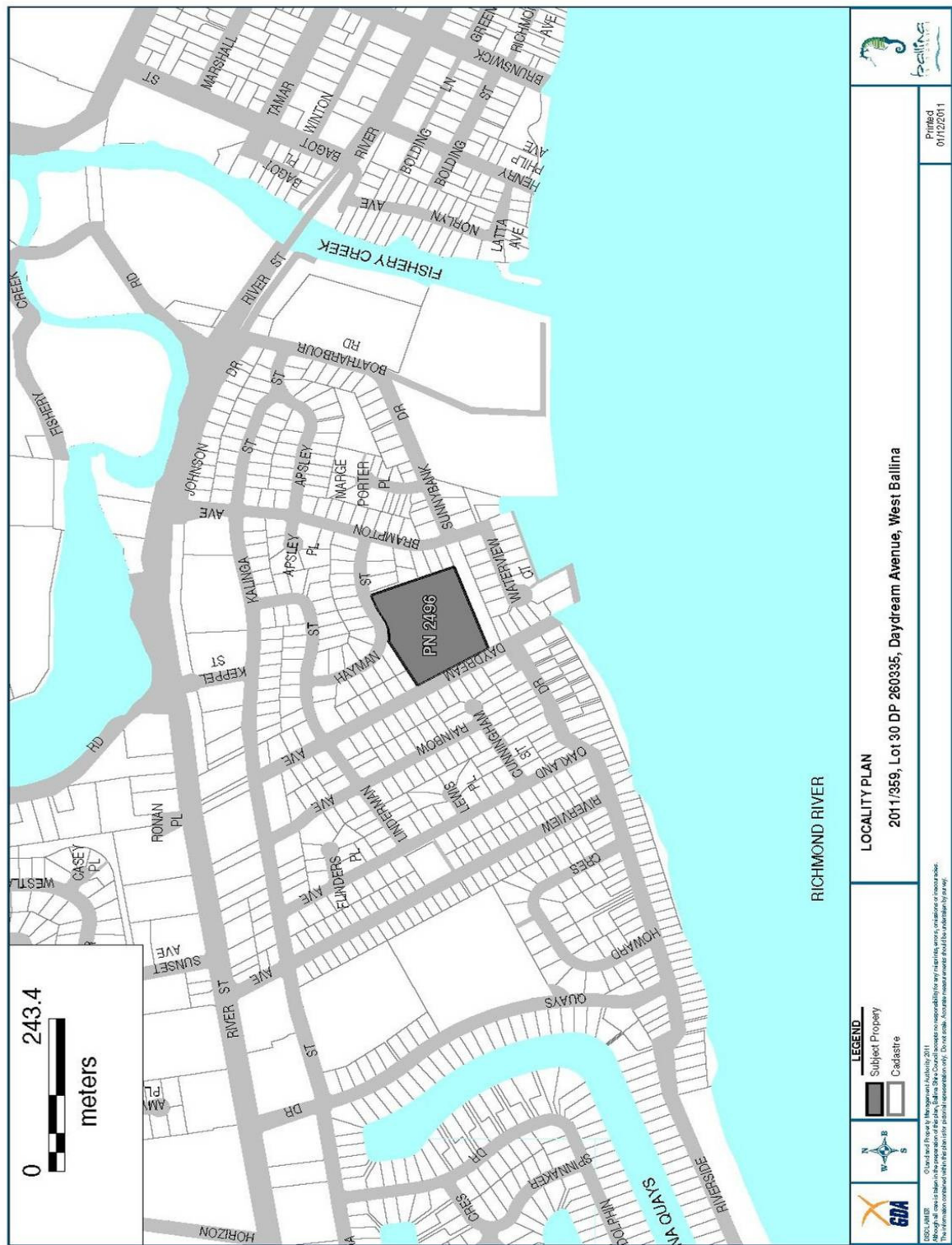
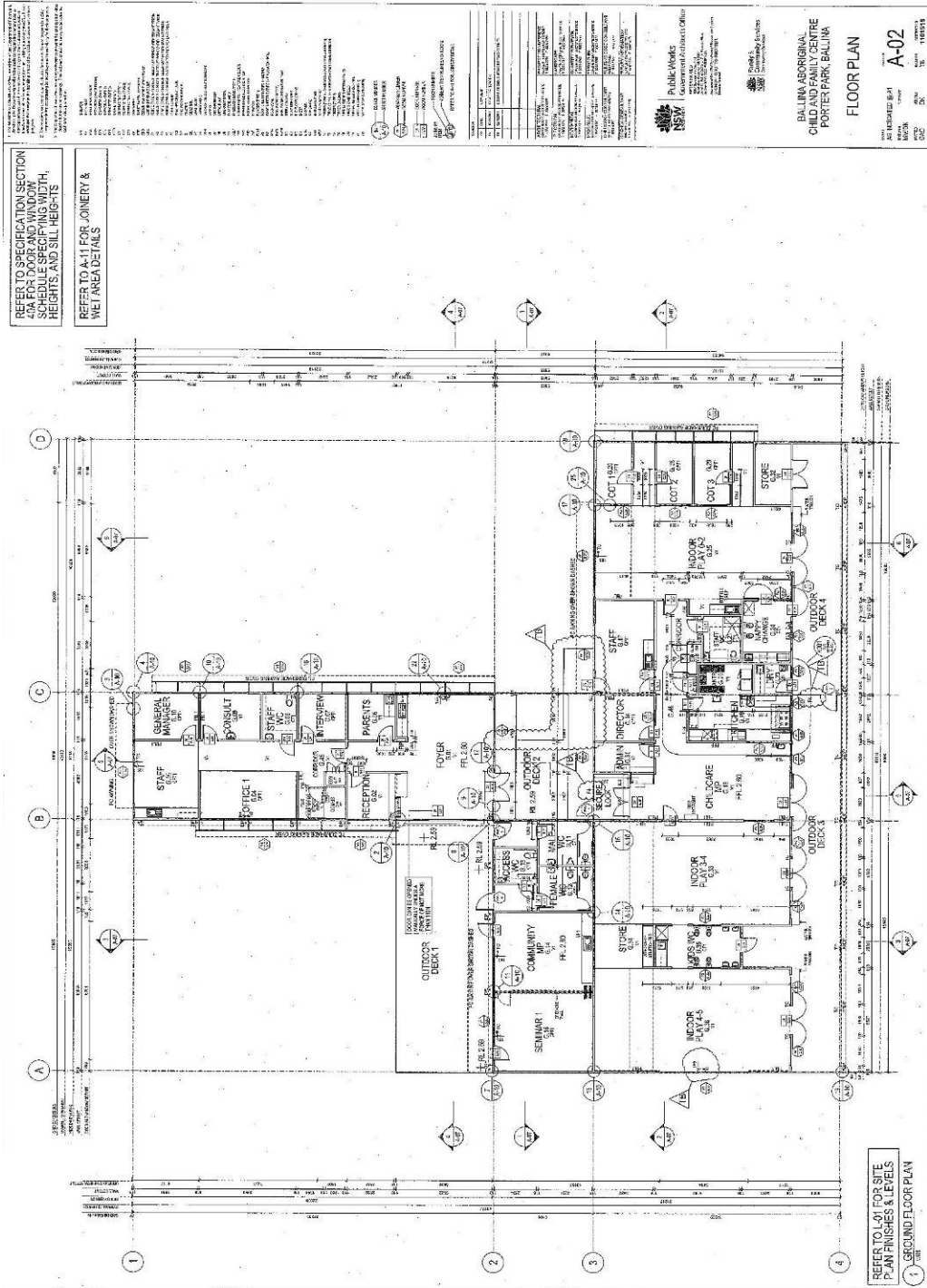
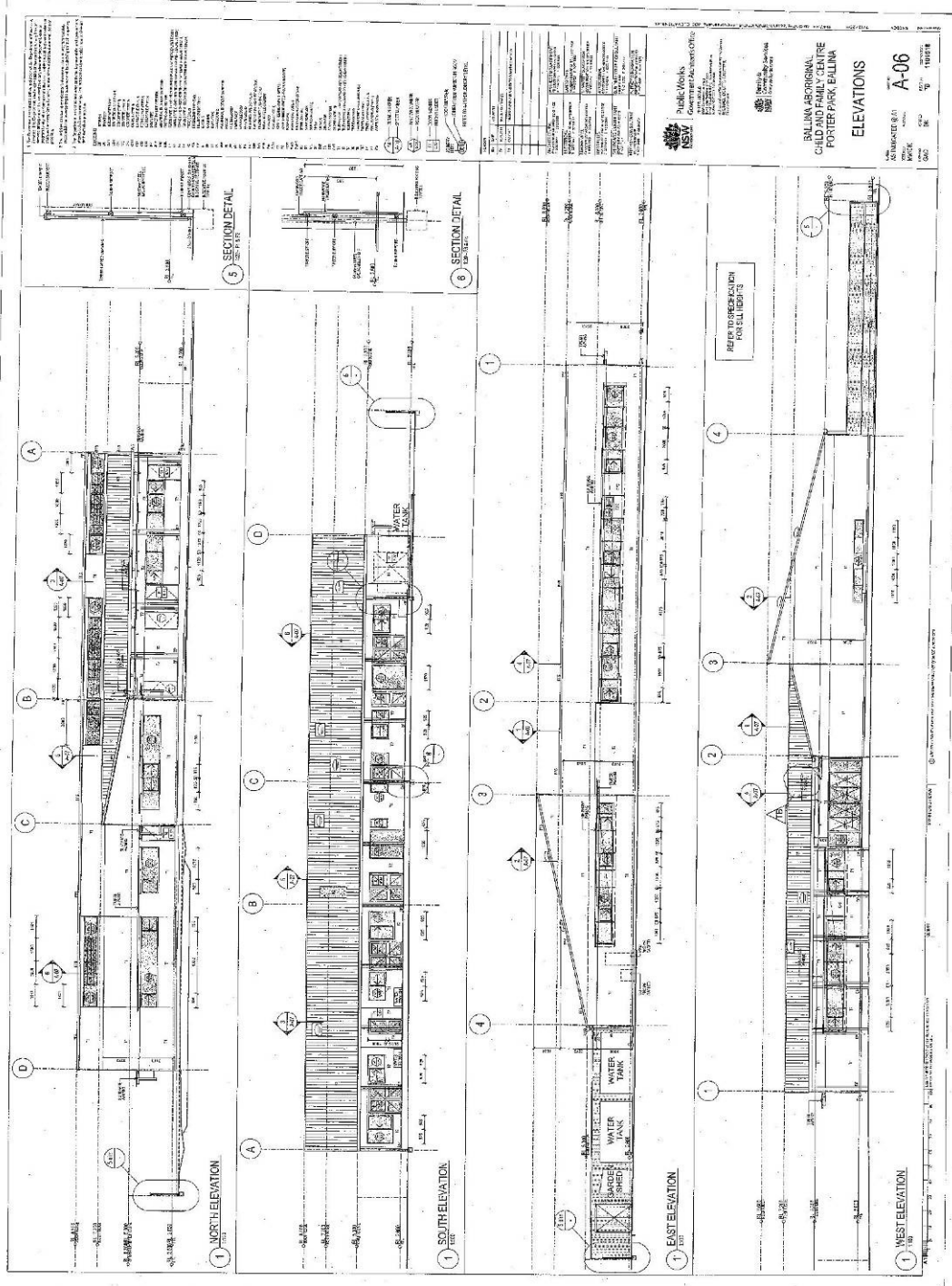


