

Development Application McDonalds Treelands Drive Yamba May 2010

I move "that DA2010/0203 for McDonald's restaurant, signage, parking and landscaping be refused for the following good reasons:-

1. The proposal will be a more intensive use than the existing uses on the subject site and result in adverse impacts on the amenity of the residential area in proximity.
2. The proposed built form, scale and design is unsuitable for the site being inconsistent with the desired future character of development in the locality.
3. The proposal will not enhance the appearance, function and viability of commercial and retail areas as required under 3(a) zone of the Maclean LEP.
4. The proposed restaurant building and associated signage will be visually bulky and intrusive and will compromise and adversely affect the visual amenity of the locality and be overbearing when viewed from surrounding streets and residential properties.
5. The proposed development will adversely affect the character and amenity of adjoining and surrounding properties and the locality, in terms of increased frequency of vehicle movements and attendant impacts including noise, odour, light spillage, lighting and glare, safety and security, and hours of operation.
6. The proposed development will result in an unreasonable increase in vehicular traffic in local streets because of the intensification of use on the site.
7. The proposed development does not provide adequate prevention and management measures to address the threat to the security, safety and amenity of surrounding and nearby residents, and the general public, arising from people loitering and congregating outside the proposed restaurant at late night opening hours.
8. At times when restaurant closed and drive through open, the drive through would be the primary and not an ancillary use
9. The nature, size and location of the proposal will have substantial adverse social impacts significantly disproportionate to any perceived benefits.
10. The proposed development is not in the public interest".

There are compelling grounds for refusal of this application based on size, social impact, increased noise, increased traffic of at least 920 vehicles per day, inadequate vehicular access for community buses, taxis

and drop offs, lack of 2 assessment of feeder roads, increased intensity of use of the site as compared to 9 to 5.30 businesses, and especially that it is not in the public interest.

This restaurant with a 112 seating capacity will be larger than McDonalds at Ballina.

In respect of the aims of the Maclean LEP Zone 3(a), the provision of a McDonalds refreshment room in this location cannot possibly improve the viability of Yamba hill and Yamba town centre where council has over the years devoted much resources to facilitate a vibrant mix of restaurants and attractions.

I argue that all of the grounds for refusal in the motion are matters that go to underlining that the proposal is definitely against the public or common interest.

Academic writings on public interest define it as an interest that is potentially common to everybody. The public interest is the primary criterion for judging proposals. Private interests have to be put aside.

The academic and legal struggle to operationalise the concept of the public interest in planning has been about separating the public from the private interest.

Thus I keep away from the impact on other businesses. Even though that is absolutely real it amounts to an individual's private interest and would not stand court scrutiny unless it could be argued that the combined business interest amounted to public interest, because of consequent community impacts such as loss of employment. Unfortunately we do not have the benefit of an economic impact study on this issue to assist us.

There is no doubt that we need to protect the finite Yamba „food pie“. The people want a local food economy as does council, underlined through council's participation in the Northern Rivers Food links Project and support of Northern Rivers Food and Clarence Cuisine.

The drive through would be an integral part of the business proposal and not an ancillary use, or a use of premises which is incidental and subordinate to the predominant use. Whilst a drive through is not prohibited under the Maclean LEP and is not mentioned therein, at certain times of the day, when the proposed restaurant is closed and the drive through alone is open for service it would become the restaurant, have a "stand-alone" function and then be equal to the predominant use.

3 The revised Section 79CAassessment received since the Committee meeting has but one sentence dealing with the NSW Coastal Policy and the North Coast Design Guidelines as required under S32B of the North Coast Regional Environmental Plan – quote: - "the proposal does not contravene any of the aims listed, nor the specific design and locational principles provided by clause 32B". End quote. At least some valid objections should have been addressed in this assessment.

The Mid North Coast Regional Strategy is not mentioned in the revised Assessment. Part B of the Guidelines for Crime Prevention and assessment of Development Application“s must be considered but again no mention. The DA has not been referred to NSW Police for comment. Whilst optional, one would have thought this a prudent course of action. All very disappointing and unsatisfactory.

I am particularly disappointed that the report before us failed to mention the considerable case law where McDonalds Development Application“s elsewhere have been rejected. This must be remedied in future reports if the council is of a mind to refuse an unsatisfactory Development Application. We must have more balance in officer“s reports.

Our role as representatives is to make decisions for the electorate. We are relied on to listen to the alternate viewpoints and to make best decisions. In the event of position being overwhelmingly adopted by the community, there is no doubt in my mind that the elected representative should support the community position, in the absence of very compelling grounds. We have an overwhelmingly supported community position here and we do not have alternate compelling grounds in this instance.

Our key council strategic plans including Valley Vision 2020 and the Sustainability Initiative dictate that we should hold true to the values of our community as clearly expressed. We must now follow through our good policy with good decision-making. This application, if approved would undermine our forward-thinking.

I have proudly watched Clarence Valley Council grow from its infancy. Today we have the opportunity to grow more, to show leadership, and do positive good for those we represent.

No McDonalds in Yamba is the overwhelming view of community. That is indisputable. The people have spoken with great clarity and determination. 94.8% of 455 submission writers were opposed. I received around 300 emails expressing opposition and very few in favor.

4 As Dom Ferry so eloquently said a week ago, we should also stand for the many silent ones out there.

My hope today is that CV will join the communities of Blue Mountains, Byron Bay, Port Douglas, Margaret River, Randwick, Ashfield and others which have rejected McDonalds.

In my time in local government, with the possible exception of the Clarence Valley Council amalgamation I have never witnessed such civic engagement on an issue or such overwhelming opposition.

We witnessed a most unusual but effective alliance between the Chamber of commerce and Valley Watch with combined full page ads. What a clear message to council.

There is a whole lot of passion out there, a word one could suggest that the folk of Yamba have almost

redefined.

The proposal would be out of character for Yamba. Not in the public interest. Not in conformity with Yamba's cultural heritage.

Many have rightly argued that Yamba is unique, the adjudged best town in Australia, the seaside fishing village, the sun sand and surf, the quiet enjoyment atmosphere, the retirement treasure.

The people have told us clearly what they really care for as a community. Letters were from the heart telling us that they care.

This reinforces what they told us when council prepared the Sustainability Initiative in 2006.

Yamba values need to be protected for future generations. As an iconic tourist destination it needs to retain difference from all those other places that exhibit high rise and sameness.

The public interest test involves assessing whether the importance of the public detriments is greater than the importance of the public benefits. There can be no doubt that this proposal is not in the public interest and should be rejected.

Yamba does indeed still have that X factor, that special difference, the quiet rural coastal town/family holiday feel, which many people who live elsewhere search for, often vainly nowadays. They value, they enjoy, and they wish and

5 expect us to preserve this. That is what we, as elected representatives of the people, should do today.

Cr Ian Tiley

18th May 2010