

Dear Sir

RECORDS SCANNED	- 9 MAY 2012
	Doc No: 12/9362
	Batch No:

I dont want the
 Peter Park, leased,
 thought it was given
 to Ballina People.

once you give cant
 be taken Back.

Mrs Gordon Field

I do live here, I am
 a rate & land owner.

Mrs G. Field

MR Chris Grant
Ballina Shire Council
Cherry St
Ballina NSW 2478

Porter Park Lease

I strongly object to the leasing of Community Land at Porter Park West Ballina.

Community land should remain community land, not leased out for any purpose, especially when there is adequate government and private land for lease in the town of Ballina, to establish an Aboriginal Child And Family Centre

To charge \$1 annual rent is laughable. A 21yr Lease = \$21. Not much money in the bank for us rate payers. Council always claims it is short of funds for badly needed work required in the shire, e.g. roadworks.

Collectively, one would imagine with nine councillors, we would have more of a brain-trust working for us. Not so apparently. Elections this year , Good.

Karen Welch.
4 Amy Place
West Ballina 2478

K. Welch

NR 222891

RECORDS SCANNED
- 9 MAY 2012
Doc No:129385.....
Batch No:

Chris Grant
Ballina Shire Council

Porter Park Lease

I Strongly object to any portion of Porter Park being leased out. All of this open space is for the enjoyment of the whole community and therefore any leasing to build upon this land would take away a large part of the park used solely for recreational activities.

There is already a shortage of green space in West Ballina and since this land was gifted to the people of Ballina by the Porter Family for sporting and recreational use it should remain so, otherwise it would be a slap in the face to the Porter family as to its original purpose.

Leanne Pippo



316 River Drive
Wardell NSW 2477.

RECORDS SCANNED
- 9 MAY 2012
Doc No: 12/9387
Batch No:

To Ballina Shire Council
Chris Grant (Property Manager)

Re Porter Park Lease

I submit this letter by way of objection to the Councils proposal to enter into an agreement for lease and Lease Agreement with the Department of Family and Community Services NSW for a term of twenty one years for the construction and operation of an Aboriginal Child and Family Centre on Porter Park Lot 30DP260335 and Part lot 65DP261759, Hayman Street, West Ballina known as Porter Park.

According to Government recommendations there is already inadequate open space in the West Ballina community

There is currently a shortfall of 4 hectares in West Ballina.

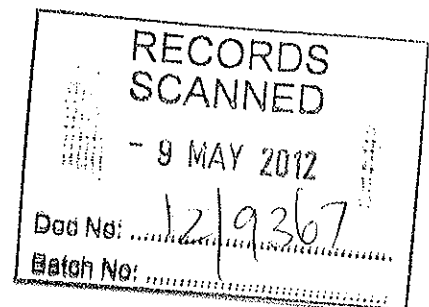
The leasing of a 3,580m² area of Porter Park would greatly reduce the already insufficient open space of West Ballina.

There are many [and more appropriate] commercial sites available in the area.

Porter Park is a totally inappropriate site for a Child Centre. The site is bordered by an area of drug and alcohol abuse and attracts a high crime rate.

Children need to be in a safe and nurturing environment, not exposed to a potentially harmful and dangerous one.

ROBERT GARY STAFFORD
485 RIVERA ST BALLINA
248



Ballina Shire Council
The Property Manager
Mr Chris Grant
Re. Porter Park Lease

I was born and bred in Ballina and have lived in West Ballina most of my adult life. I strongly object to leasing any portion of land on Porter Park. My children and now my grandchildren rely on open space to live the lifestyle which we have created and are accustomed to.

Our children and grandchildren should have the same opportunities as we have enjoyed for sporting activities and open space for weekend recreational interaction with visiting family and friends. All this would diminish if there was to be any sort of building being erected on any portion of Porter Park.

Thank you for taking time to read my submission.

KEN PATTERSON

29 HOWARD CREST - WEST BALLINA.



MR Chris Grant
Ballina Shire Council
Cherry St
Ballina NSW 2478

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Collectively, one would imagine with nine councillors, we would have more of a brain-trust working for us. Not so apparently. Elections this year , Good.

Joseph McElroy
1/20 Horizon Dr Ballina
JM



Chris Grant
Ballina Shire Council

Porter Park Lease

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GREG WILLIAMS
15 WESTLAND DR
BALLINA
G. Williams

NR 222890

RECORDS SCANNED
- 9 MAY 2012
Doc No: 12/9377
Batch No:

Ballina Shire Council
P.O. Box450
Ballina
NSW
2478

Mr Chris Grant Re Porter Park Lease

I Strongly object to the leasing of any portion of Porter Park Even if it has been rezoned 'Community' Land

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 lease agreement goes ahead 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
14 DAYDREAM AV
WEST BALLINA.

RECORDS SCANNED
- 9 MAY 2012
Doc No: 1219379
Batch No:

Mr Chris Grant

Ballina Shire Council

Cnr. Cherry & Tamar Sts

Ballina NSW 2478

Porter Park Lease Submission.

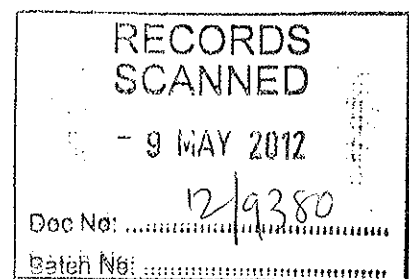
I strongly object to the lease agreement of Porter Park because I cannot see how the price or the loss of open park space is going to benefit my family and friends as rate payers in Ballina Shire. As I write this letter an excavator is getting unloaded on the site, does this mean the lease agreement is already decided and agreed to? I feel as a rate payer that whatever we say the council have already signed off on the whole deal especially when work starts before the lease DA is even closed, if you were to make a much higher lease agreement price would they still of started work on this site before agreeing to a price. The price was set and signed off well before the DA was open to the public for comment wasn't it?

Brendon Moore

14 Daydream Avenue

West Ballina 2478

BMOORE
7-5-2012



Mr Chris Grant
Ballina Shire Council
Cnr. Cherry & Tamar Sts
Ballina NSW 2478

RE Porter Park Lease

My name is Brodie Moore. I am 9 Years old, my home is opposite Porter Park. I do not want any buildings built on the park as we play sport on it. If people want to rent the park for \$1 I will pay them \$2 from my pocket money to rent it so it is for us kids.

Brodie Moore
14 Daydream Avenue
West Ballina 2478.

Brodie Moore



Mr Chris Grant
Ballina Shire Council
Cnr. Cherry & Tamar Sts
Ballina NSW 2478

Porter Park Lease Submission.

How mean to take away Porter Park where us kids play cricket and other sports.

Please don't build anything on our park as it is the only one in our area to play on. That would make me and my friends very unhappy.

We feel safe playing on the park as it is across the road from our house.

My brother has offered to pay \$2 to keep our park I will offer another \$2. That totals \$4 much more than what you want for it.

Quinton Moore
14 Daydream Avenue
West Ballina 2478

Quinton Moore

217 214

RECORDS SCANNED
- 9 MAY 2012
Doc No: 12/9384
Batch No:

MR Chris Grant
Ballina Shire Council
Cherry St
Ballina NSW 2478

Porter Park Lease

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To charge \$1 annual rent is laughable. A 21yr Lease = \$21. Not much money in the bank for us rate payers. Council always claims it is short of funds for badly needed work required in the shire, e.g. roadworks.

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Karen Welch.
4 Amy Place
West Ballina 2478

K. Welch

NR 222891

RECORDS SCANNED
- 9 MAY 2012
Doc No:129385.....
Batch No:

Chris Grant
Ballina Shire Council
Cnr Cherry & Tamar Sts
Ballina NSW 2478

Porter Park Lease Submission.

I am objecting to the leasing of any part of Porter Park even that portion which was 'rezoned' to 'community' use.

Why Council continues to push for this land to be built on is totalling baffling to me. I understand that MacDonaldis made an offer that should have been snatched up and would not have placed Council in the predicament that they find themselves in now.

There is at present a shortage of statutory amount of open space area for West Ballina so I am wondering where Council is going to get the land from to make up for this 3,580m2 if the lease goes ahead, will Council supply it or will they wait for another benefactor to supply some.

Upon reading the lease I can't seem to find a clause where at the termination of the lease the land is to be restored to its original state, or is there no such clause? This would mean that that portion of land is lost to the public forever. This also worries me that if it was this easy for Council to steal this portion of park for supposed 'Community' use how soon will it be before we see more of the Park vanish.

Even though there is off street parking shown on the plan one only has to look at other similar facilities to know that there will be a lot more street parking and a lot more traffic using surrounding streets therefore placing the elderly and children who walk these streets at risk.

This is my submission to council hoping they see sense and vote against this \$1.00 sell off.

Chris Eaton
2/1 Quail Place
West Ballina

2478.

~~C Eaton~~

NR 222892

RECORDS SCANNED
- 9 MAY 2012
Doc No: 12/9388
Batch No:

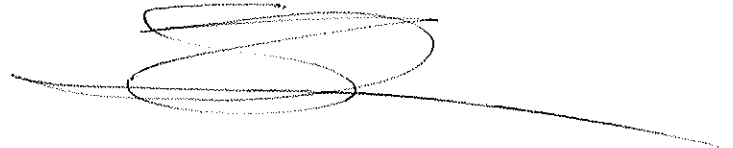
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SCOTT SIMIUR
18 LINDERMANN ST
WEST BALLINA



Ballina Shire Council
Cherry St Ballina
2478
Attn Chris Grant

Regarding Leasing Porter Park.

I Object to the proposed leasing of porter park 'Community' Land.
If Council had not capitulated to the L.R.G. we would not be in this predicament of council wanting to lease 'Community' land for the use of a minority group of residents.
If this community land is built on, it is gone forever as open space for families and their children to enjoy. Open spaces such as Porter Park should be preserved for future generations, not slowly eaten into until there is none left.

ASHLEIGH SNOW.
239 PACIFIC HIGHWAY
BROADWATER, NSW.
A. Snow.



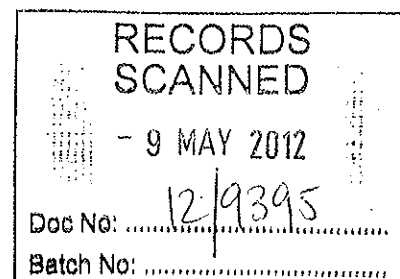
Ballina Shire Council
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Mr Chris Grant
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Thank you for taking time to read my submission.

Adrienne Whatten
14 Daydream Avenue
Ballina
Adrienne Whatten



To Ballina Shire Council
Chris Grant (Property Manager)

Re Porter Park Lease

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There is currently a shortfall of 4 hectares in West Ballina.

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There are many [and more appropriate] commercial sites available in the area.

Porter Park is a totally inappropriate site for a Child Centre. The site is bordered by an area of drug and alcohol abuse and attracts a high crime rate.

Children need to be in a safe and nurturing environment, not exposed to a potentially harmful and dangerous one.

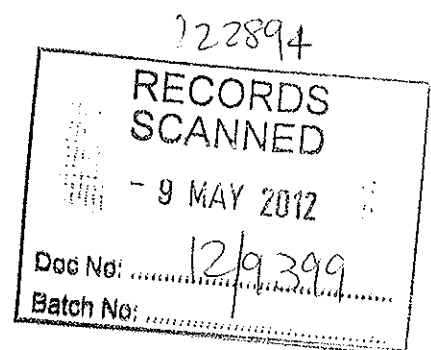
PETER HUGHES
23/1 SINIUS PLACE BALLINA
P. Hughes



Chris Grant
Property Manager
Ballina Shire Council

Ballina Council does not have a good management record.
It continually wants to dispose of the public's assets e.g. land at Lennox Head, Porter Park in Ballina.
Soon there will be no green spaces for the public to enjoy. There is currently a shortfall of 4 hectares in West Ballina.
I object to leasing any section of Porter Park as it would greatly reduce the already insufficient open space in West Ballina.
According to Government recommendations there is already inadequate open space in the West Ballina community, so leave the park as it is.

m m'croey
1/20 HORIZON Dr
West Ballina



MR Chris Grant
Ballina Shire Council
Cherry St
Ballina NSW 2478

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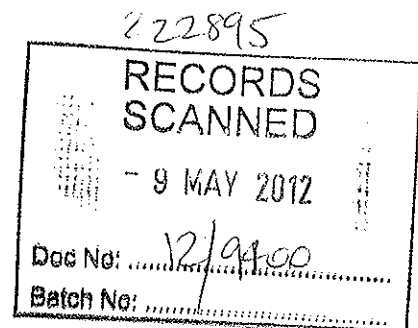
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Good.

MARGARET SIENICKI
2 RUSSELL STREET
BALLINA.