8.1 **DA 2011/359 - Child Care Centre, Porter Park, West Ballina**





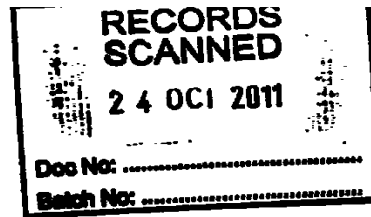


Public Works
 Government of Western Australia
 Department of Planning, Water and Infrastructure
 100 St Georges Terrace
 Perth WA 6000
 Telephone: (08) 9449 2000
 Fax: (08) 9449 2001
 Email: publicworks@pwai.wa.gov.au

Ballina Aboriginal Child and Family Centre
PORTER PARK BALLINA
ELEVATIONS

AS AMENDMENT 01
 DRAWN: [Name]
 CHECKED: [Name]
 DATE: 15/12/11

A-06



Ballina Shire Council

Re: DA2011/359 - Porter Park, Hayman Street, West Ballina.

We object strongly to the Draft Amendment (No.5) of the Ballina Shire Council Generic Plan of Management for Porter Park, and the development application DA2011/359 proposed for Porter Park, Hayman Street, West Ballina.

We are residing rate payers directly west of the proposed site. As stated in previous submissions regarding Porter Park we object strongly to development of any form. Allowing council to amend the rules to suit themselves, opens the door for future developments in all parks and recreational spaces. How long before Porter Park is swallowed up with more unmaintained public housing? As the council is already aware West Ballina is already 3.6 hectares short on accessible space on traditional standards. The other options available to the council are more suitable options for this development.

Our concerns if development was to proceed are as follows:

We strongly object to the use of the Centre's funds to change the infrastructure required to suit this location, i.e. footpaths, curb- guttering, storm water etc.

Building height requirements are currently set at 2.5 meters. The rest of Hayman Street and surrounding streets are approximately 1.8 meters or lower. What infrastructure and extra drainage will be implemented to compensate for the extra rain run off? During heavy rain, water laps at our fence line 3 meter's away from our back door. It also may be useful to inform the council that West Ballina is considered a Flood Zone and therefore many residents are unable to insure their properties for that very reason. During heavy rainfall it is not unusual for Hayman Street to be covered entirely in water. (see photos) Is the council prepared to compensate residents for flood damage once this development is built? The building will create approx. another 3000m2 in catchment for the storm water to contend with.

We object strongly to the fence being constructed and find it to be unnecessary it affect all residents residing east, of the proposed site. The disabled resident in Hayman Street will lose all his sunlight and visual environment.

We object strongly to the proposed 600m2 car space. It is excessive and unnecessary given that, the majority working or using the facility are walking. Other childcare facilities that have 90child places use a maximum of 12 spaces. These spaces are not full the entire time the centre is open, allowing cars visiting the centre to utilize the vacant car spaces, during business hours.

We object strongly the facility being used for anything else other than what was intended. Childcare centres are alcohol and smoke free zones. Having this centre used for Parties, Functions or Celebrations out of business hours would be a direct violation of Children's Regulations Act.

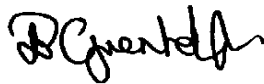
✓
We would also welcome if the centre is to be developed in West Ballina that appropriate laws are enforced. Alcohol Free Zones and new speed zones will need to be introduced. Hayman Street in particular is frequent for speeding cars, and located on a blind corner. Alcohol is consumed on the park and in the street on a regular basis.

We hope the council will come to its senses before wasting more rate payer's money and funding allocated for this centre.

Regards



J Daley



B Greenhalgh

1/18 HAYMAN STREET

WEST BALLINA NSW 2478

20/10/2011



↑ Hayman St into Hindermann St

* ↑



* 18 Hayman St WEST BALLINA NSW.

Mr. Paul Hickey
General Manager
Ballina Shire Council



15 Howard Cr.
Ballina N.S.W. 2478.
22nd Oct. 2011

Dear Sir

I wish to strongly voice my objection on the location (Porter Park) the proposed site to build a Aboriginal Child and Family Centre.

We should not be building on any open spaces or sporting fields for nobody.

How long is it since Ballina Shire Council created any sporting fields in Ballina?

There are other venues more suitable that are not out of sight out of mind for this development.

If 7 out of 9 locations have had land purchased by the N.S.W. Government to build these centres on, it should have been 9 out of 9 for the Government to purchase the land. We should never have been put into this situation to divide a community.

With the recent tragic event that occurred in West Ballina surely this is a wake up call for a centre not to be built on Porter Park.

So Council Staff are going to assess future infrastructure in West Ballina - amazing - can council tell me where the funds will come from?

And finally my firm belief is we should be assimilating NOT discriminating

Yours faithfully
JMorris (Jay Morris)

P.S. As for the public hearing that was held at the RSL Club in Ballina on the 31st May 2011 Council should be ashamed of themselves for calling such a meeting

Objection to the Development Application for Aboriginal Child and Family Centre DA. 2011/359

The proposed Centre is to be located in a low socio-economic area with a high crime incident rate. Porter Park is an inappropriate site for such a Centre.

The park is openly used for the consumption of alcohol and with one residence situated on the parks boundaries operating in drug dealing.

Police regularly attend incidents of crime, one very serious and consequently tragic incident in the past week. These crimes occur through Johnston, Kalinga, Apsley, Brampton and Hayman Streets with the proposed Centre to face Hayman Street.

Violence and crime seem to be an issue endemic to this area. This issue of violence in particular needs to be addressed before exposing more young children to the risk of harm.

Children are entitled to be in a safe and nurturing environment, not placed in a facility bordered by incidents of alcohol abuse, domestic violence, drug abuse and a high crime rate only metres away. That is a totally inappropriate environment for babies and children. With all these ingredients, it may well be a recipe for more tragedy.

The close proximity of a major liquor store may be contributing to alcohol issues.

Adults have choices, children don't. Our children are the future and deserve to attend a facility such as a Pre-school in a safe location, not a troubled one.

West Ballina residents are entitled to live in a peaceful and harmonious environment and not have to be ever alertful of crime,

drunkenness or domestic violence issues. As more people are relocated to West Ballina from other towns, these incidents are likely to occur more frequently.

The land should never have been re-classified. By Council's own admission, there is inadequate green space in West Ballina. Given time, this will worsen.

How much will this Centre cost the rate-payers? If no rent is charged that equates to a huge sum of lost revenue to the Ballina Shire.

Perhaps Council needs to re-think the ramifications of its decisions.

Adrienne Wratten
14 Daydream Avenue
West Ballina

Adrienne Wratten
20-10-2011



Ballina Shire Council

entr Amar & Cherry St
Ballina

Jennie Taverner

6 Waterview Court
Ballina 2478

24th Oct. 2011

Dear Mr Thornton

PH: 66869229

Re: DA 2011/359 Aboriginal Child & Family Centre

As per phone call with Hugh Johnson I wish to request an extra 10 days to submit my submission on the above DA.

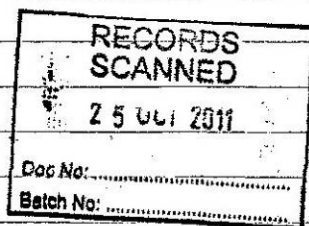
I have not had the opportunity to do so because of major health issues in the family.

My husband has been diagnosed with terminal cancer & I have been flat out taking him to doctors appointments chemo & caring for him.

My health has also been compromised

Yours Faithfully

Jennie Taverner





20th OCTOBER 2011
PO BOX 1298
BALLINA NSW
2478

To: - BALLINA SHIRE COUNCIL
Re: - BUILDING PLAN/LAYOUT FOR PROPOSED
INDIGENOUS CENTRE ON PORTER PARK WEST BALLINA

From: - DON LAMBERT SR Long term owner and
resident within view of Porter Park

Neighbours, my grandchild and myself use
the park regularly in the afternoons and at
weekends. We have concerns regarding the
following:-

(1) Firstly:- there does not seem to be
fencing of a suitable height, type or strength
around the full perimeter of this proposed
building. Security fencing is necessary to
protect those within and outside this
building both day and night.

(2) Secondly:- Concerns about people
illegally parking on the park itself

Yours Sincerely,
D. C. Lambert
DON LAMBERT SR

RECORDS
SCANNED
25 OCT 2011
Doc No: 1907680
Batch No:

pg 1 of pg 142

1907874

ACKNOWLEDGED

22nd October 2011
PO Box 271
Ballina NSW
2478

To: - BALLINA SHIRE COUNCIL

Re: - BUILDING PLAN (Indigenous Centre) Proposed for Porter
Park West Ballina.

Having resided part time within view of Porter
Park for the last 2 years neighbours and myself
discussed the building layout, parking, fencing etc.
These are a summary of our observations
and suggestions.

