

This DA contradicts "The principle of providing credible information in open and accountable processes to encourage and assist the effective participation on local communities in decision making." (Mullumbimby Settlement Strategy p5, G)

Roads and Traffic

The applicant proposes to use Left Bank Rd as the means of egress to and from the proposed subdivision despite the fact that existing residents living east of this site are already severely impacted upon traffic movements along Left Bank Rd.

Under DCP 11, "Contributions will be required from developments in the areas generating the added traffic". Also in this DCP (6.5) Intersections need to be upgraded at Azalea street and Jubilee avenue and Azalea street and Left Bank Road. How can this be achieved effectively when the total number of homes and therefore and daily car movements is undetermined?

Using Tuckerroo Ave as the sole means of egress to the subdivision also poses problems to potential residents of the estate since Tuckerroo Ave is known to flood. (see flooding section in submission). This continues to happen even though this intersection has been significantly upgraded in recent years.

We recommend:

* A master plan is produced to resolve these issues and to ensure sufficient section 94 contributions be sought from the developer.

Sewerage

The Application offers a number of "options" for sewerage. Referring to clause 45 in the LEP and particularly the DCP 11 (Mullumbimby) in relation to sewerage states; "**Satisfactory arrangements shall be made with council before lodgement of any application for subdivision**".

These loose options tabled are not "satisfactory arrangements" "before lodgement".

If the intention of the LEP & DCP in relation to this specific development should in any way be in doubt, the document goes further with a "specific requirement for Precinct 5" where it is stated;

"Prior to the granting of subdivision approval for the further residential development in the area west of Azalea Street (Precinct 5) Council will require the submission of a satisfactory engineering services design for the provision of water sewerage and drainage services to the WHOLE of the precinct."(Section 7.7)

This engineering service design required from the developer is for the **whole** of the precinct. This The developer has failed to provide such a design for even the current DA let alone the whole precinct.

We recommend:

* The DA should on these grounds be rejected and the Council should hold to its position in DCP 11.

* Submit a DA only **after** having made the submission of the "satisfactory engineering services design" for the **whole** precinct as required under DCP 11. This will require a master plan showing **all** proposed blocks.

* The developer be required to make satisfactory arrangements for sewerage. We request the arrangement no development is enabled to proceed, being constrained by the development moratorium. Further, connection to the centralized system only **after** the new treatment plant is

commissioned, **which includes the reticulation system upgraded and disposal systems finalised.**

Flooding

The developer intends to offer for sale house building lots on flood prone land. A number of the lots being offered (north of Road 1) are clearly within the Council's own 100 year flood mapping zone. The Mullumbimby Development Control Plan, states;

"to ensure that new development avoids constrained land such as steeply sloping areas or flood liable land" (Section 2.2K)

The Mullumbimby Settlement Strategy 2003 supports this;

"No residential development to occur on flood prone land" (Section 2.2 page 14)

With specific reference to the issue of using filling to mitigate flood risk, The Mullumbimby Settlement Strategy 2003 states;

"No further development involving filling or other modification of flood behaviour should be permitted on flood prone land" (Page 25 4.5)

With specific reference to the lots in question, the Mullumbimby Settlement Strategy 2003 states that **5 hectares** of the land zoned 2a for residential development is flood prone.

A further aspect of issues relating to flooding that the developer has chosen to ignore relates to the need for flood free access. This is dealt with under DCP 11 Section 6.4 where it is stated;

"Provision of flood free access is required from Clay's Road to Left Bank Road.....as a condition of approval to subdivision of land"

The junction of Tuckeroo Ave and Left Bank Road, floods cutting off road access to the current streets of Tuckeroo Ave, Hottentot Cres and Golden Penda and similarly any newly formed subdivisions that may result from this DA.

We recommend:

*Blocks listed as 14, 15 and 19 - 24 are unsuitable for development.

*The master plan is developed to design and demonstrate flood free access for the estate.