M. Siemicki



Ballina Shire Council
The Property Manager
Mr Chris Grant
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Ray Dato 132 Fern Rd Ballina
R Dato



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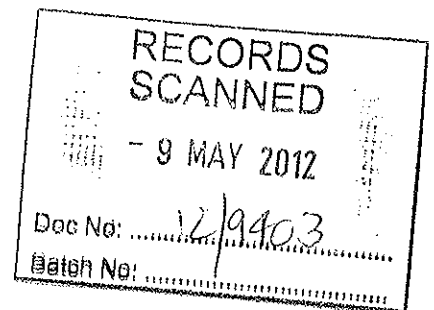
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Children need to be in a safe and nurturing environment, not exposed to a potentially harmful and dangerous one.

Clinton Pate 132 Tevers rd Ballina.
Clinton



To Ballina Shire Council
Chris Grant (Property Manager)

6-5-2012.

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DENNIS AITA SINGH
21 DAYDREAM AVE
WEST BALLINA NSW 2478



RECORDS SCANNED
- 9 MAY 2012
Doc No: 12/9404
Batch No:

Chris Grant
Property Manager
Ballina Shire Council

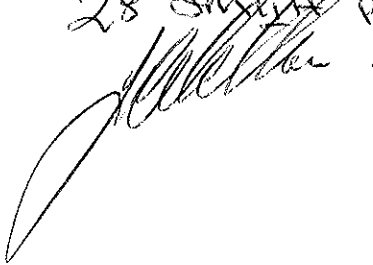
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*STEVE DICKSON
24 SUNNIBANK DR
WEST BALLINA*



Chris Grant
Property Manager
Ballina Shire Council

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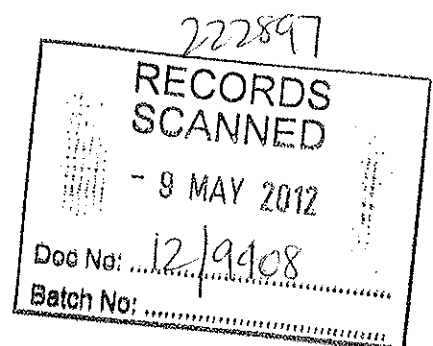
John Withers
28 Smith St. Ballina.




Chris Grant
Property Manager
Ballina Shire Council

Cricket is regularly played on Porter Park, with cricket competitions played regularly between local and visiting teams. It is greatly utilised. These occasions are of great enjoyment to all who participate on the day. To dissect the park would limit the games able to be played on it. Australians love their sport and recreation, not only for the pleasure involved but also the health benefits. The park needs to stay intact so all residents can benefit from it. I submit this letter by way of objection to leasing any section of Porter Park.

Rick Piper 14/2 Mainsail PL Ballina R. Piper



Chris Grant
Property Manager
Ballina Shire Council

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I. R. ARTHUR
700 Pimlico Pk.
Pimlico



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Property Manager
Ballina Shire Council

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ROBERT AUSTEN
2 RUSSELL ST
BALLINA.
R Austen



Chris Grant
Ballina Shire Council
Cnr Cherry & Tamar Sts
Ballina NSW 2478

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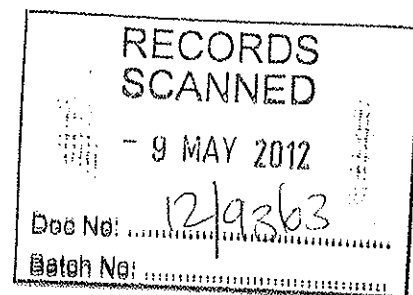
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BRENDA O'NEILL
B. O'Neill 5/5/12.
38 LINDERMAN ST
BALLINA WEST 2478



NR 222887

Ballina Shire Council
Cherry St Ballina
2478
Attn Chris Grant

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KENNETH A. MACARA

38 RIVERMAN ST BALLINA WEST 2478

Ken Macara 5/5/12



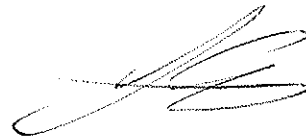
Mr Chris Grant.
Ballina Shire Council
Cnr. Cherry & Tamar St's
Ballina NSW
2478
Re. Porter Park Lease.

This is an objection to Leasing of Community land on a portion of Porter Park West Ballina.

When my family visits we often make use of this park because of its proximity to the Richmond river. The kids fish at the end of Daydream Avenue the women chat under the trees whilst the blokes belt a ball around on the cricket pitch. If the park was to be built on it would restrict the size of the Park thus leaving it open to having cricket or baseballs damaging either property or people and in this day and age leaving users of the park open to Litigation, or I believe the other alternative would be for council to restrict certain activities in the remaining part of the park, thus taking away the original purpose of the park which was for all users to enjoy.

To lease this prime piece of land to a government department for use by one sector of the community and deny use of it to a majority is beyond belief. I really hope that each individual councillor thinks hard on this decision and is not influenced by others.

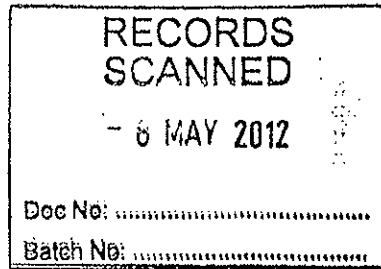
Jamie Eaton
2/1 Quail Place Ballina



NR 222888

RECORDS SCANNED	
- 9 MAY 2012	
Doc No:	12/9366
Batch No:	

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



May 3rd 2012

Dear Sir,

RE: OBJECTION TO LEASE OF PORTER PARK

I wish to object to the proposal to lease an area of Community Land on part of Porter Park.

I do support the proposal to build an Aboriginal Child & Family Centre & I believe we can all learn a lot from each other. One thing I have found & admire is the strong belief in family & the extended family among the Aboriginal families in our area.

I object to almost one quarter of Porter Park being leased on the grounds that it is in direct contradiction to 'Ballina Shire Councils Open Space Strategy' adopted on 26 June 2008.

Point 1.1.1. States; There is a long held local standard for the provision of open space of 2.83ha.per 1,000 persons. Porter Park is already currently below this standard at only 1.856 ha. & Council wants to reduce the size further.

Point1.1.3 Crown Land Reserves; Ballina has the highest proportion of its district parks & playing fields area in Crown ownership (76%).It goes on to say "Principally because of it historical development as a Crown surveyed settlement.

According to the "New South Wales Surveyor Generals Office Surveyors Instructions 1872", there is very clear & precise details on how to prepare a design for a town. A lot of foresight went into the planning of Ballina with all the usual buildings & the enormous amount of Crown land left for open squares, reservations for public recreation, access to water etc.

On page 5 of the Open Strategy it states;" This open space strategy clearly indicates that generally there is no surplus of open space in the shire & all existing open space is required for existing populations."

Council is on record on page 49 from council meeting it states "Council has no statutory obligation to make any of its land available for the project."

With Crown ownership being 76% of Ballina's parks & open spaces that leaves only 24% in community ownership.

In 2008 at the COAG meeting the Prime Minister & all State & Territory Premiers agreed to work together to improve the early childhood outcomes of Indigenous Children.

Under the Agreement NSW Govt will receive funding to establish nine centres.

It was a Federal & State Govt initiative.

12/9060

Some of the other targets to be achieved were;

.To halve the gap for Indigenous students in Year 12 attainment or equivalent attainment rates by 2020.

.To halve the gap in employment outcomes between Indigenous & non-Indigenous Australians within a decade.

The Information Sheet of September 2010 setting out the above information also advised the Site Selection for the Centre in Ballina by the Government Department was Treelands Reserve & a site along Canal Road (between the TAFE campus & Saunders Oval).

Information supplied from the Hon Pru Goward MP, Minister for Family & Community services office advise; Out of the 9 Centres land use location arrangements are proposed on Crown Land. Three of the Centres are to be built on NSW Department of Education and Communities land, which means precedence, has been set which should allow Ballina's Centre to be built on the Department of School Education site, Quays drive West Ballina.

Ballina is the only one to use a community park/ sports ground & I object to the lease of Porter Park for \$1 pa for 21 years.

I was flabbergasted when I read an article in the Northern Star on Tues. February 21, 2012 ("YOU BUILD IT, WE CHARGE YOU"). I found it highly hypocritical, Ballina Shire Council's general manager Paul Hickey said councils believed the procedure was unfair.

The rent for some blocks was \$1- a year when the facilities were built but it is now \$46,000 a year. I find it very unfair that the State Government will over 21 years amass \$966,000.

Ballina Shire Council rejected the idea of having the Centre built on the option of 2 land sites that would be more centrally located to other facilities & would be paramount to have the Centre close to the High School & the TAFE in order to meet some of the other targets of "Closing the Gap".

Young mothers would have the opportunity to continue their education while also having easy access to the centre.

The Hon Graham Annesley MP Minister for Sport & Recreation in his media release of Tues. 6th Sept. 2011 said that he had strong concerns of the growing obesity problem in Australia & his belief was in investing in sport & recreation facilities with a focus on increasing junior participation as well as adults & seniors as our population ages.

Porter Park is already smaller than the local standard & should not be reduced further.

I believe the site is not at all suitable & a very enormous amount of money needs to be spent now to make it fit the site & as the park is made up of uncontrolled fill a lot of money will have to be spent over the years for maintenance repairs to the car park etc.

I am also very concerned & mystified while reading all the documents in relation to the DA I remember several times reading "We are not testing for Acid Sulfate Soils". I also remember other people in their objections to the DA mentioning their concerns as to why no testing was being done. I note that "Preliminary Site Contamination and Acid Sulfate Soils Assessment "were done 24 Feb. 2012 a couple of months after the DA was approved.

My personal concern is that our property backs onto Porter Park & after rain water flows the full length of our property across the footpath/cycleway pooling across it & pools for several days just below the telegraph pole which leaves our backyard supersaturated for days after other areas have dried. Each time this happens I & my children come down with allergies & illness. After recent rains with another trip to the doctor he mentioned that he believed this would be a major contribution to our problems.

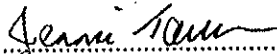
I have contacted the Council on several previous occasions to advise them of the drainage problems on two of those occasions work was done but work was only ever done up to half way across no 8.

My concern is if the park is to be leased & the ground disturbed the situation will get worse.

Also of concern is when I went to look up the current "Local Environment Plan" it shows the current one is dated 1987. Has there been a new one approved to allow all the changes?

To summaries I would like my objections to the leasing of Porter Park. *noted*

Yours faithfully



Jennie Taverner

6 Waterview Court

WEST BALLINA 2478

04-05-2012
Angela Writer
5 Boat Harbour Road.
Ballina. NSW. 2478
02 66866749

Mr Chris Grant,
Ballina Shire Council
Cherry Street
Ballina. NSW. 2478.

RE: Porter Park Development proposal.

Dear Sir,

I am writing this letter to object to the proposed Aboriginal Child Care Centre at Porter Park on the grounds of the loss of open space. This has been a park since the subdivision was created and should remain so for all people in the community to enjoy not just a small portion of them.

I also object on the grounds that this centre was not supposed to cause any disharmony in the community. This programme is supposed to close the gap but all it has done is created a chasm.

I am not against the Child Care Centre at all, I actually think it is a great idea and we, as a community, need to support it but not to the detriment of our sporting fields.

I believe there are many better options for situating this centre, including the land adjacent to the community centre.

Yours sincerely,

Angela Writer.



04-05-2012.
Patrick Writer
5 Boat Harbour Road.
Ballina. NSW. 2478

To Mr Chris Grant
Ballina Shire Council
PO Box 450
Ballina. NSW. 2478.

RE: Submission for Aboriginal Childcare Centre on Porter Park.

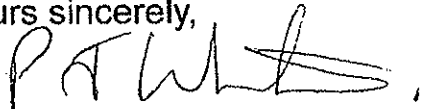
Dear Sir,

I am writing this letter to object to the proposed Aboriginal Child Care Centre at Porter Park on the grounds of the loss of open space. This has been a park since the subdivision was built and should remain so for all people in the community to enjoy.

The street lighting is inappropriate, the roads are narrow and there are no footpaths. This is a residential area and the centre will increase traffic and noise substantially. This is unfair to local residents.

It looks like the Council wants this centre to be hidden away from public view in the back streets of Ballina, and the local residents will be the ones suffer.

Yours sincerely,



Patrick Writer



May 1, 2012

To whom it concerns,

As a concerned West Ballina resident/ rate payer I am writing in regards to the development proposal at Porter Park.

As you are all aware from ongoing community feedback, majority of the community are against this proposal. Many reasons contributing to this factor which have been raised with Ballina Council several times. From my understanding this has/is causing aolt of unsettlement in the West Ballina area in which I believe that Ballina Councils handling of this matter has contributed.

I'm unsure as to what else the West Ballina community/ ratepayers have to do to be heard and given a real explanation as to WHY this develop could not be allocated for other more suitable suggested areas which you are also well aware of. I assume that no-one at Ballina Council lives near the Porter Park area.

To my disbelief I have recently been informed this development to be paying an amount of \$1.00 each year. I'm certain the 'closing of the gap' will never happen, not while there is always a better advantage for some!!!

