was unavailable. The judge decided he would continue with the case by court video link from Cairns. On 15th March a revised timetable was set with mountain co-respondents duly addressing the court and the judge (in Cairns) by phone link from a local residence.

The Minor Change application was set down for one day, 24th April, with some or all parties appearing via video conference from Brisbane. The judge welcomed anyone to visit his court in Cairns for the hearing.

The Appeal Book contains 1,900 pages. Cost per set was \$495, and whilst TMPA was granted a reduced cost by Gillion, Council had to pay the full \$990 for two sets.

Submission on “Shaping SEQ” – Draft South East Qld. Regional Plan

The new planning system set to commence on 3rd July this year promises great planning and development outcomes for the state. The Department of Infrastructure, Local Government and Planning will deliver a range of initiatives to support the commencement of this new scheme. These include an education and training program, interactive and animated tools, industry information sessions and the release of the Local Government Innovation and Improvement Fund.

The complex planning system includes the release of the S E Qld Regional Plan. The Draft SEQRP was released at the end of 2016 and people were invited to submit comments. The Environment Defenders Office held an information seminar to help people formulate these responses to the draft Plan. Input from the many attendees at this seminar (several from TMPA) included many desired objectives such as regional biodiversity values and corridors needed greater protection, the need to include the Urban Footprint in mapping of regional biodiversity values and endangered and vulnerable species must be given strong protection.

A number of different submissions by TMPA members endeavoured to make sure Tamborine Mountain values would be included in the Plan. We could be lucky. *(Several submissions will be posted separately on the website)*

Roslyn Lodge

After the startling surprise news that Roslyn Lodge was due to close on 31st March, great concern was expressed across the whole community. As the mountain houses a high proportion of older folk, this facility is essential for the area. After hearing of this plight from a local resident, Beaumont Care, a small Brisbane based care provider, stepped into the breach and has bought the Lodge thus providing certainty and continuity for our older population. A welcome good news story.

Jeanette