Steeply Sloping Land

The Development Control Plan 11 that relates to Mullumbimby states its purpose as;

"to ensure that new development avoids constrained land such as steeply sloping areas" (Section 2.2K)

The Mullumbimby Settlement Strategy 2003 states;

**"Development on land with greater than 20% slope is no longer permitted" and that;
"These areas are required to be preserved and rehabilitated" (Section 22.2 page 14)**

It is also noted in the Mullumbimby Settlement Strategy that a sizable proportion of the land zoned 2a for residential development is constrained in terms of future development due to steeply sloping land, with the recommendation being made that "larger lot sizes to reflect country lifestyle" be created. (Page 31)

Development on a Ridgeline

The Application seeks approval to build a road along a ridgeline along the southern boundary of the property (Road no.3). This ridgeline is currently an unmade "paper road".

It would be totally in contravention of the Council's own adopted policies to allow any such road to be built here. Byron Shire Council formally adopted DCP 11 (Mullumbimby) on 11th December 1990 the purpose of which it is stated as;

"To ensure that new development does not intrude on important landscape elements such as ridgelines" (Section 2.2J), Section 4.2 addresses precisely the land in question on the Coral Avenue site (known in this document as "precinct 5") and it states; **"The prominent east/west ridgeline is to be avoided by house sites and roads"**.

We Recommend:

* Road no. 3 is not built. This would make blocks 25 -31 inaccessible.

Use of cut and fill

The Mullumbimby Settlement Strategy states that;

"Subdivision design needs to accommodate the attributes of the land, such as vegetation, slope and drainage" (Page 18 2.3)

We interpret this to mean that development of subdivisions should work with the established land forms and they should not be completely destroyed in the development process. The area is being reshaped with all blocks being either cut or filled and cuts as deep as 1.96 metres with fill of 2.0 metres. Only 6 blocks are not being entirely modified the remaining 25 will have not natural soil remaining at surface level. This is clearly not working with established land forms.

The soils in the project area are highly susceptible to mass movement and cut and fill works will increase the chances of landslip. In June 2005 flood, a slip, caused by fill being washed away made Tristran Parade completely impassable. Further the amount of disturbed exposed soil is alarming and raising a serious risk of sedimentation issues in the riparian zone

Native Vegetation

The stand of mature brushbox and pink bloodwood need to be protected, especially as removal of hollow bearing trees is listed as a key threatening process under NSW legislation. Under the settlement strategy a plan is needed to ensure protection of this vegetation. Although it is not required to be removed in this DA its future is no longer guaranteed as it will be part of small urban blocks and a DA could be granted for its removal due to safety and fire issues.

We Recommend:

Blocks 30 and 31 be removed from the DA and the vegetation become part of the road corridor

Size of Lots

The size of the proposed lots down to the 600sqm statutory minimum is inappropriate for a residential development that is located nearly 3 kilometres from the urban centre of a small town. It is reasonable to assume that higher density housing takes place in the centre of urban areas,

with larger blocks and lower density housing as the town expands outwards, thus creating an aesthetically and environmentally more pleasing feel in the movement from urban to rural. This is not the case with this DA. The Mullumbimby Settlement Strategy specifically states in relation to Area 6 (Defined as the "Undeveloped residential land off Tuckeroo Ave") that the development should be in **"larger lot sizes to reflect country lifestyle" (page 31)**

The other argument that favours larger lot sizes is that many of the other problems discussed above could be off set simply by the lot sizes increasing to between one and five acres. Thus problems associated with flooding, steeply sloping land, and ridgeline protection could be largely mitigated.

The amount of storm water runoff would decrease dramatically also reducing the chances of landslip. People on 1 to 5 acre blocks will tend to plant out their land with trees and vegetation a lot of which would be native. There would even be the opportunity for some rainforest regeneration in the valley. This would actually enhance the environment by providing habitat for birds and animals, with a net gain to the environment compared to the current pastures and adding significantly to the richness and biodiversity of the area. Aesthetically and environmentally this would be a result that we could all enjoy and take pride in whilst still providing extra housing for people that want to live here.

There are then in conclusion multiple reasons why this Development Application is inappropriate and should be entirely rejected by Council in its current form. I have demonstrated the ways in which Byron Shire Council would be in breach of its own adopted policies if it were to allow this Application. However the problems are not irreconcilable and in fact a subsequent resubmission from the developer which followed Council's protocols and the requirements that the Council has set based upon larger and more appropriately sized blocks may well be successful not only for the developer but for the community and for the environment as well.