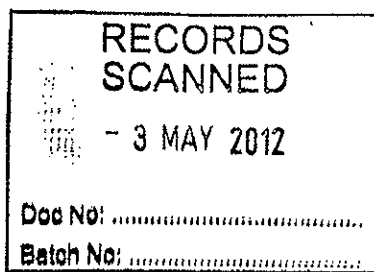
I do hope this letter is taken into consideration. As mentioned the West Ballina community can not do anymore to stress the fact this develop proposal is not wanted at Porter Park. I don't feel I need to state the many reasons for this disapproval as Ballina Council as aware from continuous feedback over the past eighteen months.

Finally, I do hope some serious thought and understanding goes into your final decision. I feel this matter needs to be based on community feedback and not someone sitting on an office chair.

Sally & Darren Balcombe

RECORDS SCANNED 4 MAY 2012 Doc.No..... Batch No.....
--

Mr. Chris Grant.
Property Manager
Ballina Shire Council.



02/05/2012.

Dear Mr. Grant.

My reason for writing to you, is to express my deep concern, re. The proposal to establish a Aboriginal Community Centre, at Porter Park, West Ballina.

My reasons are manyfold. However, I will state the most significant and they are as follows. The division that this proposal has created in the West Ballina Community, was totally un-necessary, as there was without doubt, other alternatives, which council would be well aware of.

I lived in Moree from 1961 to 1971, during which time, in 1965 the Perkins "Freedom Riders" arrived in the Municipality to correct an anomaly, that had existed for many years. The objective, was not to build a new Olympic Pool, Bore baths Complex etc, solely, for the use of the Aboriginal Population, but, to have a common right, to their use, as had all of the Non-Aboriginal Population in the surrounding shires and municipality.

A meeting was held that evening in the Town Hall, several aldermen had advised that they would be in attendance, but, failed to attend.

A motion was put from the floor that "the resolution forbidding Aboriginal People from using the facilities at the Town Hall, Bore Baths and Olympic Pool be expunged from Councils Books was put and carried without dissent, was forwarded to the council and not acted upon, until a new council was elected in September 1965. It was carried without debate and unanimously.

The whole purpose of the Perkins/Spigelman Freedom Ride, was to intergrate the community, not divide..

The hospital situation was of similar vein. Aboriginal Patients were accommodated in an old

Shearers Hut, which had been moved to the rear of the main building, where, all Aboriginal Patients were treated. This was stopped by the intervention of Mr W. Sheahan, Minister for Health, directed the Board of Directors to cease this disgraceful practice. Remember, Mr Property Manager.... "He/She who does not take note of history passed, will live to see it repeated".

The location of the proposed centre, as you would be well aware is in the rear corner of Porter Park and without a doubt, will be extended until the park no longer exists, as such. Playing Areas are very limited in West Ballina and this proposed act of vandalism, will not go un-noticed by the Ballina Community .

Kind regards.

Nev. Kelly



5 Howard Crescent.

Ballina. NSW. 2478.

66 867986

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

April 24 2012



Dear Sir

RE: OBJECTION TO LEASE OF PORTER PARK

I object to the lease of part of Porter Park for the following reasons--

1. West Ballina is already short of its statutory open space.
2. Ballina Shire Council did not discount all the bogus letters of support from the independently chaired open meeting. Once these are removed the majority of submissions are against building on the park.
3. No community consultation occurred before the BSC offered the land for an Aboriginal Child and Family Centre.
4. BSC should be improving sporting grounds, not disposing of them.
5. BSC received \$110,000 to rezone the land before the open hearing was held.
6. Why would you provide the land to the Govt. for free when you are paying \$47,000 p.a. rent for Govt. land in River Street? Obviously you are keeping something from the public.

Yours faithfully

Bill Williams

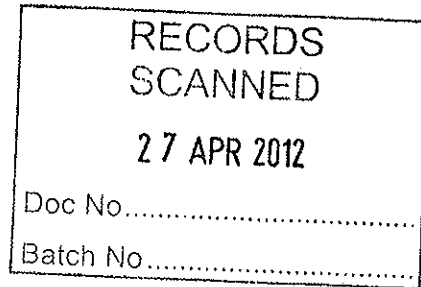
Bill Williams
9 Waterview Court
WEST BALLINA NSW 2478

RECEIVED
2 MAY 2012
COUNTER

Mr Chris Grant
Property Manager
PO Box 450
BALLINA NSW 2478

26th April 2012

Dear Mr Grant,



OBJECTION TO LEASE OF PORTER PARK WEST BALLINA

I wish to object to the lease of Porter Park West Ballina. I have lived in West Ballina since 1993 and have seen a large increase in population in West Ballina during this time. I have been informed that West Ballina is already 4 hectares short of its statutory open park space and feel that it is very detrimental to the youth of our area to take further open space away. Given that the youth of our area have very limited entertainment opportunities I believe that it is imperative that the open space area in West Ballina not be decreased but rather increased. I have always encouraged my children to play outside rather than sit in front of a computer or television and believe that it is very important to maintain open park areas as a safe area to play. The statutory open park space regulation should be fulfilled in West Ballina for the benefit of children, teenagers, adults and families alike.

I attended the initial meeting at Porter Park and left with the opinion that decisions had already been made and the proposed development would go ahead. My feeling at the end of this meeting was that the residents of West Ballina would not be listened to. I feel that everything that has transpired since this initial consultation supports this view. I do not feel that the Community consultation process has been adequate or transparent.

Yours sincerely,

A handwritten signature in cursive script that reads "Janice Diamond".

Janice Diamond
12 Riverside Drive
Ballina NSW 2478.

Mr Chris Grant
Property Manager
PO Box 450
BALLINA NSW 2478

26th April 2012

Dear Mr Grant,

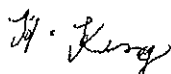
OBJECTION TO LEASE OF PORTER PARK WEST BALLINA

I wish to object to the lease of Porter Park West Ballina. I have lived in West Ballina since 1993 and have seen a large increase in population in West Ballina during this time. I have been informed that West Ballina is already 4 hectares short of its statutory open park space and feel that it is very detrimental to the youth of our area to take further open space away. My grandchildren have used Porter Park not only as a venue to play cricket but also more often as a free space to play with their football etc. When I moved to Riverside Drive West Ballina, Porter Park extended all the way to the river until housing development decreased this open space area. I feel that to further reduce this open park space area is not acceptable as the population of West Ballina has increased and therefore open park space should also be increased.

I do not believe that Councillors Brown, Hordern or Meehan have been at all supportive in fighting a development that is so detrimental to our area which may be attributed to the fact that none of these councillors live in West Ballina. I am impressed with Councillor Johnson's support of his town, Lennox Head, and his fight against the proposed development to the area near Lake Ainsworth. I feel that the residents of West Ballina are not being listened to.

I do not feel that the Community consultation process has been adequate and that decisions were made about this development even before community consultation was instigated. I do not feel that the Ballina Shire Council has displayed transparency in this matter.

Yours sincerely,



Henry King
12 Riverside Drive
Ballina NSW 2478.

RECORDS
SCANNED

27 APR 2012

Doc No.....

Batch No.....

Unit 3, 6 Marge Porter Place
West Ballina 2478
1st May 2012

The General Manager,
Ballina Shire Council

RECORDS
SCANNED

4 MAY 2012

Doc No.....

Batch No.....

OBJECTION TO LEASING 'COMMUNITY' LAND AT PORTER PARK

I hereby object to the Agreement for Lease and the Lease Agreement with the Department of Family and Community Services for an Aboriginal Child and Family Centre at Porter Park

I object because:

- West Ballina residents, both Indigenous and non-Indigenous, need Porter Park for Open Space and recreation and a great many have petitioned against the Centre being built there
- There are better locations that have not yet been assessed or considered, including the old Macdonalds site which is now on the market and which Council should purchase
- It is an affront to Ballina Ratepayers for the State Government to be charged nothing for the lease of land when it charges Council half the commercial rental for Ballina Library's site
- The lease contains no provision for the State Government to remove the building after the lease expires so as to return the site to its original condition as our own park for the community's use
- The choice of this location has created a hostile and violent rift in the Indigenous Community
- Both families of Cabbage Tree Island elders were never properly consulted and were refused representation on the Reference Group
- No construction of any Centre should proceed until the Minister for Aboriginal Affairs has completed setting up a proper Indigenous Reference Group for Ballina's Aboriginal community.
- There is evidence that Bunjum Cooperative is in dire financial straits because of managerial incompetence, and is manifestly incapable of administering the future Centre

For all these reasons I join the majority of West Ballina residents who strongly oppose the lease. I ask that the proposal to lease this land should be abandoned forthwith.

Investigations should next be started into finding a better location that will satisfy the needs of both the Indigenous and non-Indigenous communities of Ballina. When some better site is found, a new lease should then be drawn up.

Yours sincerely



Ian Cooper

Unit 5, 6 Marge Porter Place
West Ballina 2478
3rd May 2012

The General Manager,
Ballina Shire Council

RECORDS
SCANNED

4 MAY 2012

Doc No.....

Batch No.....

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Investigations should next be started into finding a better location that will satisfy the needs of both the Indigenous and non-Indigenous communities of Ballina. When some better site is found, a new lease should then be drawn up.

Yours sincerely



Don Judges

Mrs. J. Watson,
35/1 Riverbend Drive,
BALLINA. 2478

Mr. Chris Grant,
Property Manager
Ballina Shire Council,
P.O. Box 450,
BALLINA. NSW. 2478

RECORDS SCANNED 27 APR 2012 Doc No..... Batch No.....

Dear Sir,

I CANNOT UNDERSTAND HOW YOU CAN JUSTIFY BUILDING ON PORTER PARK.

I walk in the morning and there is very little park land in West Ballina and now you are going to build on some of the remaining when it is so obvious and commonsense to do the alterations to the existing Community Buildings. Why has the Aboriginal Child and Family Centre been closed.

I would have thought it a much better proposition to alter or update the existing building of the Aboriginal Child and Family Centre instead of closing it down. The land must be worth the money spent or has it already been allotted to something else .

Commonsense seems to have gone out the window.

Yours Sincerely,

(Mrs) Judy Watson

10 Daydream Avenue,
West Ballina, NSW 2478.

To:- The Property Manager,
Mr Chris Grant
Ballina Shire Council
P.O. Box 450
BALLINA NSW 2478.

Dear Sir,

I am writing to object to the proposed leasing of part of Porter Park for the use of the aboriginal community as a Child and Family Centre. There are far more suitable sites available for this facility, without compromising already undersized open space areas in West Ballina.

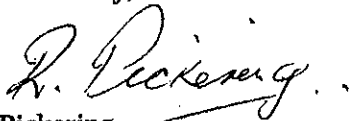
West Ballina is already 4 Ha short of it's statutory open park space.

I have been made aware of plans to expand this facility into the remainder of our park at a later date.

Community consultation was inadequate and decisions had been made before ratepayers were notified of council's plans.

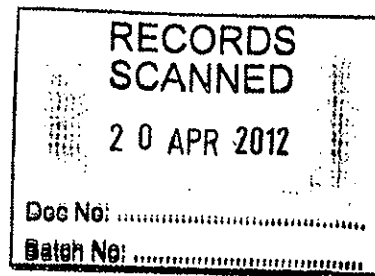
Ballina Shire council did not discount all the bogus letters of support from the Independently Chaired meeting. Once these letters are removed, the majority of letters are against building on the park [I have copies of council's own records stating this fact].

Yours Sincerely,



Ross Pickering.

19/4/2012.



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



April 19th 2012

Dear Sir

RE: OBJECTION TO LEASE OF PORTER PARK

I object to the lease of Porter Park by Ballina Shire Council for an Aboriginal Child and Family Centre. I agree the Centre could be beneficial however there are many more appropriate sites in Ballina.

West Ballina is already 4 hectares under its requirement for open space and playing fields, and should not lose an additional 4,000 square metres.

It is stated in the "Ballina Shire Open Space Strategy – 2008" that in Ballina the BSC owns only 24% of the parks and playing fields and the Crown owns 76%. The report says – "It is important that the Crown Land recreation reserves will be retained in perpetuity, there is no surplus of open space in the Shire, and all existing open space is required for existing populations."

In 2010 the BSC staff, in a secret act of hypocrisy, offered 25% of the council owned Porter Park for the new Centre, before any consultation with local rate-paying residents. No wonder the residents were shocked and angered when informed some months later. People could not believe what was planned for their park and cricket oval.

I also object to the deliberate mismanagement of the role played by BSC and the failure of the Dept. of Family and Community Services to realise they should have maintained more adequate management and control of the total project.

As the BSC has advanced the project it has been increasingly upsetting and worrying for the community. The community has been deceived throughout, especially when they realised that after being encouraged to make submissions the decision to use Porter Park had already been made. The low point of the project was attending the farcical "independently chaired" Open Hearing at the RSL Club. The large meeting room was packed and as people realised what the BSC had contrived the atmosphere became very heavy with shock, disappointment, worry, intimidation, anger and disgust.

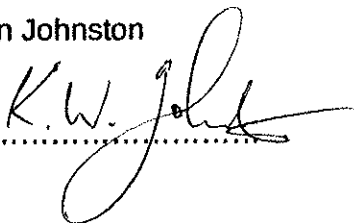
/2 Ballina Shire Council- Objection to Lease of Porter Park

If the BSC staff had a conscience and accepted responsibility for the problems they had created they would have abandoned their disastrous strategy the very next day.