(1) Any Commercial building in a Solely residential
area is going to be a problem with access and
noise particularly of traffic. Concern to residents
is overflow of vehicles to adjoining streets
and possible driving onto the parkland. We
would suggest Council has relevant signage
made and displayed around the whole park
area, regarding "parking".

(2) Fencing of the proposed Building. We
believe fencing is incomplete. eg. Daydream
Avenue side backing onto park seems to
have no security fence. One other fence is
proposed to be 1.4 meter high. A simply
observation of the Commercial height, type and
strength of fencing around all perimeters of
similar buildings is deemed essential and
necessary for security of those people within
and to prevent break in at night. Fencing
Suggestion is "to observe this security fence
around all "Schools" eg. Ballina Public, Biala,
Ballina High as well as the Catholic Church
grounds and the High School Oval." then install

pg 2.

this same fencing around the whole of the centre with appropriate gates.

(3) Weekend use of Parkland and proposed Building - This is a sensitive issue to residents as the park is used mainly on these two days by "locals", as many live on small battle-axe blocks with larger houses on them as the 'park' was originally part of the Building permit to create these blocks & homes in the 70s, and many residents exercise their kids, themselves and pets as well as fly kites, kick balls around etc. Neighbours suggest to Council that the remainder of the Park be certified 'open space' with no other buildings or extension of this proposed building be feasible in the future. Open space is precious and essential for residents. A commercial use building such as the proposed one should function within the boundaries of that premises in commercial hours and especially not on a Sunday with traffic, ~~etc~~ and noise levels of people coming and going at night is going to be an issue for residents so once again opening hours of this building within close proximity to private homes is a major issue.

Hope these comments and suggestions are taken into account and are meant to be constructive and helpful.

Yours Sincerely,
Ms Anne Schmidt



Denis Magnay
148 Tamar St
Ballina 2478
20-10-11

Ballina Shire Council

General Manager.

SUBMISSION.

Dear Sir,

I hereby present my submission relating to the D.A to build on Aboriginal Child & Family Centre on Porter Park West Ballina.

Firstly I must advise that I am against the proposal. Also I do not live at West Ballina nor do I own any property at West Ballina.

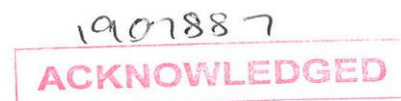
I am a long term resident & ratepayer of Ballina Shire & can't remember ever being so shocked at the decision by Council to re-cateragise the Land at porter Park to make way for the development.

I consider allowing this development to proceed on land set aside for open space & in a residential area to be totally unacceptable especially when other better options are available!

The process used for public consultation was a complete farce especially the public hearing which I believe was chaired by a person connected to the Council & whereby no one was allowed to record the hearing except by Council Employees taking notes

Thanking You.

Denis Magnay



Ballina Shire Council
P.O. Box450
Ballina
NSW
2478



Re: DA 2011/359 Objection to DA application.

I Strongly object to the DA Proposal for the building being built on Porter Park in West Ballina.

We purchased our home at 14 Daydream Avenue after years of saving to buy our first home in July 2010 and were told by the agent and subsequent legal searches that the park across the road from us was zoned sporting fields and therefore could not be built on.

Our family and their children were ecstatic when we moved into our new home taking in the view overlooking parkland which is a rare commodity for most families these days.

Thus I consider any type of construction on Porter Park A total disappointment to us if Ballina Shire Council allows this development to go ahead.

I believe that the extra traffic and activity created by this development will destroy the tranquillity in the immediate area near the proposed building. With the new flood level heights this will raise the overall height of this building which will look totally out of place with the nearby houses, a total blight on the landscape.

I believe that council should be building more sporting fields and open areas for the next generation, not building on the ones that we thankfully have at present.

If this D.A. gets approved I strongly suspect that in the near future more of the park will be rezoned for requests to provide extensions to this proposed building, therefore this type of development should be built in an area where there is ample land for future extensions.

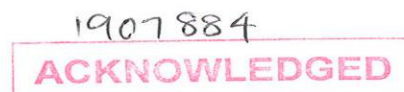
All said and done I believe the design is not in keeping with the type of buildings in the immediate vicinity and more consultation should have been done with neighbouring ratepayers, as this is something we have to live with for a very long time.

Michael Williams

14 Daydream Avenue
Ballina NSW

Michael Williams

21-10-2011



Sarah Carden
1/4 Waterview Court
BALLINA NSW 2478

24 October 2011

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Dear Sir

Submission to DA 2011/359

I wish to make an objection to the above DA regarding the following items:

According to the development application the building will be of 'lightweight construction externally lined in timber cladding' and the roof will be 'lightweight metal profile roofing'. This would be out of character with surrounding homes which are all of brick and tile construction and would create ongoing maintenance issues.

Also according to the plans, there will be timber decking adjoining the outdoor play area – I could see no reference to this being taken into account in the acoustic report and feel that this would create extra noise pollution, perhaps ramps and footpaths could be of concrete construction.

It was also unclear as to how high the fence along the Southern boundary will be. The recommendation from the acoustic report was a 2.4m acoustic fence. I would wish this to be enforced especially since the play area is now located on the southern boundary which will project noise to adjoining properties backing onto the reserve from Waterview Court. Am also concerned that the fences would be of timber construction – does this fit the requirements of an acoustic fence and again timber will create unnecessary ongoing maintenance issues for a public building as timber can very quickly become unsightly, as can be observed on surrounding Housing Department homes – besser block or brick would seem more suitable.

Also the park already has drainage issues, it remains soggy and unuseable for days after rain and weeks after heavy rain. As any extra construction on the park will contribute run-off, I would expect additional drainage to be provided for Porter Park as part of the development application.

Thank you for taking the time to address these issues.

Yours faithfully


SARAH CARDEN

From: roscoe [rpi71902@bigpond.net.au]
Sent: Tuesday, 25 October 2011 11:47:50 PM
To: Ballina Shire Council
Subject: Objection to DA.

10 daydream Ave, Ballina 2478

October 25, 2011.

Mr Paul Hickey,

Ballina Shire Council.

P.O. Box 450 BALLINA NSW. 2478.

OBJECTION TO DEVELOPMENT APPLICATION FOR CHILD AND FAMILY CENTRE ON PORTER PARK.

I would like to register my objection to the granting of a Development application for the building as mentioned above, for the following reasons.

[a] The development application differs greatly from the one placed on public display prior to the public meeting. The information given to members of the public at the meeting was erroneous, incorrect demographic figures were quoted, and letters in support of Porter Park were obviously written by one person, and tendered to council as a block in one hour on the previous afternoon before the meeting, a large preponderance of the letters in support, had addresses which could not be verified, and had the correct figures been used, the save Porter Park group would have won the day by 60%.

[b] Darryl Anderson should have declared himself unfit to chair that meeting, as his position was

compromised by his being employed by Ballina Shire Council on several occasions within the previous 5 years. We note that the first choice to chair this meeting was Ms Pamela Westing, she declined to chair this meeting for exactly the same reasons, as she had been employed by BSC previously. It seems Mr Anderson doesn't have the same scruples. [refer Local Gov't Act 1993 No 30 47G public hearings]

[c] The Local Reference Group [LRG] has now been discredited by the majority of aboriginal people who met on 3 occasions, and will be disbanded, and a new Group representative of ALL the aboriginal people [not just one family] is soon to be installed with the assistance of Minister Victor Dominello [Minister for Aboriginal Affairs] and his group led by a prominent elder from The Murri Murri clan, and reporting directly to the minister himself. This group will probably also take over the Jali Land Council as well. Knowing that the LRG has been stood down because it was found to be unrepresentative of the aboriginal people, it follows that all the information it has tendered to the BSC is also invalid, and unusable.

The Ballina Shire Council has just this one opportunity left to show some kind of responsible leadership, and declare this Development Application to be null and void. And to seek input from this new body, when it is soon announced.

Ross. Pickering.

20 October 2011

Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Dear Mr Hickey

Re: Submission to Council in relation to Development Application 2011/359, Lot 30, DP 260335, Hayman Street, West Ballina (Porter Park)

I wish to submit an objection to Development Application 2011/359.

I object for the following reasons:

The DA is significantly different to the material presented in the Public Exhibition material leading up to the Public Hearing. The process of the Public Exhibition, the Public Hearing and subsequent decision of Council to change the Plan of Management of Porter Park has been problematic and has been based on **conflicting and misleading information to the public and Councillors.**

The Council voted to change the Plan of Management for Porter Park to allow buildings to be erected on the parkland, a park which Ballina Shire Council made the developer provide as community parkland to accommodate the growing population of the estate. There are significant discrepancies between the Public Exhibition documents provided to the public with the original concept plan of the Aboriginal Child and Family Centre, and the plans and supporting documents submitted in DA 2011/359.

The Public Exhibition information was published on the Council website and also the plans were placed on a noticeboard at the Public Hearing for speakers to refer to. Due to the inaccuracy of this information provided by Council and significant difference in the DA information, I believe that the Public Exhibition process was invalid and perhaps illegal. No buildings should be erected on parkland and certainly not on Porter Park.

The Aboriginal Child and Family Centre should be erected on Treelands Reserve as initially requested by the proponents of the Centre, using the plans drawn up by Public Works for the Public Exhibition.

Another aspect about the Public Hearing which led to the vote by Councillors to allow the proponents to submit a DA to be built on Porter Park is questionable. The Public Hearing was

1905896
ACKNOWLEDGED

presided over Mr Darryl Anderson. It is my understanding that Darryl Anderson's consulting firm has been employed by Ballina Shire Council for other project consultancy, prior to the Public Hearing. If indeed he was employed as a consultant, Mr Anderson would have been ineligible to preside at the Public Hearing. I refer you to Page 46 of the Public Exhibition document "*Local Government Act 1993 No 30 47G Public Hearings ...*"

(2) The person presiding at a public hearing must not be

(a) a person who has not been a councillor or employee of that council at any time during 5 years before the date of his or her appointment."

Another concern about the lead up to the Council decision which has facilitated the submission of this DA is that \$100,000 was paid to the Ballina Shire Council. Ballina Shire Council staff sent an account to Department of Family and Community Services (DOFCS) for work carried out leading up to the decision of Council to ratify Porter Park as the site for the Aboriginal Child and Family Centre. It appears that the Council staff had already decided that Porter Park was to be the location for the Centre and it was going ahead, yet Councillors had not voted on the matter. This account was sent **prior** to the Council meeting. DOFCS paid this money to the Council promptly.

Specifically, the significant differences between the Public Exhibition documents and the DA 2011/359 are

1. The original concept plan, presented in the Public Exhibition documents (page 4 and page 39 *Public Exhibition- Community Land Plan of Management- Amendment 5- March 2011*) and placed on display at the Public Hearing, was drawn up by NSW Government Public Works. On page 16 of the Public Exhibition material, it was stated by Council that "*the accompanying concept plan illustrates what is proposed.*" This original concept plan was presented to provide information to residents for submissions and presentations at the Public Hearing. The original concept plan bears little resemblance to the floor plan and site plan of the current DA.

Some of the acoustic issues raised in the Ambience Audio Services' "*Acoustic Impact Study*," and their subsequent amended study, have led to recommendations that would not have been necessary had the original plans been used i.e. the noise barrier fencing.

The **car park** in the DA is shown on the eastern side of the site, whereas in the Public Exhibition material, the car park was on the western side of the site. The Public Exhibition material gave the reason that the "*view corridor*" into Porter Park would be better by placing the car park to the west of the site and placing the proposed building to the east of the site. "*The view from Hayman Street is opened up.*" The car park on the western side "*provides a buffer between Porter Park and the proposed facility.*" Acoustic issues have been introduced by this change of plan.

Effectively, placing the building on the west side and the car park on the east has generated **three problems**:

1. **Reduced view corridor** for the homes on Hayman Street facing the park due to the building now being on the foot print allocated to the car park
2. Necessitated **unsightly, high sound barrier fences** on the eastern and southern sides of the site
3. Eliminated the **buffer, low rise zone** between the buildings and the park on the western side.

2. Building Design and Construction Materials. The plans placed on exhibition leading up to the Public Hearing showed buildings that would be *“broken into clusters to enable pavilion like structures”* to be in keeping with the style of building already in the vicinity. Pavilions *“give the proposed facility a conventional scale, similar to the existing neighbouring properties.”* In addition, it was stated that similar building material would be used. All of the buildings adjoining Porter Park or opposite Porter Park on any of the four streets surrounding the park are constructed of brick with tiled roof except for one home which is fibro with a tiled roof. On page 20 of the Geolink report, it states that the *“northern wing of the building is visually exposed to Hayman Street and therefore the smallest wing so it fits within the context of the residential buildings in the surrounding streets.”* Due to the different materials being used, I do not think it fits within the context at all.

On page 19 of Geolink's *“Statement of Environmental Effects”* it states that the building will be clad in lightweight, timber cladding whereas the Public Exhibition material recommended brick, similar to that of the surroundings residences - *“similar materials in facade treatment.”* The roof in the DA is shown as metal, whereas all of the nearby homes have a tile roof in the adjoining four streets. Geolink also states the building will be on piers to get the floor height, yet there are no other buildings of this construction nearby. Geolink also describe an integrated park to facility transition (page 19), which could have been achieved to a greater degree with the Public Exhibition plans. The acoustic study had not been completed when Geolink did their report. With the noise barriers, the transition will be fragmented and dominated by built structures. This was not exhibited by Council for the Public Hearing.

In the *“Concept Stormwater Masterplan”* by NSW Government on page 127 of the Geolink Report, it is recommended that in this location that *“Flood compatible material such as solid block, brick, reinforced concrete or mass concrete”* is preferable. The original plan was proposed to be in one of these recommended materials. Council will be the owners of this building, wherever it ends up being built, it would seem sensible to take this advice and use a sturdier material than light weight timber cladding, which will require ongoing maintenance and painting. Bricks require minimal maintenance and no painting. Ballina Shire Council will have to allocate significant funds for the upkeep of the building after the lease runs out.

The shape of the buildings exhibited for the Public Hearing focussed around a central courtyard. This provided significant dampening of noise and also practicality for a child and family centre. The shape of the building in the DA is significantly different to the original concept plan and will lead to more noise for nearby residents, hence the necessity for noise barrier fencing.

The decks on the plan for Public Exhibition were concrete. The decks on the DA are timber. The Acoustic Study has not addressed the possible noise generated by timber decking of over 200 square metres. The DA should have these acoustic study results of noise created by 59 children and numerous adults on timber decks.

On page 13 of the Public Exhibition documents Council stated *“The DA will include more detailed plans of the building...Assessment will include considerations of access, adjoining residents, amenity, services, building design etc.”* The DA plans are more detailed but they are completely different to what was exhibited in the Public Exhibition period and the DA plans do not address access, adjoining residents and amenity to the same degree.

The view from the western side of the complex is totally different with the DA plans. It appears like a huge school demountable type building, whereas the original concept was more in keeping with the style of building already built in the area, ie stand alone residences.

There are several Child Care centres in the Ballina Shire and in Lismore that resemble homes. For example, the West Ballina child care centre in Westlands Drive is among homes and blends in well. It appears like a large home. The building materials are similar to the surrounding homes as is the roof cladding. Little Angels in Wollongbar is another excellent example of a building style in keeping with the surrounding buildings. These two examples are built on private land in residential areas, not on community parkland. This centre should either be built on private land e.g. McDonalds site or on land owned by Council which is not community parkland e.g. Treelands Reserve..

Other reasons for objection to this DA are

1. Number of People . The number of child placements is up to 59. There is no indication in the DA documents on the Council website of the predicted numbers of people working at the centre and the expected number of people being at the centre each day, yet on 23 August 2011 a letter was sent to Katherine Emerton, Public Works, requesting that the number of people to occupy the building needed to be disclosed. It appears that this has not occurred at the time of writing. There is likely to be large numbers of adults, parents and staff each day. This information should be submitted with the DA and be provided before Council considers the DA.

In addition to this, the DA flags that the two uses for Child Care and Family Centre will operate separately and have different hours of operation and staff. This was not conveyed in the Public Exhibition material.

2. Size of the Centre. There has been conflicting information about the size of the site needed for the centre. In the Public Exhibition material on page 32 in the Information Package dated November 2010, the Local Reference Group stated *“The maximum number of placements a centre can be licensed for is 59, which requires a centre to be the size of 3000 square metres (inclusive of play areas and car parking)”*

On page 16 of the Public Exhibition material *3800 square metres* was proposed by Ballina Shire Council for a change to the Plan of Management for Porter Park.

In the Strategic Services Group report on page 5 of the Public Exhibition document, it stated *“It is understood that the Centre and associated car parking would require a development footprint of about 4000 square metres.”*

At the public briefing on Porter Park in 2010, it was stated that approximately 2000 square metres would be required.

Ballina Shire Council have subsequently changed the POM of Porter Park and taken 3800 square metres from the parkland.

It is unacceptable that so much of Porter Park was taken from the residents when 3000 square metres of Porter Park would have satisfied the Local Reference Group and child care regulations. The building should not be on Porter Park.

3. Traffic Studies.

The recommendations in Appendix E of the Geolink report do not ensure the safety of children and adults. It indicates that a *“footpath is not warranted.”* If there are 59 places for children and if, according to the LRG most of the children attending the centre live in the vicinity of the Centre, then it would be assumed that families would be walking their children to the centre in most cases.

Hayman Street is narrow and has a bend in it. Families with prams are already walking on the roadway as are school children and adults. Where the centre is sited in the DA, it is on a bend in the road and if there are cars parked on either side of the road, this street becomes very dangerous for pedestrians. The developer should be required by Council to pay for a footpath to the southern side road reserve and along the entire length of Hayman Street on the same side of the road as the centre.

The traffic study also indicates that there are 7 car parking spaces on the street side. If there were 7 cars parked in the street near Porter Park, there would only be safe width for single car access.

Hayman Street is a residential street, as are all the streets surrounding Porter Park. These streets were not laid out to accommodate commercial activities. Council should require that there be "no parking or stopping" on the kerbside of the road in the vicinity of the centre and that if there is parking allowed and no footpath, that the street be converted to a one way street to minimise possibility of a serious accident, if this Centre is approved to be built on the Porter Park site..

The DA does not recommend an application to the RTA be included for a 40 kph zone to be put in place. This should have been applied for before the DA was submitted, regardless of where the site was located, so that the street is 40 mph zone during the construction phase. There could be numerous trucks and trade vehicles using the street if the DA is passed and with children and adults walking on the road, school buses, taxis, private cars and building vehicles using the road, the street will become dangerous.

The date of the traffic count was on 7 April 2011, the second last day of school term. The amount of traffic counted seems to be lower than usual in this traffic survey for Hayman Street. The developer should be required to place a traffic counter on the street to take samples over a month rather than on one day to facilitate safe traffic plans. The number of pedestrians and cyclists before the centre is built should also be surveyed before the DA is considered by Council.

4.Operational Hours.

I received a letter from Council dated 23 September 2011 indicating that the hours of operation will be 7am to 6pm for the Child Care Centre and 8.30am to 6pm for the Family Centre. At all meetings and in the Public Exhibition material, the LRG have indicated that there will be some evening activities and occasional weekend activities. Indeed, the Geolink document states that "*not intended to use on the weekend maybe staff meetings from 7am to 6pm.*" Therefore, I assume that now these evening and weekend times will not be applicable. Again, the information in the DA conflicts with the information provided in the Public Exhibition documents.

5. Noise Management Plan

The latest Acoustic Impact Study recommends the Noise Management Plan for the centre incorporate a long list of measures to minimise noise from the centre, e.g dealing with "*unruly behaviour and inadequate supervision may increase noise levels.*" This Noise Management Plan should be submitted before the DA is considered by Council.

There is no measure of the noise levels on the metal roof during rain. All of the surrounding homes have a tiled roof which has minimal noise created during rain. The roof on the building should be in tiles. This noise survey should be done and reported on before the DA is considered.

Similarly, the acoustic study has not provided results for acoustic studies of children running on the timber decking and people walking on the decking. This should be done before the DA is considered.