No wonder the community has complete distrust in the Council.

Yours faithfully

Ken Johnston

A handwritten signature in black ink, appearing to read 'K.W. Johnston', written over a horizontal dotted line.

13 Waterview Court
WEST BALLINA NSW 2478

Phone 66813648

45 Silver Gull Drive,
Ballina 2478

The General Manager,
Ballina Shire Council


OBJECTION TO PROPOSAL TO LEASE AN AREA OF 'COMMUNITY' LAND

I write to express my personal objection to the Agreement for Lease and Lease Agreement with the Department of Family and Community Services NSW for a term of twenty one (21) years for the construction and operation of an Aboriginal Child and Family Centre upon Part Lot 30 DP 260335 and Part Lot 65 DP 261759, Hayman Street, West Ballina known as Porter Park

I cite the following multiple grounds for my objection:

1. On the evidence, certain Bundjalung Elders on Cabbage Tree Island were not adequately consulted in the decision to choose Porter Park hence their voice was not heard in objecting to it
 2. Certain Elders were refused representation on the Reference Group after applying to be represented
 3. Bunjum Cooperative has no credibility regarding its capacity to manage and administer the Centre fairly and equitably for the benefit of the entire aboriginal community
 5. Porter Park is needed for Open Space and recreation for the West Ballina community, both Indigenous and non-Indigenous
 6. Superior alternative locations exist but have been rejected without adequate assessment
 7. The process leading to this lease agreement has been deeply flawed through improper collusions between Ballina Shire Council and the State Department responsible for the Centre, including the secret transfer of \$110,000 without informing Councillors
 8. This project has created serious rifts across Ballina's Indigenous Community and to proceed with it will be destructive to that Community's interests.
 9. The Minister for Aboriginal Affairs is presently engaged in investigating how to set up a comprehensive and representative Indigenous Reference Group for the Aboriginal community of Ballina. The development of this Porter Park Centre should be put on hold until his recommendations are received and implemented
 10. It is manifestly absurd to charge the State Government nil rental for the site when the State Government charges Council half the commercial rental for the Ballina Library site
 11. There appears to be no requirement that the State Government should remove the building at the end of the lease term and make good the site as a park for future community use
 12. There is no evidence that the Centre's operating budgets are such for it to be financially sustainable
 13. No sublease or management agreement has been provided in respect to the operation of the centre
- Thank you for the opportunity to make this submission

Yours sincerely



Dr Lee W Andresen

26th April 2012

2012

44
John & Heather Smith
15 HAYMAN STREET
WEST BALLINA

RE: PROPOSAL TO LEASE AN AREA OF COMMUNITY LAND.

We are owners and ratepayers and have lived in West Ballina for the past twenty years.

We object to the proposal to lease an area of community land to the Department of Family & Community Services for the purpose of an Aboriginal Child & Family Centre on Porter Park. Our reasons for objections are:

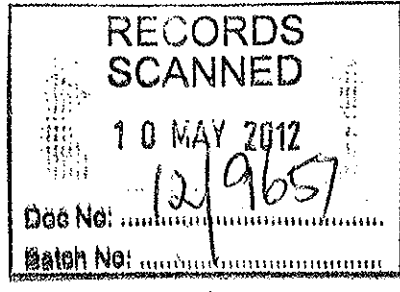
1. The building will not blend in with the existing residential area.
2. The road is too narrow for the extra traffic that will be generated plus the extra noise from this extra traffic. There are no footpaths and people with children in prams and strollers are forced to walk on the roadway.
3. The building block has to be raised over 1 metre to comply with Council specifications, this is going to cause significant ongoing drainage problems to our properties and roadway.
4. The planned Sub-letting is not outlined in the leasing document, stating hours of operation of leasing Tenant, and the impact of other users.
5. A further loss of Open Green Space in West Ballina, which is already below the accepted area.
6. Problems in security and lighting are also a ~~concern~~ concern.

P.T.O.

support an Aboriginal children centre
do not believe it should be in an
existing residential area as do the majority
of residents and home-owners.

Yours Sincerely
John & Heather Smith

15 Howard Cr.
West Ballina 2478
8th May 2012



Ballina Shire Council
Chris Grant
Property Manager.

Dear Sir,

I wish to strongly voice my objection on the location (Porter Park) the site chosen by council to build a Aboriginal Child Care Centre.

Ballina Council is only thinking of "dollars" not the interest of the ratepayers in West Ballina and beyond, because this centre most certainly should be built at a much more suitable location.

There should be basketball and Netball courts and other sporting structures established on Porter Park for generations to use now and into the future.

I note this centre apart from child care is to have

- ① Family Support
- ② Parenting Programs
- ③ Playgroups.
- ④ Health Services
- ⑤ Early childhood nurse service

and I would guess much more.

This sounds like to me a big business going to be established in a quiet little street in West Ballina with many cars and people coming and going day and night.

One only had to take note of the traffic coming going & parking in Quays drive on the weekend of the 5th & 6th of May to see how a street much wider than Hayman street was "clogged" up.

Council has made a big mistake and will regret their decision in years to come.

yours faithfully
Melissa (Fay Morris)

06-05-2012.Paul Writer
17 Hay man street Ballina. NSW. 2478
To Mr Chris Grant
Ballina Shire Council
PO Box 450
Ballina. NSW. 2478.



RE: Submission for Aboriginal Childcare Centre on Porter Park.

Dear Sir,

I am writing this letter to object to the proposed Aboriginal Child Care Centre at Porter Park on the grounds of the loss of open space. This has been a park since the subdivision was built and should remain so for all people in the community to enjoy.

The street lighting is inappropriate, the roads are narrow and there are no footpaths. This is a residential area and the centre will increase traffic and noise substantially. This is unfair to local residents.

Yours sincerely,

Paul Writer

06-05-2012
Pam Writer
17 Hayman st
Ballina. NSW. 2478
02 66866749



Mr Chris Grant,
Ballina Shire Council
Cherry Street
Ballina. NSW. 2478.

RE: Porter Park Development proposal.

Dear Sir,

I am writing this letter to object to the proposed Aboriginal Child Care Centre at Porter Park on the grounds of the loss of open space. This has been a park since the subdivision was created and should remain so for all people in the community to enjoy not just a small portion of them.

I also object on the grounds that this centre was not supposed to cause any disharmony in the community. This programme is supposed to close the gap but all it has done is created a chasm.

I am not against the Child Care Centre at all, I actually think it is a great idea and we, as a community, need to support it but not to the detriment of our sporting fields.

Yours sincerely,

Pam Writer. *P. Writer*

Attn: Chris Grant

48

The General Manager
Ballina Shire Council
P O Box 450
BALLINA NSW 2478

May 7 2012

RECORDS SCANNED
10 MAY 2012
Doc No: 12/9672
Batch No:

RECEIVED
9 MAY 2012
COUNTER

Dear Sir

RE; OBJECTION TO LEASE OF PORTER PARK.

I object to Porter Park being leased for \$1 pa for 21 years while the State Government charges the Ballina Council \$46,000 to rent the land where the town library & associated buildings are built.

Over 21 years the State Government earns \$966000 while Council earns \$21. which is very unfair & the shortfall will need to be made up by rate payers.

Northern Star February 21, 2012 "YOU BUILD IT, WE CHARGE YOU" Ballina Shire Council general manager Paul Hickey said councils believed the procedure was unfair.

Yours faithfully.

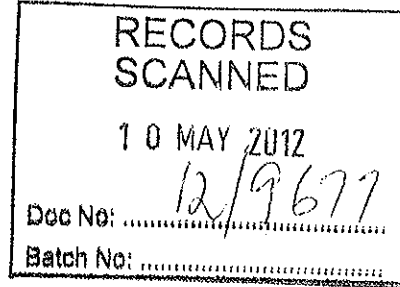
John R Welsh

Name;

13 9/5/2012 JOHN WELSH
Address; 2/1 MARGE PORTER
PLACE BALLINA

Malcolm Lowe
2 Clarence Street
Ballina 2478

Mr. Chris Grant
Ballina Shire Council,
Cherry Street
Ballina 2478



Dear Sir,

I am writing to the Ballina Shire Council to put my objections to the Aboriginal Child & Family Centre being built on Porter Park.

I was born in the Ballina District Hospital in 1945 and grew up at Tintenbar on my family's dairy farm; I did all my schooling in Ballina. I am not at all racists because when I attended Ballina High four of my best school friends came from Cabbage Island (notice I did not call them Aboriginal) back in the sixties, that's how things were. After leaving Ballina High I started to work for Dan Enright at his Chemist in River Street at the age of fifteen and we had a lot of people from Cabbage tree Island as customers. In the years following I played football with three of the lads in Ballina. One of the guys was Dick Roberts Junior who was a great footballer but his life came to a sudden end in a severe car accident just south of Ballina and was sadly missed in the football circle.

When I started work in 1961 the population of Ballina was about three thousand, so I have seen a big change in Ballina over sixty years. I have lived in Ballina for forty three years of them.

My main reason for my objection is that Ballina Shire population has grown rapidly over the last thirty years and we need the sporting field for the future of Ballina if it keeps growing the way it is.

As far as I am concerned at the time when the late Barry Porter started the subdivision out West Ballina he had to leave land available for sporting fields for the future, also any other large subdivision in our area had to do the same. There are other areas in Ballina big enough to build the Family Centre. I would like to see our Council rethink about where to put the Centre and not on our sporting fields.

(SAVE PORTER PARK FOR OUR SPORTING FUTURE)

Malcolm J Lowe

Malcolm J Lowe 8/5/2012

RECEIVED
10 MAY 2012
COUNTED

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478
5th May 2012

Dear Sir,

Re; OBJECTION TO PROPOSED LEASE OF PART PORTER PARK TO THE DEPARTMENT OF FAMILY & COMMUNITY SERVICES NSW.

I object to the above proposal on the following grounds;

The establishment of the proposed Centre in Ballina is a joint initiation of the Federal & State Governments in response to identified needs of Aboriginal people within our community.

Council has no statutory obligation to make any of its land available for the project. (Quoted from ordinary meeting Ballina Shire Council 28.7.11)

It has been determined that the site contains 'uncontrolled fill' & the site has a classification under AS2870-2011 of Class P. The Park has a rating of High Risk. As such I do not believe this is the safest site to be building on. I believe over the long term it will cost Ballina Shire Council thousands of dollars in maintenance costs for driveways & footpaths due to the instability of the fill. There other sites much more suitable for this reason alone.

I also note at the Council Ordinary meeting of 28.7.11 it was mentioned that Treelands Reserve remains a viable option also there should be limited impact on the neighbourhood amenity. It can be progressed immediately, if Council so chooses.

Also the Department of School Education site, Quays Drive, West Ballina. This land could be progressed immediately if the State Government were to agree.

Information has been obtained from the office of the Hon Pru Goward MP, Minister for Family & Community Services that two of the Centres are to be built on NSW Department of Education & Communities land .This means a precedence has already been set.

I also object to leasing the park for \$1 pa for 21 years when Council has to pay \$46,000 pa to the NSW Government to rent the land where our library is.

Yours faithfully

J. Truett

Name; YVONNE TRUETT

Address; 12 DAYDREAM AVE

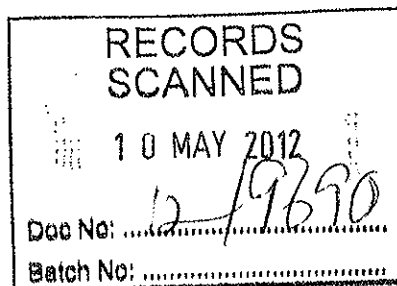
BALLINA 2478

RECORDS
SCANNED
10 MAY, 2012
Doc No: 12/9684
Batch No:

PO Box 856
BALLINA NSW 2478

8 May 2012

Chris Grant
Property Manager
Commercial Services Unit
Ballina Shire Council
Cherry Street
BALLINA NSW 2478



Dear Chris

Re :Objection to Proposal to Lease an Area of Community Land on Porter Park to the Department of Family and Community Services NSW

I object to the location of the property to be leased. I have read the proposed agreement for lease and the lease agreement on the Council website. **I agree with all aspects of the Agreement for Lease and the Lease Agreement except for the location.** I urge Council to change the Council owned property address to the Council owned Treelands Reserve site, adjacent to the new Kentwell Community Centre. I recommend that the lease arrangements remain as proposed, but that the address for the property for lease be changed to Treelands Reserve.

I have presented lengthy submissions to Council and letters previously outlining why I support the Treelands Reserve location in preference to the Porter Park location.

I also wish to cite the recently published literature review prepared for beyond blue:the national depression initiative, as additional evidence to support why it is paramount that Council retains and expands our parklands and open spaces, rather than replacing these areas with built environments.

The review I refer to is entitled "Beyond Blue to Green: The benefits of contact with nature for mental health and well being. A project conducted by Deakin University."

I provide some relevant quotes from this study for Council to consider in relation to the siting of the property to be leased.

*"It is recommended that people living in towns and cities should have an accessible natural green space of at least 2 hectares in size, located no more than 300 metres from home."
Natural England's Accessible Greenspace Standard (ANGSt)*

"Growing evidence shows that access to the natural environment improves health and well being as well as preventing disease and helping people recover from illness."

"Research evidence shows that close proximity to green spaces is clearly associated with reduced prevalence of depression, anxiety and other health problems. The relationship has been shown to be strongest for children of low incomes."

"One repercussion of the restricted access to nature is the potential serious negative effects of physical, emotional and cognitive development."

"The serious health and well being implications of reduced access to green open spaces for people living in socio-economically disadvantaged areas is significant, and warrants serious consideration in future urban renewal and development projects."

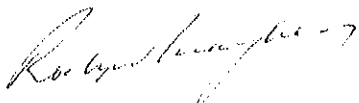
"Neighbourhood greenness has been more strongly associated with mental health than with physical health."

On April 30, 2012, Sydney Daily Telegraph journalist Lisa Power reported that Manly, Liverpool, Bankstown, Penrith, Wollongong and Warringah Councils have committed to meet the benchmark of guaranteeing a minimum of 40 square metres of green space per resident to improve health, lifestyle and encourage a sense of community. She also reported that there are in total so far, 20 national local authorities committed to meeting this benchmark.

I urge Ballina Shire Council to commit to meeting this standard also and, in turn, to retain Porter Park as an open space and playing field and utilise the Treelands Reserve site to lease to the Department of Family and Community Services NSW.

I thank you for your time in considering my submission.

Yours faithfully



Roslyn Mayberry

12/9755-02

The Property Manager = Mr Chris Grant
Ballina Shire Council c/- Leasing of Porter Park

4/10/12
PO BOX 1298 2475
Ballina NSW

Dear Sir,

I wish to state my objections to the proposed leasing of Porter Park. As a nearby long term resident I have listened & read the proposals as well as attended meetings etc. My main concern is the:-

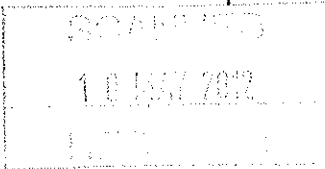
(1st) Loss of residential use and open space parkland. NB. I purchased my home on a battle-axe block in this area and was told that Porter Park was part of the original development of the area "set aside as community parkland."
(2nd) Parking in streets and Traffic Flow are problems already. This will worsen with out of 9am to 5pm hours for multiple use activities? People visiting the centre will park vehicles on both sides of the park and walk through.

(3rd) Re-subletting - The Child Care Centre is not even built yet - let alone operational. Nor has information been made available re the operational hours / days of week / night sessions etc that is possibly deemed 'Community use' in this residential area.

So how come - proposals are in pipe-line to sublet presumably the office space & the community deck/function area inside the building. Once again this seems to contradict original use listed for Indigenous kids 0-4 year olds. It is ~~de~~ divisive to all.

Your Sincerely
DAN WAINWRIGHT SUE WAINWRIGHT

12/7755



4th MAY 2012

The Property Manager of Ballina Shire Council = Mr Chris Grant
Re - Leasing of Porter Park

Dear Sir,

I object to the leasing and now proposed sub-letting of Porter Park for what is now obviously a commercial-use building and not what nearby residents and people who use the park regularly were led to believe (ie) Use as an Indigenous child care centre for 0-4yr olds the original concept toted by Council and the local Indigenous Reference Group.

Building plans are available for viewing and it seems to me that only 50% is directly related to young children. This is a residential area and increased traffic flow and parking overflow from the proposed on-site parking area will obviously extend around both edges of the park & throughout nearby streets. Many of these streets now have residents boats and 2nd cars parked on the roadways let alone other vehicles parked during holidays & Xmas.

The Ballina Hospital and central "c.b.d" area of town has the service providers of a medical nature that may be required to cover "Community Use" aspects of this building development as well as the major public schools that these pre-schoolers will probably attend in the future. So why further divide residents of the area and take away parkland / ^{medical &} services from the cbd & other residents use, to the back blocks of West Ballina parkland.

Yours Sincerely
Anne Schmidt.
Long Term Ballina Resident.
PO BOX 271 Ballina NSW
2478.

12/9757

10 MAY 2012

Simon Lowder
9 Hayman Street
West Ballina

8th of May 2012

To Ballina Council

I have been an owner/occupier of 9 Hayman Street for around 5 years and will be greatly dissatisfied if the proposed Aboriginal Child and Family Centre goes ahead.

The Centre will be built directly across the road from my home. I am concerned that this will mean a dramatic decrease in property value and with it the pleasant aspect that Porter Park currently provides.

As one of the reasons I bought the house was due to it being directly across the road from the park and believed it to stay that, the decision to put the Centre there will affect me in a big way and will be extremely unhappy if the development proceeds.

Apart from personal reasons, I believe there should not be a centre built there because it affects the whole community that live in the area. (not just the Aboriginal community). No longer will the park be able to be used for cricket matches and other community activities.

Surely there is a more suitable location that won't have such a big impact on the home owners in that area?

As a rate payer I would hope that my opinion and wants do matter to the council, and that the proposed development is cancelled for a more suitable location.

Yours sincerely

Simon Lowder

RECEIVED
10 MAY 2012
COUNCIL

Ballina District Citizens and Rate Payers Association Inc.
A 'Non-Profit' Public Organisation Inc. 9891926

The Chairman,
Ballina Shire Council,
Cnr Cherry and Tamar Streets,
Ballina 2478.

9 May 2012

12/9759

Dear Sir,

In relation to Proposal to Lease an Area of 'Community' Land :
As 'Advertised in Ballina Shire ADVOCATE – Thursday, April 12, 2012 ;

Ballina Shire Council is proposing to enter into an 'Agreement for Lease and Lease Agreement' with the 'Department of Family and Community Services' NSW, for a term of twenty one (21) years for the construction and operation of an Aboriginal Child and Family Centre upon Part Lot 30 DP 269335 and Part Lot 65 DP 261759, Hayman Street, West Ballina known as Porter Park : and comprising a total proposed lease area of approximately 3,580 metre square.

DEED OF AGREEMENT FOR LEASE

Page 4 : Registration of Plan of Subdivision :

5.1 : The parties acknowledge that, before the execution of this Agreement, the Lessee has prepared and, with the Lessor's consent, submitted for Registration with the Registrar-General, the Lease Plan of Subdivision.

Question : On D.P. 260335 clearly states: IT IS INTENDED TO DEDICATE LOT 30
TO THE PUBLIC AS PUBLIC RESERVE ;
PERSUANT TO SECTION 88B OF THE CONVEYANCING ACT
IT IS INTENDED TO CREATE 1) RESTRICTIONS AS TO USER

Warranty :

9.1 : The Lessor warrants that it :

- (a) is the Registered Proprietor of the Land ; and
- (b) has the power to enter and perform this Agreement.

9.2 : The Lessee Warrants that it has the power to enter and perform this Agreement.

Division 1 – Classification and Reclassification of Public Land :

Division 2 – Use and Management of Community Land :

35 What Governs the use and Management of Community Land ?

- a) the plan of management applying to the land
- b) any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land
- c) this Division.

36 Preparation of Draft Plans of Management for Community Land :

- (4) For the purposes of this section, land is to be categorised as one or more of the following:
 - (a) a natural area,
 - (b) a sportsground,
 - (c) a park,
 - (d) an area of cultural significance,
 - e) general community use.

Page 4 : Construction of Building :

6.1 : Upon notification of satisfaction of all Conditions Precedent in accordance with cl. 3.4 of this Agreement, including receipt of a Development Approval in respect of the Project that it is satisfied, acting reasonably :

- (a) does not significantly vary the scope of the Project as submitted for development

Ballina District Citizens and Rate Payers Association Inc.
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approval ; and

(b) does not impose conditions that are commercially unacceptable to the lessee, The Lessee will at its own cost undertake and complete the Project in accordance with the development approval and any other required Approvals by the Sunset Date, subject to such minor variations to the approved Project as may be agreed by both parties and approved by the relevant approvals authority.

6.2 : If the Project is delayed for any reason beyond the reasonable control of the lessee, the lessee may, by written notice to the Lessor, request the Lessor to agree to extend the Sunset date provided that in no event shall the Sunset Date be extended beyond 1 March 2014.

Grant of Lease – Agreement to grant :

8.1 : Subject to this Agreement, the Lessor agrees to grant and the Lessee agrees to accept a Lease of the Premises for a term of 21 years from the Lease Commencement Date.

No Caveat by Lessee

11. The lessee shall not lodge or authorise any person to lodge a caveat in respect of the Lessee's interest in the Land or the Premises under this Agreement.

Legislative Questions in Relation to Harbour-View Estate

Map D.P. 260335 dated 15/05/1980 ; D.P. 260662 dated 22/08/1980 ;
IT IS INTENDED TO DEDICATE LOT 30 TO THE PUBLIC AS PUBLIC RESERVE (on both
Maps) Further States : COUNCIL CLERK'S CERTIFICATE : SUB-DIVISION NO 1980 / 46;
DATED 15/5/1980 SUB-DIVISION NO 1980 / 91 DATED 22/08/1980 (signed
G.L. PEARSE)

The 1.856 ha area of land now referred to as "Porter Park" was dedicated as "public reserve" upon the registration of Deposit Plan No. 260335 in 1980.

Open Space Provision

The amount of open space shown on the D C P appears to have been based upon, or at least approximates long standing open space guideline of 2.83 ha per 1000 incoming Residents for "green field" sites. There was 195 Residential lots created plus a commercial area of 3.0 ha between Kalinga St and Highway. The occupancy rate at time of 3.5 persons per dwelling. This means that there should have been 2.83ha Provided for open space and in actual fact there was only 2.25ha approved on D.A. belonging to D.P. 260335

Covenant

As indicated and demonstrated above, Porter Park was dedicated to Council for Public Recreation as part of the normal open space provision for new Residential Subdivisions. Council is of view that the only restrictions on the use of this land flow from Government legislation, unless it can be demonstrated otherwise to the contrary.

Plan of Management

The *Local Government Act 1993* prohibits the sale of Community Land and requires its use and any licensing/leasing to be consistent with a Plan of Management. Council does not have a separate Plan of Management (POM) for Porter Park. Council does however have a Principal Generic Plan of Management for Community Land (Principal POM) under the *Local Government Act 1993*.

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Porter Park is currently classified as Community Land and categorized as 'sportsground' under the Principal POM, which may be viewed on Council's website typing "POM" into the search function.

The Council then states that:- The Act recognizes that the uses of Community Land can change in response to changing Community needs and provides a Public Consultation process that Councils must follow before any such changes are made. These requirements are outlined in Part 2 – Public Land of Local Government Act 1993 and include the need to place on Public exhibition any amendments to the Plan of Management. Prior to the use of Porter Park for any facility or use that is not associated with a 'sportsground', an amendment to the Principal Plan of Management will be needed to change part of the Park's current 'sportsground' categorization and for any new uses to be specifically endorsed. Such an amendment is required to be Publicly exhibited and a Public Hearing held.

As Porter Park is 'Public Reserve' that was dedicated in 1980 as Open Space area

Legislative Procedures :- **Chapter 12 – Consequences of Notations on Plans :**

[12.14] A Council must arrange a Public Hearing in respect of a proposal to prepare a draft local environmental plan to reclassify community land as operational land. A report of the hearing is to be made Public and is to be furnished to the Director of the Department of Planning and the Minister, in conjunction with their consideration of the draft local environmental plan.

On the commencement of a local environmental plan that reclassifies community land as operational land, the land, if it is a public reserve, ceases to be a public reserve, and the land is discharged from any trusts, estates, interests, dedication, conditions, restrictions and covenants affecting the land or any part of the land, except for any reservations from the Crown grant: section 30.

[12.18] A Council has no power to sell, exchange or otherwise dispose of Community Land: section 45 of the Local Government Act 1993: However, under section 46 (1) a Council may grant a lease, licence or other estate in respect of Community Land:

- For the provision of Public Utilities and works associated with or ancillary to Public Utilities; or
- For the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the Community land to a facility of the Council or other Public Utility provider; or
- For any purposes expressly authorised by the Plan of Management relating to the Land — such purposes being prescribed in section 46 (1)(b)(iv) or (v) and section 46 (4) of the Act and in clause 24 of the Local Government (General) Regulation 1999.

Despite section 46 (1), a lease, licence or other estate or interest cannot be granted, if the grant would defeat the prescribed core objectives of the Land's categorisation in terms of section 36. A Council must not grant a lease or licence of Community Land for more than 21 years: section (3). (end quote)

When under International law: which demands that where there is a Disputed Land Title that both the Respondent and the Plaintiff be notified briefly within a 42 day period from when the presiding Authority is first notified of the intending/ or subsequent dispute is first made Public.

- This brings forthwith Question: That Council has Breached and Violated; Its own Code of Conduct in the area of: Honesty; Integrity; Accountability; Fairness, and Equity, and Objectivity;

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NSW Department of Planning and Infrastructure does require an assurance that the current system of dedication is upheld and retained in perpetuity for all open space areas that may have been dedicated that are required to provide 2.83 hectare in statutory size.