Public Works have not provided expected numbers of people using the Family Centre nor the number of staff who will be working on the site in the two centres. Noise levels for the number of people likely to be at the centre each day, therefore cannot be determined at this stage. The acoustic study has worked out noise levels on the child care centre with 59 placements but there is no indication of numbers of adults being employed or numbers of adults expected on site at any time. This should be completed before the DA is considered.

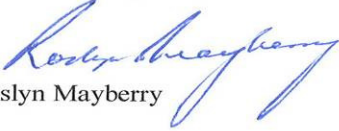
Concluding Statement

In conclusion, I question the legality and validity of this DA when the documents and concept plan in the Public Exhibition material are totally different to the plans submitted in the DA. I question whether Plan of Management for Porter Park should have been allowed to change when misleading and conflicting information was provided to the public and Councillors.

I strongly object to the DA for these reasons. The original concept plans were more likely to be approved by the local residents than these new plans.

I recommend Council offer Treelands Reserve for the Centre and that the original concept plans be built on that site. The only change needed would be to place the car park near the service road.

Yours faithfully


Roslyn Mayberry

Paul Hickey
General Manager
Ballina Shire Council
Cherry Street
BALLINA NSW 2478

RECORDS SCANNED
21 OCT 2011
Doc No.....1905823.....
Batch No.....

C.C. Cr P.Silver, Cr A. Brown, Cr S. Meehan, Cr R. Hordern, D. Page
MP

20th October 2011

Dear Sir

RE: OBJECTION

I strongly object to the building of an Aboriginal Child and Family Centre in Porter Park. I object to the re-categorisation of the land, the development application, and the lease of the land.

I have read recently that councils in Sydney, eg. Leichhardt, have a critical shortage of sports fields. In England councils are fighting with developers who are after their open green spaces. Our park was only acquired 30 years ago as a requirement for open space/sports fields and in one of the fastest growing areas in Australia it is almost unbelievable that the council wants to give it up. I have spoken to a hundred local rate-payers over the past 12 months and 99% of them want the park to remain.

If your intention was to act in the best interests of the residents you would have conducted a quick survey, such as you did with rural property owners to see if they wanted a council "green bin". I suspect you chose not to do that because you knew what the obvious result would be, and that was not in your plan. Instead you offered Porter Park to the Aboriginal Local Reference Group as a site for the new Centre, not because you considered it suitable, but because it was the most expendable. A common opinion is that it is the most unsuitable site in the whole Shire.

ACKNOWLEDGED

1905887

OBJECTION /2

You then put pressure on the councillors and unfortunately most of them voted directly against the pledges they made before being elected. They had stated how much they valued the retention and improvements to open green space and sporting fields. See attachment. Our own representatives weakened and voted against the people who supported them.

I have lost complete confidence in the structure and the operation of local government. I feel that its power should be greatly reduced to minimise the damage it can do to existing and future communities.

Yours Faithfully

Ken Johnston

A handwritten signature in cursive script that reads "Ken Johnston". The signature is written over a horizontal dotted line.

13 Waterview Court
WEST BALLINA NSW 2478
Phone 66813648

must be maintained to the highest standard for the use of today's and future residents.

Promoting tourism and local business is essential to provide employment opportunities for our youth and adults alike.

Senior people form a large part of our community but are often overlooked. Council in partnership with other agencies and services must have a greater vision for the support of seniors.

Our council must be representative of both women and men and always open to dialogue with residents.



Robyn Hordern

Age: 56

Occupation: Community liaison - Ballina High School

I aim to provide a fair voice for everybody.

I support the protection of the natural environment and well-planned, responsible development.

Of great concern to me are the preservation of green space and the beautification of our parklands.

I support responsible progress and low-rise development and the ongoing promotion of Ballina as a tourist destination.

I do believe, having lived here for 26 years that I understand the concerns of the community and will work closely with you to ensure a prosperous future for the Ballina Shire.

■ Continued Page 37.



Sue Meehan

Age: 50

Occupation: Special needs teacher.

I am committed to making Ballina Shire a vibrant, forward moving and beautiful place to live.

Open spaces and infrastructure

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To Mr Hickey
General Manager
Ballina Shire Council
Cnr Cherry & Tamar Streets
BALLINA 2478



Dear Sir

Regarding: DA Number 2011/359 - Building on Porter Park

I am writing this submission in relation to the DA for the change of use of part of Porter Park.

As a ratepayer and resident of West Ballina, I am totally against the use of designated parks for any activity other than sporting and recreation that they have been supplied for. Council require as part of a development application land of a designated size to be set aside for these purposes.

With the availability of other sites for this proposal, why has the Council decided to carve a section off this park for this building. Once this is designated as a park, how can the Council at a later date decide to take a section off this parkland for use other than open space recreation.

It seems that this proposal has almost doubled in size since the first meeting was arranged on the park.

In future years as the town grows a lot of areas will become high density housing, where will the recreational park areas come from to support this growth, if Council allows these parks to be carved up.

This is the first time I have heard of a Council reducing the size of a park for buildings not associated with sport and recreational activities.

This DA should not be passed.

Yours sincerely

Phillip Aish
21 October 2011



Dianne Hume
13 Riverside Drive
Ballina 2478

23rd October 2011

Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478



Dear Sir

Re: Objection to DA 2011/359

I have viewed the DA, considered the options and wish to make an objection to the Proposed Aboriginal Child and Family Centre to be built on Porter Park.

I observed the plans and documents for the Centre when on public exhibition and also at the recent hearing. This DA has been amended from the original plans and these are not minor amendments but a complete change to the original plans first presented, therefore the amended DA needs to be place back on public display for community comment.

I believe Council's community consultation on this matter has been inadequate.

The aspects that I am particularly concerned about are:

1. The high fences adjoining the neighbouring residents.
2. The impact on the drainage system due to the new flood regulations will have an impact on the drainage currently in place.
3. As a requirement of all Community buildings, security fencing and security lighting will have to be erected and therefore this will have an impact on the surrounding buildings.
4. The proposed building materials are not in conjunction with existing homes.

Further to this, I feel that once this application is passed, more applications to extend the proposed facility will follow to the detriment of the Park as foreshadowed at the Public Hearing.

Yours Sincerely

A handwritten signature in cursive script, appearing to read "Dianne Hume".

Dianne Hume

1907057

ACKNOWLEDGED



15 Hayman St
West Ballina 2478
19-10-11

Mr Paul Hickey
General Manager
Ballina Shire Council.

1907070
ACKNOWLEDGED

Re: D.A 2011/359

Dear Sir,

My wife and I object to the Development Application 2011/359 Lot 30 DP 260335 Hayman St West Ballina / Porter Park.

The reasons for our objections is that we and the majority of West Ballina residents do not want any buildings erected on Porter Park.

It is open space with a cricket field and is well used by local children and adults, as well as grade cricket being played there in spring & summer.

Twenty years ago we bought our home in Hayman St. Porter Park which is opposite was a major point of our purchase. Being Parkland we were informed "No Buildings" could be erected on it. As there is a shortage of open space and Parkland in West Ballina, we want Porter Park to stay as is. We do not want any building to be erected on any part of Porter Park.

Therefore we object to the Development Application 2011/359.

Yours faithfully
John & Heather Smith

Rate Payers & Proud Residents of Ballina Shire *JS*

Ballina District Citizens and Rate Payers Association
A 'Non-Profit' Public Organisation

The Chairman
Ballina Shire Council
Cnr Tamar and Cherry Street
Ballina

20 October 2011

Dear Sir

In reply to Advertised Development Proposal Advocate Thursday 2011 – page 8.

D.A. No. 357/Department of Human Services C/- NSW Public Works
Property : Lot 30 DP 260335, Hayman Street, West Ballina (Porter Park)
Details of the Proposal : Establishment of an Aboriginal Child and Family Centre

Hereby lodge : Submission of Objection Against the Proposed Building Application.

For following reasons :-

- 1). Ballina Council treated the residents of Porter Park area in a shabby manner on 12 October 2010, when they invited Residents from 6 households to hear from Town Planner and Parks Manager and two Indigenous Reference leaders Kylie Coldwell and Lenkanyar Roberts who all spoke to the Residents in due course of events about the establishment of an Aboriginal Child Centre for Kindergarten and up to 4- 5 year old Children on Porter Park. Attending Residents were not amused with what that they were being told as the decision had already been made without any Formal Public Consultation, as Residents and Rate Payers:
 - 2). The Residents immediately held the Council in 'Contempt' for announcing that Council had an interest in the project in two ways – Firstly : it is the Land owner and supplier of important infrastructure. Secondly : Council is the Authority that will assess and determine a development application for the Centre in due course.
 - 3). Council did not stop to consider the Porter Family Trust during the 1970's whilst they had the development of the Harbourview Estate before then Council, in conjunction with the Director of the State Planning Authority then made the Porter Family Trust to donate 1.856 ha of their private property subdivision to the Residents as open space area. Subsequently it was dedicated As "Public Parkland" upon the Registration of Deposit Plan No. 260335 in 1980, and duly signed by the [then] Director of the State Planning Authority. Council has NOT put a copy of this Deposit Plan 260335 – dated 15 May 1980 before the Public Residents and Rate Payers of Porter Park. Also, the 1980 Plan of Management relating to Porter Park has been withheld from Public scrutiny.
 - 4). This misleading and deceptive conduct in the highest degree perpetuated by both Councillors and Executive Officers, represents a gross 'Breach of Public Trust', and its attached Honesty and Accountability and Responsibility.
- Darryl Anderson Report into Hearing 31 May 2011 of Porter Park Suitability ;
- 5). The Terms of Reference : There was no preliminary hearing as to the suitability of the Terms of Reference: as they were flawed and definitely not-adequate? they were deficient in meaning and in substance? It gave the appearance of being benevolent to intended cause in its Construction.
- The Public Residents and Citizens were denied an adequate fair warning of all of the matters to be dealt with, that are associated with their concerns as Residents adjoining the Porter Park area, who had assembled for the meeting.