In reference to Public Notices page 9 : Advocate May 5 2011

PUBLIC HEARING -- Draft Amendment No 5 -- Principal Generic Plan -- Porter Park

In relation to Public Hearing pursuant to section 40A of the Local Government Act 1993;

(1) The Council must hold a Public Hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4).

Fairness (Principle) The Terms of Reference did not provide for a Preliminary Hearing to be held at Council Chambers between Council and Representatives of the different stakeholder groups before the Hearing commenced : To determine the Adequacy of the Terms of Reference, and to make sure that they were not being Deficient and Flawed with Biasness ?

Executive Summary : There was No definition of the "categorising or altering the categorisation of Community land" ?

Independence of the Chairman : Principles of Morality and Ethical Considerations ? - Impartiality ?

Terms of Reference : Flawed and Deficient and Defective

Speaking Time : -- Rights of Speech being very restricted to 3 Minutes, and the processes Not in compliance to Council's Code of Conduct and Council's Code of Meeting Practice ?

No Guide Lines given to Chair Person: No Visible Transparency of Natural Justice being delivered

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 ? Starting at 10.00 am with Council Members being able to sit in the Public Gallery.

Rule 2 – Appointment of Mediator

1. Unless otherwise agreed in writing by the Parties, the Mediation shall be conducted:
 - a). by a person or persons agreed between the parties; or
 - b). if the parties are unable to agree on the identity of the person or persons to be appointed, by a person or persons nominated by the Institute.
2. The Nominee shall, within seven (7) days of receiving advice of his or her nomination or agreed appointment, give written notice to the parties of the time and place of a Preliminary Meeting to be held in accordance with Rule 7, which the parties or their duly authorized representatives shall attend.
3. Prior to or at the Preliminary Meeting, the Nominee may advise any conditions he or she wishes to impose (including provision of security for the fees and expenses of the Nominee) and request the agreement of the parties to such conditions.

Rule 3 – Application of Rules

1. These Rules are subject to any law which governs mediation in the place where the mediation held, and to any agreement between parties in relation to the mediation process.
2. Otherwise, where the parties to a dispute have agreed to mediation in accordance with these Rules, they are thereby bound to comply with these Rules unless any part thereof is held to be void or voidable, in which case that part shall be severed from the remainder of the agreement. (end quotes from legislative documents).

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A 'Non-Profit' Public Organisation Inc. 9891926

3. That is a 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:

Protection of Civil Liberties in Australia:

But yet that Council never stop to think that these changes do not comply or conform or are in unison or, in uniformity or in complete agreement, unanimous context to 'The Australian Constitution' section 51 (xxxi); section 117 - the requirement of non-discrimination; section 92 -- freedom of interstate trade -- operates to some extent as a guarantee of private business enterprise;

Mr Chairman and Councillors :- 'If one asks therefore about the sorts of fundamental guarantees often included in "Constitutions" -- liberty and security of the person, freedom of association, liberty of political action, freedom of opinion and expression of opinion, liberty of the Press, Freedom of movement, liberty to petition Governments for redress of grievances, fair trial or due process of law, freedom from unreasonable searches and seizures, freedom from arbitrary arrest, right of trial by jury etc. -- one can only answer that as a matter of 'Constitutional Theory', none of these rights and liberties is constitutionally guaranteed against all Governments; most of them exist only at the mercy of the Federal and State Parliaments'. (end quote)

It is a general assumption of the Australian system that no interference by one person with another person is lawful unless there is a specific existing rule of law which authorises the interference in question. There is no presumption that Governments or Officials have powers merely because they exist. An authorisation by law may come from the un-enacted law inherited from Britain (common law, equity, admiralty, ecclesiastical law etc.), but a very large part of this is now being taken up into Australian decisions or codified by Federal or State Statutes, or replaced by different rules taking their source in such statutes. In practice, in an overwhelming majority of instances an attempted interference with Civil Liberty will have to be justified by reference to a statute or regulations etc. made under a statute, and the inquiry will have to be carried back into the Federal and State Constitutions in order to establish whether the statute in question is itself valid. As we have seen, the main grounds on which such a statute could turn out to be invalid relate not to the circumstance that it authorises invasion of a Civil Liberty, but to the rules regulating the distribution of powers between Australian Government and the States. (end quote).

An Australian Constitutionalist could or may be expected to think that this legislation to be decided by reference to 'Constitutional' protections for due process of law, and freedom of association, but in fact the sole ground of decision, declaring invalid the attempted assumption was the absence of relevant 'Constitutional Power in the Federal (State) Parliament'; It was beyond question that any State Parliament could have validly enacted legislation to the same effect. To find out the extent of these liberties, then, it is necessary to examine the laws regulating or restricting them.

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A 'Non-Profit' Public Organisation Inc. 9891926

Meanwhile, the Commonwealth and Victoria have dealt with the specific question of protecting the Citizen against 'Illegal or Unfair action' by Government itself, by a combination of Legal and Administrative remedies without parallel in contemporary nation.

The instrumentalities are fourfold :

- (a) *The Freedom of Information Acts* greatly extend the range of documented information about the history and policy of Government activities made available to Public inspection.
 - (b) *The Administrative Remedies Jurisdiction* of the appropriate law courts has been strengthened and simplified so that the complexities and gaps in the common law on these matters have been reduced.
 - (c) *Administrative Appeals Tribunals* have been established which can consider the policy and reasonableness of official actions – something which the ordinary courts have been reluctant to undertake.
 - (d) *An Ombudsman* has been established, with power to hear a wide range of grievances against officials and direct access to the officials, with a view to achieving a settlement by consent.
- (end quote)

In terms of actual happenings in relation to Porter Park : 1) Council did not stop to consider the Porter Family Trust during the 1970's whilst they had the development of the Harbourview Estate before the 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 sub-division to the Residents as open space area. Subsequently it was dedicated as "Public Park Land" upon the Registration of Deposit Plan No. 260335 in 1980, and duly signed by the then [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. 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, Integrity, Accountability and Responsibility.

2) As it was stated on Porter Park on 12 October 2010, by Council that it was the owner of Porter Park, when in actual fact of reality Ballina Council were only the Trustees of Porter Park. Well, Council had better produce the receipt for the gift Duty of Porter Park to Ballina Council, for a nominal amount of at least \$50.00 over and above the for the Transfer Fee, and how much gift Duty did Council Pay? and how did they Pay for N.S.W. State Stamp Duty? to verify and/or to prove Beyond all Reasonable Doubt that Ballina Council is the owner of Porter Park? As the Harbourview Estate was all developed from Private Property, according to the Parish map of 1939.

3) 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.

Page 219 ; [1623] **Preliminary Hearings** : As already seen the weight of Judicial Authority has turned in favour of the notion that Preliminary Hearings attract Natural Justice protection. The Court of Appeal recognised that an adverse report by companies' Inspectors could seriously damage reputations and affect the ability of those reported on to continue in Business. However, even here the measure of procedural protection is minimal.

Ballina District Citizens and Rate Payers Association Inc.
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If an Authority proposes to make express public criticism of an individual it must first furnish him or her with an outline of the charges to be made and give him or her the chance to respond. But this is all.

4) Mr Anderson as Chairman announced that each speaker would be given three (3) Minutes to be allowed for address only with one Minute extension, -- But, the General Manager, Paul Hickey, in a letter addressed to President of Rate Payers Association [Ralph Moss] dated 25 May 2011 ; stated that: Five Minutes is the allocated time. (End quote)

Thus that means that the basic Rights of Speech were being very restricted and denied to the processes Not in compliance to Council's own Code of Conduct and Council's Meeting Practice.

There were definitely No Guide lines given to the Chairman. No visible Transparency of Natural Justice being delivered to Resident Citizens. Principles of Morality, Ethical Considerations and Independent Impartiality were definitely not on display, nor, was the three main ingredients towards a "Fair or Equitable Hearing" by the Chairman Darryl Anderson. It did not give the Public Residents and Citizens of the Porter Park Area adequate fair warning of all of the matters to be dealt with, and that are associated with the concerns of the Residents that had assembled for the meeting. In the case of Matters of Importance to Resident Citizens, it being most desirable that they be told in the fullest possible way what is proposed, it may well have been best to have forward to them an explanatory memorandum in addition to the Notice of Meeting :

5) And, I quote to you Mr Minister : As the Council Executive and Councillor officers did not stop to look at **Duty of Care**: When does it arise, and what is the significance of that Duty? The most common form of Breaching and violation is an allegation of negligence. If a person, organisation or corporation is negligent and as such I suffer damage, whether physical, emotional or to property then I may sue them and get compensation. This is not unique action by bringing forth-with an allegation of 'negligence' action.

What is negligence, and how does it relate to topic of 'Duty of Care'. To succeed in negligence the plaintiff (the person doing the suing) must prove three things, They must prove:

1. That the defendant (the person being sued) owed them a 'Duty of Care', i.e. a duty to take Reasonable care to avoid harming them (the plaintiff)
2. That they failed to take such care; and
3. As a result, they (the plaintiff) suffered a loss or damage.

To prove that case, the Council must show, amongst other things that they did owe a 'Duty of Care' to the Public Citizens of the Porter Park area, and to General Rate Payers. (end quote)

Question :- When will the Ballina Council honour their Duty of Care to the Residents, Citizens of Porter Park area, West Ballina and the Rate Payers in General?

As is stated on page 1 & 2 : a) How can Ballina Council be the owner of Porter Park when it has been stated in plain written English Law that it is only mere Trustee ?

- b). It is 0.58 ha shortfall of prescribed amount ha in size of the Porter Park Open Space area required ?
- c). Legislative procedure [12.14] states that : the land if is a public reserve, ceases to be a public reserve from dedication to become operational land : So what is it as of now ?
- d). What happens to the balance of Dedicated Porter Park ? Now has been De-registered as a Public Reserve?
- e). How can Council lease land to an Un-Registered Non Public Utility ? under [12.18] ?

Ballina District Citizens and Rate Payers Association Inc.
A 'Non-Profit' Public Organisation Inc. 9891926

- f). Why was there not a proper qualified staff Member from Attorney General's office such as Court House Clerk Officer? or similar qualification who has had Mediation experience, Appointed to Hear the Public Grievances?
- g). Why was there not a Preliminary Hearing heard, that had to make sure that the Terms of Reference were adequate as to the Public Residents Requirements, and to make sure that they were adequate, and not deficient in public requirement to the Public Residents?
- h). Why was the application of Mediation rules not applied to a major dispute concerning the Management of Public Parkland?
- j). What, now is going to be the on- going Public protection of Civil Liberties to the Residents of Porter Park area situated in West Ballina?
- k). What is Council going to do about the Breaching of Australian Constitution section 51 (xxxii) 'on just terms' and section 117 – the requirement of non – discrimination?

In conclusion : Ballina Shire Councillors have repeatedly 'Breached and Violated' their own Council's 'Code of Conduct' and their own 'Duty of Care' in a most negligent manner, that now leaves the Residential Citizens of 'Porter Park' area no other choice other ask the N.S.W. Government for a Public Administrator to be appointed to take charge of Ballina Council.

Yours faithfully

Ralph Moss
President

156 Tamar Street,
Ballina 2478

Ballina District Citizens and Rate Payers Association Inc. 9891926

Yours faithfully

Anne C Schmidt
Anne Schmidt
Publicity Officer

Chapter 12

CONSEQUENCES OF NOTATIONS ON PLANS

INTRODUCTION

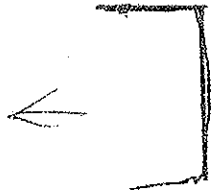
- [12.1] This Chapter outlines the law concerning statements made on plans. Mention has already been made of the respective rights of the public, councils and lot owners, where lots in a plan are shown fronting a strip owned by the subdivider, which is stated to be a street or some other class of way, when discussing roads, rights *ad medium filum viae* and the case of *Dabbs v. Seaman*. However, other statements frequently occurring on plans indicate (and may thereby operate to give effect at law to) some particular intention of the owner to create certain legal rights as regards specific parcels—notations such as “Public Reserve”, “Public Garden and Recreation Space”, “Party Wall”, “Right of Way”, and the like.

THE STATUS OF RESERVES

- [12.2] The word “reserve”, where originally used in relation to land shown in a plan, signified not much more than an intention of the Crown or any other disposing landowner to withhold from sale or lease blocks or parcels so noted in the plan, as being set apart by the subdivider for some future purpose. Where used in a deed or other instrument, it indicated an intention to retain to the use of the vendor or lessor particularly parcels, minerals, or rights of some kind from, in, under or over the land as may be specified in the instrument.

However, this word gradually came to assume another local meaning. Since 1825, under direction from the British Government, large areas of Crown lands throughout New South Wales and other Crown colonies were progressively “reserved” or “set apart” for numerous prospective public purposes, the major proportion being allocated for public health and recreation—per Windeyer J, *Randwick MC v. Rutledge* (1959). Long association of the words “reserve” and “public reserve” with the latter purpose gave rise to a popular notion that those terms were synonymous with “park” and “public park”. No doubt many unenclosed parcels labelled “reserve” or “public reserve”, with no specific purpose assigned to them, were frequently used for communal recreation without interference from the owner or other authority.