Ballina District Citizens and Rate Payers Association
A 'Non-Profit' Public Organisation

6). Speaking Time : Three (3) Minutes allowed only with one Minute extension. – But, The General Manager, Paul Hickey, in a letter addressed to President Rate Payers Association [Ralph Moss] dated 25 May 2011 ; stated that : Five minutes is the allocated time. Thus that means that the Rights of Speech being very restricted and the processes Not in compliance to Council's Code of Meeting Practice ? No Guide Lines given to Chair Person.
No Visible Transparency of Natural Justice being delivered to Resident Citizens.

7). Independence of the Chairman : Principles of Morality ; Ethical Considerations and Impartiality? There was none of these three main Ingredients towards a 'Fair or Equitable Hearing' on display for the whole procedure ?

8). Also, the Independent Chairman should [by Council's own Code of Conduct] have declared a pecuniary interest, and stood down from the meeting, because he had worked for the Ballina Council on several occasions within the previous 24 months. This qualified him as an Employee!

9). No Official Recording : The Hearing should have been held in the Ballina Council's Chamber where it could have been recorded without any problems like an ordinary Council meeting ? And copies of the transcript would be available to the general Public a lot easier.

Anderson Report : In relation to 3.4 Council Does Not Own Porter Park – Just Manages It : As a Trustee ?

10). This whole Public process that has been carried out by the Ballina Council is in direct Breach and Violation of the 'Duty of Care', and also to Ballina Council's own 'Code of Conduct'?

It also is Contrary to the Rules and Laws of Natural Justice : 'Bias' and 'Biasness': Council is also in Breach and Violation of the 'Council's Charter' -- Which states :

€ To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development :

€ To bear in mind that it is the custodian and trustee of 'Public Assets' and to effectively plan for, account for and manage the assets for which it is responsible :

€ To facilitate the involvement of 'Councillors, Members of the Public', users of facilities and services and council staff in the development, improvement and co-ordination of Local Government:

€ To ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the Council is affected :

Therefore Ballina District Citizens and Rate Payers Association have come to the conclusion that it has to exercise a 'Duty of Care' and report this whole Council and it's activities to the Independent Commission Against Corruption for thorough Investigation under section 7 Corrupt Conduct, section 8 General Nature of Corrupt Conduct [1] a, b, c, d & [2] (a) official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, oppression, extortion, or imposition), (b) bribery, (c), (d), (e), (f), (g).

Yours sincerely,

Ralph Moss.

Ralph Moss
President -- 6686 2560
156 Tamar Street - Ballina

J. McDonald

Julie McDonald
Assistant Secretary,

1. GENERAL CONDITIONS

General

- 1.1. Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including the following plans, except as modified by any condition in this consent.

<u>Drawing by</u>	<u>Contract No</u>	<u>Sheet No</u>	<u>Sheet Title</u>	<u>Issue</u>	<u>Date</u>
Public Works	1101518	A-00	Cover Sheet	TA	10/11/2011
Public Works	1101518	A-01	Site Plan	TB	2/12/11
Public Works	1101518	A-02	Floor Plan	TB	2/12/11
Public Works	1101518	A-06	Elevations	TB	2/12/11

- 1.2. **Commencement of occupation or use**
Occupation or use of the premises for the purposes authorised by this consent shall not commence until all conditions of this consent have been complied with, unless alternative arrangements have been made with Council.
- 1.3. **Building material**
The building is to be finished in a fibro cement product. The building is not to be clad in a light weight timber material. The sun shade awnings are to be constructed in a non porous material.
- 1.4. **Fence construction**
All fences are to be constructed in accordance with the requirements of the revised Acoustic Assessment for Proposed Aboriginal Child Care and Family Care Centre at Porter Park prepared by Ambiance Audio Services dated October 12, 2011, with the exception that the option to use metal sheeting as part of the acoustic control is not to be utilised within reach of children's play areas. Use of metal storage lockers within reach of children in play areas is unacceptable for the reason that children may create noise by contact with these surfaces.
- 1.5. **Finished Floor Level**
The finished floor level of the building shall be not less than 2.6AHD
- 1.6. **Local Government Act approval**
Pursuant to Section 78A(3) of the Environmental Planning & Assessment Act 1979, this development consent authorises the following activities listed under Section 68 of the Local Government Act 1993, subject to full compliance with all other relevant conditions of this approval:
- Carry out water supply work.
 - Draw water from a Council water supply or a standpipe or selling water so drawn.
 - Install, alter, disconnect or remove a meter connected to a service pipe.
 - Carry out sewerage work.
 - Carry out stormwater drainage work.

- f) Connect a private drain or sewer with a public drain or sewer under the control of Council or with a drain connected to such device or facility.
- g) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway.

This approval expires upon completion of the building works on the land.

As provided for in Section 78A(6) of the Act, the abovementioned approvals are granted only to the applicant and do not attach to or run with the subject land.

1.7. **BCA compliance**

The building is to comply with the requirements of the *Building Code of Australia* and relevant Australian Standards.

1.8. **Pedestrian accessway.**

A 1.2 metre wide pedestrian walkway is to be provided linking each car parking space to the entrance to the building. The accessway is to be located in a manner where it will not be necessary for pedestrians to walk on any vehicle accessway.

1.9. **Sun shade awnings**

The sun shade awning shall be extended to cover the access ramp at the front of the building, the front veranda and the car parking space for the disabled. The awnings are to be constructed of a non porous material.

1.10. **Fence screening.**

A 2 metre strip is to be provided adjacent to the southern boundary of the property and from the south western corner of the property to the front of the building for the provision of planting native vegetation, as a landscape buffer.

- 1.11. Landscaping is to be provided along the southern boundary, the western boundary from the south western corner of the fence to the front of the building and in front of the fence screening the car parking area. The landscaping is to be of sufficient quantity to adequately screen the fence and western side of the building to a height of 1.8m. A plan of the proposed landscaping is to be provided to Council prior to planting.

1.12. **Subdivision design**

The proposed subdivision design is to be amended to accommodate the above mentioned landscaping buffer strip.

1.13. **Driveway construction**

The driveways and parking bays within the development are to be constructed of reinforced concrete or similar paved material. All driveway areas are to be adequately graded and drained to stormwater treatment areas. These areas must discharge to Council's stormwater system to ensure that stormwater is not directed onto adjoining properties

1.14. **Land Contamination**

Because the site has been filled with material the source of which is unknown, it is requested that a "Preliminary Site Investigation" be undertaken by a competent Contaminated Site Specialist in accordance

with the "Guidelines for Consultants Reporting on Contaminated Sites", September 2000, published by the Department of Environment and Conservation. It would appear necessary for sampling to be undertaken across the site for heavy metals, pesticides and other potential contaminants.

Should the results of this investigation establish presence of contamination, further work may be required.

1.15. *Water and Sewer Inspections*

All required sewer and water service plumbing drainage inspections are to be carried out by Council:

- a. When the internal sewer drainage pipelines beneath the building have been laid by the licensed plumber so that a water test can be carried out before they are backfilled.
- b. When the external sewer drainage lines have been laid by the licensed plumber so that a water test can be carried out before they are backfilled.
- c. When the external stormwater drainage lines have been laid and connected by a licensed plumber prior to backfilling.
- d. On completion of the water supply "rough in" and/or plumbing stackwork prior to the internal lining of the building.

NOTE: These inspections are considered to be critical stage inspections required during construction. Failure to carry out these inspections is a breach of the *Environmental Planning & Assessment Act*

1.16. *Relocation of Water Detention Tank*

The water detention tank at the front of the proposed development is to be relocated to a position whereby the front fence surrounding the water detention tank aligns with the front fence surrounding the gas bottle.

1.17. *Relocation of Front Fence*

The fence in front of the car parking area is to be relocated to a position whereby the western corner of the fence is to be located at the north western corner of the car park.

1.18. *Amendment to Gates*

The gates shown in the front fence are to swing inwards, and not outwards as shown.

2. PRIOR TO CONSTRUCTION WORK COMMENCING

The following conditions in this section of the consent must be complied with or addressed prior to commencement of construction works relating to the approved development.

General

2.1. *Notification of work commencing*

The erection of a building under the terms and conditions of this Development Consent must not be commenced until, the person having the benefit of the development consent has given at least two (2) days notice to the Council of the person's intention to commence the erection of the building.

- 2.2. **Builder's sign**
A suitable sign is to be provided on the building site in a prominent location, indicating the builder's name, licence number and contact telephone numbers (including after hours numbers).
- 2.3. **Building waste containment**
A suitable waste container capable of holding blowable type building waste must be made available on the building site during the course of construction. Building waste such as paper, plastic, cardboard, sarking etc. must be regularly cleaned up and placed in the waste container so that it cannot be blown off the building site and litter the locality.
- 2.4. **Builder's toilet**
A suitable builder's toilet is to be provided on-site before building work commences. Such facility is to either connect to Council's sewer or a suitable approved chemical closet is to be provided.
- 2.5. **No storage of materials on Council land**
There shall be no storage of building materials, plant or equipment on the road, footway or public reserve areas without the prior consent of Council.
- 2.6. **Safety fencing**
The building site is to be provided with adequate safety fencing preventing public access onto the site. Such protection measures are required to protect the public from construction works including dangerous excavations.
- 2.7. **Surveyor setout**
A survey peg-out is to be carried out by a Surveyor to establish the correct position of the boundaries of the allotment before any building work commences, unless all existing survey pegs can be located.

Soil Erosion/Filling & Contamination

- 2.8. **Erosion/sediment control**
The applicant/builder is to ensure that appropriate sedimentation/erosion controls are in place prior to work commencing.
- a. The applicant is to ensure all loose soil material does not wash into any roadways, gutters or watercourses.
 - b. Service trenches are to be backfilled as soon as practicable.
 - c. Downpipes are to be connected as soon as practicable.
 - c. Buffer vegetation zones are to be retained adjoining roadways, stormwater drains or watercourses.
 - d. Soil is not to be placed in the street gutter to provide access.
 - e. Suitable erosion barriers ie. Cloth fencing or hay bales are to be provided where soil may wash into street gutters, drains or watercourses.
 - f. The erosion control systems are to be maintained throughout the building process and beyond by the owner where necessary.

Building Construction Requirements

- 2.9. **Hydraulic plans**

Detailed Hydraulic plans from an Accredited Hydraulic Engineer are to be submitted to Council for assessment by Councils Plumbing Services section, prior to construction work commencing. The plans are required to detail the sites connection to the reticulated main including the required water meter size and backflow prevention in accordance with AS 3500. The design must be certified by a suitably qualified professional and submitted to Council prior to work commencing.

2.10. Compliance with Codes

All drainage and sanitary plumbing work must be carried out in accordance with the requirements of the *NSW Code of Practice Plumbing and Drainage and National Plumbing and Drainage Code AS 3500*.

2.11. Prevent stormwater entering sewer

Stormwater shall be isolated from trade waste discharge and prevented from entering the sewer.

2.12. Construction Management Plan

Prior to the commencement of any works on the site, a Construction Management Plan shall be prepared and approved by the applicant and submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:

- a. hours of work,
- b. contact details of site manager,
- c. construction waste management including site storage arrangements and frequency of removal,
- d. airborne dust control,
- e. erosion and sediment control measures and maintenance of same.
- f. noise management (inclusive of the recommendations made at 7.4 in the Acoustic Consultant's report of 12 October 2011).
- g. Access to site (including sediment and erosion control measures for vehicular movements in wet conditions)
- h. Site security
- i. Dewatering if required
- j. Acid sulphate soil management on site

Road Construction

2.13. Engineering details

Engineering design drawings shall be submitted to and approved by Council under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993 for the following civil works prior to work commencing. Details are to be in accordance with the Northern Rivers Local government Development Design and Construction Manuals (as current at the time of construction works commencing).

- 2.14. A concrete footpath a minimum of 1.35 metres wide is to be provided along the full length of the southern verge of Hayman Street. The footpath is to be designed and constructed in accordance with Standard Drawing R07 of Northern Rivers Local Government *Development Design and Construction Manuals*.

- 2.15. The provision of a footpath and gutter crossing for the development. Details are to be in accordance with Standard Drawing R06 of Northern Rivers Local Government *Development Design and Construction Manuals*.
- 2.16. The connection of the developments piped stormwater system to Council's public stormwater system. The site must be connected to Council's existing stormwater pit located within Porter Park west of the development site.

Utility Services

2.17. ***Sewer connection***

The applicant shall be responsible for all costs associated with the connection of Council's sewer system to the development in accordance with the Northern Rivers Local Government Development Design & Construction Manuals (as current at the time of construction works commencing). This includes the provision of a new sewer junction for the development extending from the existing manhole located within the site. Design plans are to be approved by Council prior to work commencing.

2.18. ***Water connection***

The applicant shall be responsible for all costs associated with the connection of Council's reticulated water supply system to the development in accordance with the Northern Rivers Local Government Development Design & Construction Manuals (as current at the time of construction works commencing). Design plans are to be approved by Council prior to work commencing.

Waste

2.19. ***Waste Storage Area***

The waste disposal area is to be screened, covered, graded, bunded and drained to the sewer via a Council approved pre-treatment device. Drainage details are to be incorporated into the hydraulic plans and are required to be submitted to Council prior to work commencing.

Access and Parking

2.20. ***Disabled carparking***

The design of all disabled car parking spaces are to be in accordance with Australian Standard AS/NZS 2890.6: 2009. Design plans are to be certified by a suitably qualified professional and submitted to Council prior to work commencing.

2.21. ***Carparking design***

The design of all car parking and vehicular accesses are to be in accordance with the Australian Standard AS/NZS 2890.1: 2004. Design plans are to be certified by a suitably qualified professional and submitted to Council prior to work commencing.

Flooding and Site Filling

2.22. ***Stormwater controls***

The provision of stormwater controls on site shall be in accordance with the Water Sensitive Design requirements of Council's Development

Control Plan Chapter 13 Stormwater Management and in accordance with the Site Stormwater Management by Public Works dated August 2011. This is to include the shaping of driveways and paved areas to drain to landscaped / vegetated areas. Details are to be submitted to and approved by Council prior to work commencing.

2.23. Site filling

No filling is to be placed on the site that will cause surface water flooding of any adjoining property. The development shall make due provision for the diversion of the existing stormwater quantities that discharge onto the site via adjacent properties. The development shall be required to provide a suitable drainage system and demonstrate that the pre-development performance of the existing stormwater and overland drainage system is maintained. Details are to be included in the stormwater designs and submitted to Council prior to work commencing

Developer Contributions/Bonds

2.24. Civil Inspection Fee & Construction Bond

Prior to work commencing, the following fees and bond are to be paid to Council which includes the amount of Goods and Services Tax payable. The fees and bond are subject to review and may vary at the actual time of payment:

- Civil Inspection Fee: Equal to 3% of the estimated cost of the civil works (min \$190)
- Civil Construction Bond: Equal to 5% of the estimated cost of civil works (min \$1,000)

The Civil Construction Bond is taken and may be used by Council to cover the cost of any damage to Council's assets (e.g. Sewer systems, footpaths, reserves, kerb and guttering etc) arising from private development work. The bond will be refunded upon completion of the development should no such damage occur.

2.25. Section 94 contributions

The following contributions are to apply to the development:

S94: Roads

S64: Sewer Servicing, Water Supply, Rous Water

Details of the contributions are below:

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
West Ballina Local Parks	4008	equivalent residential allotment	\$212.00	0.0000	\$0.00
Ballina District Parks	4008	equivalent residential allotment	\$852.00	0.0000	\$0.00

Ballina Playing Fields	4008	equivalent residential allotment	\$1,110.00	0.0000	\$0.00
Regional Open Space Facilities	4016	equivalent residential allotment	\$819.00	0.0000	\$0.00
Open Space Administration	4017	equivalent residential allotment	\$32.00	0.0000	\$0.00
Ballina District Community Facilities	4209	equivalent residential allotment	\$1,615.00	0.0000	\$0.00
Regional Community Facilities - Amend 1	4213	equivalent residential allotment	\$3,660.00	0.0000	\$0.00
Community Facilities Administration	4214	equivalent residential allotment	\$67.00	0.0000	\$0.00
North & West Ballina Roads 2010	5202	equivalent residential allotment	\$10,362.00	7.6769	\$79,548.04
Roads Administration 2010	5203	equivalent residential allotment	\$158.00	7.6769	\$1,212.95
No WUEA Link Road Contribution Applicable					
No WUEA Transportation Works Contribution applicable					
West Ballina Sewerage (DSP Area B)	3003	equivalent tenement	\$7,049.00	6.9980	\$49,328.90
West Ballina Water (DSP Area B)	2003	equivalent tenement	\$3,254.00	4.2720	\$13,901.09
Rous Water 2009	5001	equivalent tenement	\$8,377.00	4.2720	\$35,786.54
No Car Parking Contribution Applicable					
TOTAL					\$179,777.52

3. DURING CONSTRUCTION

The following conditions in this section of the consent must be complied with or addressed during the course of carrying out the construction works relating to the approved development.

General

3.1. **Rain Water Tank – Supplementary Supply**

Tanks should be fitted with a 'first flush' device installed by a licensed plumber.

3.2. **Acid Sulphate Soils**

Acid Sulfate Soils (ASS) may be encountered while excavating for sewer lines, stormwater lines and pits, therefore monitoring of this excavated material shall occur. Should ASS materials be disturbed, they should be stored separately to non-ASS material, banded, and treated with lime to neutralise any acid production from the oxidation process. The soil is to be treated as described in the acid sulphate soil management plan submitted with the application.

3.3. After liming, excavated soil shall be tested to ensure the potential acid generation has been adequately neutralised.

3.4. **Dewatering**

Should it become necessary to undertake dewatering of deep excavation management for this activity addressing treatment and disposal of this water is to be provided as part of the Construction Management Plan. Dewatering activities require a license issued by the NSW Office of Water. If required a copy of the license is to be made available.

3.5. **Mosquito Management**

In accordance with Combined DCP chapter 11 'Mosquito Management', all rooms capable of being used for sleeping shall be provided with adequate insect screening.

3.6. Rainwater tank inlets must be fitted with removable durable (stainless steel) gauze to prevent access by mosquitoes. Overflows and outlets shall also be effectively screened against the insects.

Building Construction Requirements

3.7. **Hot water outlets – Commercial/Industrial**

All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding 50°C.

Each commercial kitchen hand basin shall deliver hot water at a temperature of at least 40°C and each cleaning sink/tub shall be provided with hot water with a minimum temperature of 45°C.

3.8. **Hot water outlets – High Risk Areas**

All new hot water installations shall deliver hot water at the outlet of all sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons.

Thermostatic mixing valves shall be used to deliver hot water not exceeding 43.5°C.

- 3.9. **Hot water outlets – Commercial/Industrial**
Each commercial kitchen hand basin shall deliver hot water at a temperature of at least 40°C and each cleaning sink/tub shall be provided with hot water with a minimum temperature of 45°C.
- 3.10. **Australian food safety standards**
The applicant shall construct and fit-out the premises in accordance with the provisions of the Australian Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 The applicant is responsible to ensure compliance with the Standards and Council will not accept responsibility at the time of final inspection for premises that are not in compliance with the Standards, regardless of the approved plans. Reference shall be made to the AS 4674 – 2004 “Design, Construction and fit-out of food premises” for guidance on construction of food premises.

Utility Services

- 3.11. **Construction works**
All civil construction works shall be completed in accordance with the minimum requirements of the Northern Rivers Local Government *Development Construction Manuals* (as current at the time of construction works commencing).
- 3.12. **Connection to sewer system**
Council's Engineer must inspect and approve construction works associated with the connection of the development to Council's sewer system. Council's Engineer must be contacted on telephone 6686 4444 at the time of the excavation and connection.
- 3.13. **Construction of footpath and gutter crossing**
Council's Engineer must inspect and approve works associated with the construction of the footpath and gutter crossing for the development. Council's Engineer must be contacted on telephone 6686 4444 at the time of excavation and at least 24 hours prior to the concrete pour.
- 3.14. **Repair damaged infrastructure**
Kerb and guttering, footpaths, utility services, the public reserve or roadworks damaged as a result of construction works related to the development shall be immediately reinstated to a satisfactory condition.