The local usage is now well established in New South Wales and “public reserve” in the sense of a public park will be found the subject matter of a



After an amendment on 15 June 1964, section 340A no longer applied to any subdivision plan approved on or after that date. Also, the expression "public reserve" was from that time to be used in plans instead of "public garden and recreation space" and any land transferred or conveyed to a council as a public garden and recreation space under section 340A became a "public reserve" by an amendment of the definition of the latter.

On the registration of a subdivision plan (approved by council on or after 15 June 1964), on which land is marked "public reserve", the land is vested in the council for an estate in fee simple as a public reserve; if the land dedicated as a public reserve is under the Real Property Act, the Registrar-General must record on the relevant folio that the land is so dedicated: section 340D of the *Local Government Act 1919*; section 49 of the *Local Government Act 1993*.

If a subdivision approved by council before 15 June 1964 made provision for public garden and recreation space, the council may direct:

- (a) that the space be conveyed or transferred to the council; or
- (b) because the space is adjacent to land reserved or dedicated for the purpose of public recreation under the *Crown Lands Act 1989* or adjacent to a public park that is not vested in the council, that the space be surrendered to the Crown: section 340C of the *Local Government Act 1919*; section 50 of the *Local Government Act 1993*.

On publication of the notice, the land vests in the council for an estate in fee simple and is taken to be dedicated as a public reserve. When creating a folio of the Register under the *Real Property Act 1900* for public garden and recreation space vested in the council, the Registrar-General must record in the folio, that the land is dedicated as a public reserve.

A plan approved by the council which indicates an intention to create a "Public Reserve" must be signed by the persons specified in section 195D of the *Conveyancing Act 1919*. No doubt in circumstances analogous to the dedication of a public road, a public reserve may be created so as to exclude minerals or the substratum below a stated depth.

- The next page is 12-31 -

require that public land is to be classified into "community" or "operational" land. The Act states that the purpose of the classification is to identify land which should be kept for use by the general public (i.e. community land) and land which need not be kept (i.e. operational land). The major consequence of the classification is that it determines the ease or difficulty with which land may be alienated by sale, leasing or some other means. Community land would ordinarily comprise land such as a public park. Operational land would ordinarily comprise land held as a temporary asset or as an investment, land which facilitates the carrying out by a council of its functions or land which may not be open to the general public, such as a works depot or a council garage.

[12.11] By the operation of clause 6 of Schedule 7 of the Act from 1 July 1993, the following land which was vested in or under the control of council is taken to have been classified as community land:

- (a) land comprising a public reserve;
- (b) land subject to a trust for a public purpose;
- (c) land dedicated as a condition of a development consent;
- (d) land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space;
- (e) land controlled by a council that is vested in the Minister administering the *Environmental Planning and Assessment Act 1979*.

[12.12] Clause 6 of Schedule 7 also provided that, within 12 months from 1 July 1993, a council could by resolution classify as community or operational land, any other public land that had not been classified by the Act. A council had to give public notice of the proposed resolution. After 1 July 1994, any public land that had not been classified was taken to be community land.

[12.13] Any other classification or reclassification of public land is to be made by a local environmental plan or by a resolution of council in accordance with section 31, 32 or 33.

[12.14] A council must arrange a public hearing in respect of a proposal to prepare a draft local environmental plan to reclassify community land as operational land. A report of the hearing is to be made public and is to be furnished to the Director of the Department of Planning and the Minister, in conjunction with their consideration of the draft local environmental plan. On the commencement of a local environmental plan that reclassifies community land as operational land, the land, if it is a public reserve, ceases to be a public reserve, and the land is discharged from any trusts, estates, interests, dedication, conditions, restrictions and covenants affecting the land or any part of the land, except for any reservations from the Crown grant: section 30.

[12.15] Section 31 provides that before a council acquires land, or within three months after it acquires land, a council may classify the land as community or operational land. If the land remains unclassified at the end of the three month period, it is taken to be classified as community land. While the land remains unclassified, it cannot be used for any purpose other than for which it was used before the acquisition, and the council may not dispose of any interest in the land. These provisions of section 31 do not, however, apply to land acquired for road purposes or land affected by the *Crown Lands Act 1989*.

[12.16] In limited circumstances, a council may resolve that land dedicated in accordance with a condition under section 94 of the *Environmental Planning and Assessment Act 1979* is to be classified as operational land: section 32.

Under section 33 a council may resolve that public land classified as operational land is to be classified as community land.

Before making a resolution under section 32 or 33, the council must give public notice of the proposal.

[12.17] Community land must be used and managed in accordance with the provisions of the *Local Government Act 1993* and the relevant management plan prepared by the council: section 35.

In preparing a plan of management for a public reserve, a council must follow strictly the provisions of sections 36-43 of the *Local Government Act 1993*; otherwise the plan and any lease or licence granted under it may be invalid: see *Seaton v. Mosman MC* (1996).

Under section 40A the council must hold a public hearing in respect of a proposed plan of management if the plan would have the effect of categorising or re-categorising community land under section 36(4) or (5).

It should be noted that section 52 prevents the use of section 28 of the *Environmental Planning and Assessment Act 1979* to override the provisions of the *Local Government Act* applying to public land.

Once a management plan has been made it can be amended or revoked by a further management plan. A management plan ceases to apply to land if the land is reclassified as operational land, or, in the case of land not owned by council, the land ceases to be controlled by council.

[12.18] A council has no power to sell, exchange or otherwise dispose of community land: section 45 of the *Local Government Act 1993*. However, under section 46(1) a council may grant a lease, licence or other estate in respect of community land:

- for the provision of public utilities and works associated with or ancillary to public utilities; or
- for the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider; or
- for any purposes expressly authorised by the plan of management relating to the land— such purposes being prescribed in section 46(1)(b)(iv) or (v) and section 46(4) of the Act and in clause 24 of the *Local Government (General) Regulation 1999*.

Despite section 46(1), a lease, licence or other estate or interest cannot be granted, if the grant would defeat the prescribed core objectives of the land's categorisation in terms of section 36.

A council must not grant a lease or licence of community land for more than 21 years: section 46(3).

The grant of a lease, licence or other estate in respect of community land for more than five years must have the Minister's approval, if objections have been made to the proposal: section 47(5) and (8).

In addition, subject to certain exemptions, the grant of a lease, licence or other estate for a term of five years or less will require the Minister's consent, where the instrument of grant:

Some qualification is needed in the case of members of the armed services and the police facing charges which are so serious as to warrant dismissal from the service. As Crown servants they hold office at pleasure and can, in the absence of statutory provisions to the contrary, be dismissed without a hearing (*Dunn v R* [1896] 1 QB 116 (CA); see [1605]), but if statutory modification can be found requiring a hearing this is not possible. Officers of the Australian armed forces, for example, hold office at the Governor-General's pleasure but their commissions may not be cancelled without them first being given written notice of any charges, and an opportunity to show cause: Defence Act 1903 (Cth) s 16. Where the common law has been displaced there is no reason for treating the case differently from any other termination of employment for cause: *Maynard v Osmond* [1977] QB 240 (CA); see [1604]–[1605]. Individual interests assume greater weight because reputation and livelihood are at stake.

[1622] **University discipline.** Discipline within universities takes various forms ranging from exclusion to reprimands. The causes for the administration of penalties include both impropriety, such as cheating at examinations, and non-culpable conduct, such as failure to meet academic standards. Exclusion, even for reasons to which no blame attaches can have an adverse affect on the career prospects of students. A reprimand following a finding of dishonesty can have a similar effect.

In *R v Aston University Senate; Ex parte Roffey* [1969] 2 QB 538 the Queen's Bench Divisional Court applied the *Durayappah* factors to a case in which a student had been excluded from a university after failing examinations. It was held that he was entitled to a hearing before being excluded so that he could advance evidence of personal or family matters which might have affected his performance. The court left the form of the hearing to the discretion of the university. Students could be heard 'orally or in writing, in person or by their representatives, as might be most appropriate': at 554. It may be that if the charge is one which suggests conscious impropriety which, if proved, could adversely affect a student's reputation then representation will be a necessity: *Pett v Greyhound Racing Association Ltd* [1969] 1 QB 125 (CA); see [1519].

[1623] **Preliminary hearings.** As already seen in [1509] the weight of judicial authority has turned in favour of the notion that preliminary hearings attract natural justice protection. In *Re Pergamon Press* [1971] Ch 388 the Court of Appeal recognised that an adverse report by companies' inspectors could seriously damage reputations and affect the ability of those reported on to continue in business. However, even here the measure of procedural protection is minimal. If an authority proposes to make express public criticism of an individual it must first furnish him or her with an outline of the charges to be made and give him or her the chance to respond. But this is all. The Court of Appeal rejected claims by the affected persons to see the transcript of evidence taken by the inspectors and the documentary evidence considered by them. It also refused to allow cross-examination or even identification of adverse witnesses and held that it was not necessary for the inspectors to draft their report and show the critical passages to those about whom complaint was made before a chance to respond was provided. In *Annetts v McCann* (1990) 170 CLR 596 the High Court held that natural justice required the coroner to identify issues on which he might make findings adverse to a person's interests and hear submissions from the person on those issues.

The General Manager
Ballina Shire Council
Cnr Cherry and Tamar Streets

28th April 2011

Dear Sir,

**PUBLIC EXHIBITION : Draft Generic Principal Plan of Management Community Land :
Proposed Aboriginal Child & Family Centre Porter Park, West Ballina :**

At Ballina District Rate Payers Association meeting held on Wednesday 6 April 2011; The Members directed the Secretary and President to write to Ballina Council with concerns about Porter Park Submission :

The Members made the following observations : the Residents of Porter Park area had not been told truth about the application for a building to be put on Porter Park. – That it had been stated that Council owned the ground and that got the Residents back-up – Now it turns out that Porter Park is a ‘Dedicated’ Open Green Space area ;

The following reasons are why the Rate Payers Association are against this development of Porter Park :

- Why was the Porter Park – Deposit Plan No 260335 1980/ 46 dated 15/ 05/ 1980 : Not put before the adjoining Residents of Porter Park area : West Ballina on 12 October 2010 ??
- Consisting of an area of 1.856 ha area of land now referred to as “Porter Park” that was dedicated as “public reserve” upon the registration of Deposit Plan No. 260335 in 1980 – by itself.
- Why has the ‘Terms and Conditions of Dedication’? not been put before the Residents of Porter Park?
- Porter Park is further supplemented by additional land containing an area of 3,490 m (square) to south. This land is described as Lot 58 DP 260662 and was originally closed road, and dedicated as “Public Park”. With the Terms and Conditions of Dedication?

Are both of these D.P.s on the same Title Deeds? And now consists as Porter Park?

- Plan of Management – the Original has to be put before the People, and as well as be displayed?
- Harbourview Estate Identified in 1969 ; The Total area of Porter Park is still less than proposed area that should have been left for open space area, when first approved for sub-division in 1970?
- When this 1/5 of Porter Park is now surveyed off this 1.856 ha area of Porter Park ?
How is the open space area going to be replaced from within Harbour View Estate area? And,
Where and How is it going to be replaced and where is the open space area coming from?
- As Porter Park has to be de-Registered as a ‘Dedicated’ Park for Council to be able to be legally surveyed and sub-divided off the proposed area in North East corner for Aboriginal and Family Centre Building and Car Park?
- How can Council then re-dedicate the balance of Porter Park as an Open Green Space Area?
- Ballina Council only holds the land in Public Trust and cannot sell it off or give it away?
- These are the main ten points as to why the Ballina District Citizens and Rate Payers Association are firmly against the Building of the Proposed Aboriginal and Family Centre to be constructed on Porter Park at West Ballina.

Yours Faithfully

Ralph Moss
President

Anne Schmidt
Secretary

The General Manager
Ballina Shire Council
Cnr Cherry and Tamar Streets

28th April 2011

Dear Sir,

1. There has to be a clear CLARIFICATION about "Porter Park" It is 1.856 ha Open (Green) Space Area the only one that is in 'Harbourview Estate' at West Ballina : It was 'Dedicated' to Council as Public Reserve in Subdivision Plan 1980/ 46 ; — Which is used as Cricket Oval outfield;
2. At meeting of Members it was moved to ask for a request letter of clarification be sent to Ballina Council for the amount of Costs Associated with the Aboriginal Child and Family Centre : From January 2010 through to 31 March 2011 ?; Statement to include How this costs are to be charged against the Council's General Fund? Budget statement from Council re pre-costing of the Porter Park to completion before submissions close?
3. Where does Council get its power from to do what it has already done in relation to surveying costs?
4. Where does Council get its power from to get the plans drawn-up for a building to be put on Porter Park?
5. Where does Council get its power from to pay for these Building and Parking Plans on Porter Park ?
6. It was further stated by Members that these costs should not come out of General Revenue Rate Funds as the Legality of the site has not been obtained with the consent of the adjoining Rate Payers in vicinity of Porter Park – at the Council Chambers?