Flooding and Site Filling

- 3.15. **Minimum floor level**
The finished floor height of the building is to be constructed at RL (2.6) metres AHD. A Surveyor's certificate verifying compliance with this height is to be submitted to Council at completion of slab formwork stage, prior to concrete pouring.
- 3.16. **Site filling**
All site filling shall be to a minimum fill level of RL 2.1 m AHD and shall be in compliance with the requirements of Level 1 geotechnical testing for:
- AS 2870 - 1996 Residential Slabs and Footings Code

- AS 3798 - 1996 Guidelines on Earthworks for Commercial and Residential Developments

3.17. The applicant shall ensure that any fill material imported to the site for the proposed development shall only be obtained from other fill sources with approved testing. The supplier of the fill material must certify to Council at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise

Hours of Building Work

3.18. ***Hours of building work***

The hours of building work for any noise generating activity on the proposed development are to be limited to within the following times:

- Monday to Friday 7.00am to 6.00pm
- Saturday 8.00am to 1.00pm

No noise generating activities are to take place on Sundays or public holidays.

Amenity/Visual Impact

3.19. ***Noise (operational)***

Identified acoustic construction measures, as specified in recommendations of Environmental Noise Impact Assessment dated September 2011 and modified October 2011 prepared by Ambience Audio Services, shall be incorporated into the final construction plans.

3.20. Operation of the site shall be in accordance with recommendations included in the Environmental Noise Impact Assessment aforementioned and the Noise Management Plan to be developed as recommended following Appendix 1 of the report.

3.21. ***Roof colour***

The roof material of the proposed development shall have low reflective index characteristics and the colour shall not be prominent against the background. As far as practicable, finishes should comprise earthy or subdued tones. Unpainted zincalume, white, off-white and light grey are not acceptable.

4. PRIOR TO OCCUPATION OR USE

Unless otherwise stated all development and works referred to in other sections of this consent are to be completed together with the following conditions prior to occupation or use.

General

4.1. ***Disability Discrimination Act 1992***

The granting of this consent does not imply or confer compliance with the requirements of the *Disability Discrimination Act 1992 (DDA)*. The applicant is advised to investigate any liability that may apply under that Act. *Australian Standard AS 1428 – Design for Access and Mobility* should

be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

Compliance with the BCA does not guarantee compliance with the DDA. The BCA provides important access provisions however:

- a) it does not cover all developments that are subject to the provisions of the DDA;
- b) it focuses primarily on access for people with disabilities which affect their mobility and does not address other disabilities, such as sensory disabilities; and
- c) while it mandates improved access for people with disabilities, it is not framed in terms of "equality of access".

You are therefore advised to investigate your liability under the DDA with respect to any existing and proposed future works.

4.2. ***Protection of the Environment***

The development is to be operated in accordance with the provisions of the *Protection of the Environment and Operations Act 1997* as it applies to issues of air quality, noise generation, water and wastewater quality.

Building Construction Requirements

4.3. ***Wastewater management advice***

All work carried out in connection with this approval must comply with any applicable standard established by the *Local Government (Approvals) Regulation 1993*, the *Local Government (Water, Sewerage and Drainage) Regulation 1993*, or by or under the Act.

Essential Fire services

4.4. ***Fire safety certificate***

On completion of the erection of the building, the owner is required to provide Council with a Fire Safety Certificate certifying that all essential services installed in the building have been inspected and tested by a competent person and were found to have been designed and installed to be capable of operating to the minimum standard required by the BCA.

Amenity

4.5. ***Noise***

Prior to the occupation of the building an acoustic consultant is to provide certification, that the recommended acoustic treatments have been incorporated into the development.

4.6. ***External Lighting***

All external lighting to be installed and operated on site (including security lighting) shall comply with the AS 4282:1997 "Control of the obtrusive effects of outdoor lighting". Upon installation of lighting and prior to occupation of the building, a report from a suitably qualified consultant shall be submitted to Council demonstrating compliance with this condition

4.7. ***Cigarette Butt Bins***

To prevent littering and the pollution of waters, cigarette butt bins must be provided externally near the front boundary of the site for the disposal of cigarette butts. Positioning must be in convenient locations to the carpark areas and the entry and exits to the development but at a sufficient distance that smoke does not enter the building structure.

4.8. **Waste Management Plan (Operational)**

A waste management plan shall be developed for the site. The waste management plan shall detail;

- The type and volume of liquid and solid waste estimated to be generated,
- Whether recycling bins will be provided,
- The frequency of collection,
- The estimated number and size of bins required,
- The storage area size,
- Particulars as to how baby nappies will be managed and
- Any additional details.

The waste management plan shall be submitted to Council prior to the occupation of the building

Civil Construction Requirements

4.9. **Civil works**

All civil works approved under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993, are to be completed to the satisfaction of Council prior to occupation of the development. All works are to be completed in accordance with the Northern Rivers Local Government Development *Design and Construction Manuals* (as current at the time of construction works commencing).

4.10. **Works as executed plan**

Prior to the occupation of the development, the applicant shall submit to Council a hard copy of a 'Works-as-Executed' (WAE) drawing at scale of 1:500 in addition to a computer disk copy of the WAE information in AutoCAD and PDF format for the new sewer junction servicing the site. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.

Utility Services

4.11. **Service connections**

All water supply and sewer works are to be completed in accordance with the Northern Rivers Local Government Development Design & Construction Manuals (as current at the time of construction works commencing). All works are to be completed and approved by Council prior to the occupation of the development.

4.12. **Provision of footpath and gutter crossing**

The footpath and gutter crossing for the development are to be completed in accordance with the Northern Rivers Local Government Development *Design and Construction Manuals* (as current at the time of construction works commencing). All works are to be completed and approved by Council prior to occupation of the development.

Access and Parking

4.13. ***Carparking***

The carparking and vehicular accessways are to be constructed in accordance with the Australian Standard AS/NZS 2890.1: 2004. All works are to be certified by a suitably qualified consultant prior to occupation of the development.

4.14. ***Disabled carparking***

The disabled car parking spaces are to be constructed in accordance with the Australian Standard AS /NZS 2890.6: 2009. All works are to be certified by a suitably qualified consultant prior to occupation of the development.

Drainage and Stormwater Controls

4.15. ***Stormwater certification***

Certification is to be provided to Council that all stormwater works have been provided in accordance with the approved Construction Plan and the approved Stormwater Management Plan lodged with the Development Application. This certification is to be provided by a registered certified practicing Civil Engineer competent in the field of stormwater design and familiar with all aspects of the project.

Developer Bonds

4.16. ***Maintenance bonds***

Prior to the occupation of the development, the following maintenance bond must be paid to Council which includes the amount of Goods and Services Tax payable. The bond is subject to review and may vary at the actual time of payment:

- Maintenance Bond: Equal to 5% of the estimated cost of the civil works (min \$1000)

A maintenance period of 12 months will apply from the date of occupation of the development. The bond may be used by Council to maintain, repair or rectify works that are failing. The bond will be refunded upon completion of the 12 month period should no such failure occur.

4.17. ***Landscaping***

The landscaping of the site is to be completed in accordance with the landscaping plan submitted to Council.

5. *CONDITIONS OF USE/DURING OCCUPATION*

The following conditions in this section of the consent are to be complied with in the day-to-day use or operation of the approved development.

General

5.1. ***WorkCover requirements***

The premises shall be operated in accordance with the requirements of the WorkCover Authority.

5.2. ***Smoke Free Environment***

The applicant and occupier of the premises is alerted to the requirements of the Smoke Free Environment Act 2000 and the Smoke Free Environment Regulation 2007 and the guidelines in the Regulation for determining what is an enclosed public place. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on the following website:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

Amenity

5.3. ***Noise control***

Use of the premises/services/equipment/ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the *Protection of the Environment & Operations Act 1997*.

Access and Parking

5.4. All loading and unloading of goods are to be carried out off-street and wholly within the site.

5.5. Vehicular entry to and exit from the site shall be in forward direction at all times.

Trade Waste

5.6. ***Comply with Trade Waste Discharge Policy***

The Applicant shall comply with Council's Trade Waste Disposal Policy as reviewed from time to time.

5.7. ***Prohibited substances in wastewater***

Unless otherwise stated in this consent, the following substances shall not be included in the wastewater:

- a) substances prohibited by the *Local Government Act, 1993*;
- b) uncontaminated cooling or boiler blowdown water;
- c) any substances liable to produce noxious or poisonous vapours in the sewerage system;
- d) organochlorins, weedicide, fungicides, pesticides, herbicides and substances of similar nature;
- e) any solvents, resin and/or plastic wastes; and
- f) storm water runoff.

Essential Fire services

5.8. ***Fire safety statement***

The owner of the building must provide Council with a Fire Safety Statement at least once in each twelve month period, certifying that the essential services installed in the building have been inspected and tested by a competent person and at the time of that inspection, were capable of operating at the minimum standard required by the development consent. This certificate is to be kept in the building to which it relates.

6. PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

The following conditions in this section of the consent must be complied with or addressed prior to the issue of a Subdivision Certificate relating to the approved subdivision.

6.1. Sewer easements

An easement shall be created prohibiting the erection of buildings / structures over or adjacent to the existing sewer pipeline through the lot. The minimum width of such easement shall be 3.0 meters. Details are to be lodged and approved prior to issue of the Subdivision Certificate.

6.2. Application for subdivision certificate

An application for Subdivision Certificate accompanied by final plans of subdivision, together with the requisite processing fee, shall be submitted to Council for approval. In addition, a written statement confirming how each condition of consent has been complied with is also to accompany the Subdivision Certificate application.

6.3. Certification of easements

Prior to the issue of a Subdivision Certificate, certification is to be prepared by a Registered Surveyor and submitted to Council specifying that all existing buildings, utilities, services, domestic drainage lines, on-site waste water treatment systems including soakage pits and driveway accesses are wholly contained within the respective lots or within specified easements.

6.4. Transfer of easements

Prior to the issue of a Subdivision Certificate, advice is to be provided to Council confirming the transfer and application of all existing easements and rights of carriageways from the current allotments to the newly created allotments.