In **Relation to Public Hearing** that has been spoken about by **Council and Councillors ??**

Members stated that : Letter to Council asking who sets out the Terms of Reference? Under which Act of Parliament? Will the Hearing have the "Power to Change the usages on Title of Porter Park's Dedication?" Where will it be held? In Council Chambers?, and Who can attend and give evidence? Will rent-a-crowd be there? People who do give evidence will it be at Random, 'Laisse Faire'?, or will it be under 'Oath' taken on a King James version of the Bible?

- (a) Just what Act and No of Parliament will it be legally held under?
- (b) Will the Hearing be held under the terms of Local Court system? Or What system will be held under?
- (c) Who sets out the Terms of Reference ?
- (d) Will the Chair-Person be qualified to take the Oath from Members of Public who would like to give evidence?
- (e) Where can the Rate Payers Subpoena the Necessary, D.P. 260335 Sub-Division No 1980/ 46 dated 15/5/1980
- (f) D.P. 260662 Sub-Division No 1980/ 91 ; dated 22/ 08/ 1980 ;
- (g) Where can the Rate Payers Subpoena the 1969 Interim Development Order No 1. ?
- (h) Where can the Rate Payers Subpoena the 1970 Development Control Plan (DCP) ?
- (j) A copy of the Government Gazetted Notices with the Terms, Regulations, By-laws, and Conditions of Dedication to be fully laid out on the 'Titles belonging to Porter Park within Harbourview Estate'?
- (k) RE – Hearing : Members of the Rate- Payers Association did express a desire that all submissions to be presented to the Hearing, for further Monitoring as it will be necessary.
 - (1) The re-conversion of the Land back to Council Control after 20 Years, where does it leave the Indigenous Persons, Residents of the Area and the designated use of the Building ?
 - (2) Who pays for all these costs if the Federal Government with-draws funding as an Indigenous centre -- what will the purpose of the building be then? More re-zoning and change of uses?

Yours Faithfully

Ralph Moss President

Anne Schmidt Secretary

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

1st June 2011

The Commissioner,
Independent Commission Against Corruption,
GPO Box 500,
Sydney NSW 2001

Dear Sir,

Name : Amos Ralph Moss, DOB 29/ 01/ 1939, I reside at 156 Tamar Street, Ballina.
I am the President of the Ballina District Citizens and Rate Payers Association, Incorporation
No : INC 9891926. Date of Incorporation: 25 August 2009; \$ 48.00 Receipt Date 11 April 2011 ;
Department of Fair Trading ; A 'Non – Profit' Public Organisation ;

I.C.A.C. reference No: E11/ 1729 Contact Michael Fiorini : Telephone 8281 5724

As the President of above Rate Payers Association: I have been instructed to lodge and send to you the particulars of the following Corruption Conduct Complaint for thorough Investigation by your Officers; and a Court Hearing, should it be proven to you that it is essential requirement :

Sir, First: Ballina Council has to be reminded that they are 'Bound' by the 'Duty of Care' and, That it does contain a section that deals with a common allegation of negligence. And, That Council must not act contrary to the rules and Laws of Natural Justice: 'Bias'. And, That Council also must abide by Ballina Council's own 'Code of Conduct'. And, That Council should at all times comply and conform to Local Government Act and Council's Charter.

I would like to lodge the following Corruption Conduct Complaint for Investigation by your Officers; and a Court Hearing, should it be proven to you that it is required :

Document 1 : On Tuesday 12 October 2010 ; Ballina Council put out this Public Notice to 4 or 6 Residents of Porter Park area at West Ballina – Local Residents some 28 – 30 people attended in the rain, this 'impromptu' (late notice) meeting on site ; Then two Council officers turned up on Tuesday 12 October 2010 at 5.00 pm : Council was represented by Town Planner, Mr Stephen Barnier and Jillian Pratten – Public Parks, Manager, and the two Indigenous Reference Group leaders Kylie Coldwell and Lenkanyar Roberts all spoke ;

Who both gave out a three page 'Information Document' on a Shire Council Logo letterhead : Identified and titled : 'Proposal to Establish an Aboriginal Child and Family Centre' in Ballina ; All Residents were informed on site that the Centre was for Child Care under 4 years of age : For Indigenous Children only : At no stage was it discussed that its 'Activity' was to be a 'Welfare Community Centre' ; This further added to confusion of its uses : On site issues as the plan seems to be modified by the 'Indigenous Reference Group' in charge : Who may or may not represent the whole of the Aboriginal Community.

- Q. Why wasn't all the Community stakeholders who live around and within vicinity of this Porter Park at West Ballina notified of this decision within a three month period?**
- Q. It is a correct assumption that this piece of Park Land called Porter Park was gifted to Community of West Ballina for Open Green Space Park and Recreational area and uses of such?**

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

Point 2. History of Porter Park :

1. Porter Park was created from Developed Private Property and so much land had to be put aside for Open Green Space Area and Sporting activities.. [according to 1938 Parish Map]
2. Concurrence by the Director of the then State Planning Authority.
3. The 1.856 ha area of land now referred to as “Porter Park” was dedicated as “public reserve” upon the registration of Deposit Plan No. 260335 in 1980. The Total open space provided within the Harbour view Estate is thus 2.25ha.
4. Porter Park is further supplemented by additional land containing an area of 3,490 m (square) to south. This land is described as Lot 58 DP 260662 and was originally closed road, and dedicated as “Public Park” to allow for the extension of Sunnybank Drive.

Open Space Provision : The amount of open space shown on the D C P appears to have been based upon, or at least approximates long standing open space guideline of 2.83 ha per 1000 incoming residents for “green field” sites. There was 195 residential lots created plus a commercial area of 3.0ha between Kalinga St and Highway. The occupancy rate at time of 3.5 persons per dwelling. This means that there should have been 2.83ha ; Provided for open space and in actual fact there was only 2.25ha approved on D.A. belonging to D.P.

Covenant : As indicated and demonstrated above, Porter Park was dedicated to Council for public recreation as part of the normal open space provision for new residential subdivisions. Council is of view that the only restrictions on the use of this land flow from Government legislation, unless it can be demonstrated otherwise to the contrary.

Plan of Management : The *Local Government Act 1993* prohibits the sale of Community Land and requires its use and any licensing/ leasing to be consistent with a Plan of Management. Council does not have a separate Plan of Management (POM) for Porter Park. Council does however have a Principal Generic Plan of Management for Community Land (Principal POM) under the *Local Government Act 1993*.

Porter Park is currently classified as Community Land and categorized as ‘sportsground’ under the Principal POM, which may be viewed on Council’s website typing “POM” into the search function.

The Act recognizes that the uses of Community Land can change in response to changing Community needs and provides a Public consultation process that Councils must follow before any such changes are made. These requirements are outlined in Part 2 – Public Land of Local Government Act 1993 and include the need to place on Public exhibition any amendments to the Plan of Management.

Prior to the use of Porter Park for any facility or use that is not associated with a ‘sportsground’, an amendment to the Principal Plan of Management will be needed to change part of the Park’s current ‘sportsground’ categorization and for any new uses to be specifically endorsed. Such an amendment is required to be Publicly exhibited and a Public Hearing held.

IT IS INTENDED TO DEDICATE LOT 30 TO THE PUBLIC AS PUBLIC RESERVE

At bottom : I, Bruce Richard Davies, Under Secretary for Lands and Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 20th day of October, 1980. (signed)

What happened to Porter Park Title from time of Dedication to 22 June 1993 or 1995?

3 A). 1. The unnamed “Children’s Playground” was dedicated as Lot 21 DP 242676 in the first stage of development in 1972 and an area of 3,952 m (square).

Council does NOT OWN Porter Park : Darryl Anderson report 3.4 : Says so .

Ballina District Citizens and Rate Payers Association

A 'Non-Profit' Public Organisation

NSW DEPARTMENT OF COMMUNITY SERVICES

Mr Paul Hickey ;
General Manager, BSC

22 December 2009

The Child and Family centre will also comprise of a new building in Ballina. Critical to this is to ensure suitable land is secured. The Community and Local Reference group have identified the following sites (see attached map), which I would like to further discuss with you :

- Cnr Cherry and Moon Streets, Treelands Reserve (next to the Community Centre)
- Canal Road (in between the TAFE campus and Saunders Oval where the visiting circus sets up each year).

I would like to suggest that we meet on Monday 11 January 2010 at 10.00 am. I am happy to attend your office. Can you please confirm your availability to Kylie Coldwell, Senior Regional Strategies Officer on 66 83 5607 or Kylie.Coldwell@community.nsw.gov.au Regards, Kym Langill

Origin of Local Reference Group 22/ 12/ 2009 & 21/ 01/ 2010 ;

Note :- No mention of Porter Park as of December 2009 :

Chair (Lenkunyar Roberts) of Local Aboriginal Reference Group addressed the Council at 24 June 2010 monthly meeting as Porter Park the preferred site. On film file at Council.

Council meeting – Community Facilities – Treelands Reserve

The feedback from DOCs appeared to be that the preference of the Local Reference Group, which has been established to advance the project, was for the building to be largely autonomous. The advice from staff was that if the site was approved by Council the preference would be to integrate any additional facilities as much as possible with the Ballina Community Services Centre. This then ensures both the land and the operation of the facilities are used and operated as efficiently as possible.

Sustainability Considerations :

- **Environment :** The development of open space areas does impact negatively on the environment.
- **Social :** The provision of such a facility is designed to provide significant social benefits to the Community.
- **Economic :** The provision of improved community facilities provides assistance to the overall economic development of the Shire as it is important that community infrastructure keeps pace with development.

Consultation : To date discussions have been held with representatives from DOCs, which includes Ms Kylie Coldwell, who is also a Member of the Jali Land Council. The design of the proposed centre is subject to consultation with the Local Reference group which has been established as per the DOCs correspondence.

Options : The options are to agree or not agree to provide in principle support to allow planning to proceed or not to agree.

In respect to providing in principle support the benefits include :

- Provides a facility that is complimentary to the existing Ballina Community Services Centre, therefore assisting in creating a Community Services precinct on this Land.
- Council should be able to receive a rental for the use of the site.
- Ensure an important Community facility is provided within Ballina.

Point 4 : MAPS of PORTER PARK

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

2nd November 2011

The Commissioner,
Independent Commission Against Corruption,
GPO Box 500,
Sydney NSW 2001

Dear Sir,

Name : Amos Ralph Moss, DOB 29/01/1939, I reside at 156 Tamar Street, Ballina.
I am the President of the Ballina District Citizens and Rate Payers Association, Incorporated
No : INC 9891926 : Date of Incorporation: 25 August 2009; \$ 48.00 Receipt Date 11 April 2011 ;
Department of Fair Trading ; A 'Non-Profit' Public Organization.

I.C.A.C. reference No: E11/1729 Contact Michael Fiorini : Telephone 8281 5724

As the President of above Rate Payers Association: I have been instructed to lodge and send to you the particulars of the following Corruption Conduct Complaint for thorough Investigation by your Officers; and a Court Hearing, should it be proven to you that it is essential requirement: As it seems to appear that we will have to ask for a Public Administrator to be appointed.

Sir, First : Ballina Council has to be reminded that they are 'Bound' by the 'Duty of Care' and, That it does contain a section that deals with a common allegation of negligence. And, That Council must not act contrary to the rules and Laws of Natural Justice : 'Bias'. And, That Council also must abide by Ballina Council's own 'Code of Conduct'. And, That Council should at all times comply and conform to Local Government Act and Council's Charter.

1). A copy of Letter, to Council Chairman dated 20 October 2011 ; Submission of Objection Against the Proposed Building Application on Porter Park, situated at West Ballina :
a) Please find the reply from Council as arrived by todays mail.

2). Print out from the web site from The Institute of Arbitrators & Mediators – Australia Principles of Conduct for Mediators :

Page 2: **Principle 2. Impartiality** : A Mediator shall conduct the mediation in an impartial manner. – This was not seen to be done or attempted to be done in any way at all.

Principle 3. Conflicts of Interest : A Mediator shall disclose all actual and any potential conflicts of interest reasonably known to the mediator. After disclosure, the Mediator shall decline to mediate unless all the parties choose to retain the mediator. The need to protect against conflicts of interest also governs conduct that occurs during the mediation. --- This was not seen to be done or attempted to be done in any way at all.

Principle 4. Competence : A Mediator shall mediate only when the mediator has the necessary qualifications to satisfy the reasonable expectations of the parties. --- There was no preliminary hearing or meeting as per say so how could the parties or a single party ask the question.

Principle 5. Confidentiality : A Mediator shall maintain the reasonable expectations of the parties with regard confidentiality. ---

Principle 6. Quality of the Process : A Mediator shall conduct the mediation fairly, diligently, and in a manner consistent with the principle of self-determination by the parties. --- Anderson report answers this question – The decision was already made favourable by the Council's terms?

End Principles of Conduct for Mediators : Put out by The Institute of Arbitrators & Mediators.

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Ballina Shire Council : 21 January 2010 : Facilities Committee Meeting Agenda : page 28 :

Department of Premier and Cabinet and Community Services have met with the Local Aboriginal Community to announce and discuss the Centre, and from this meeting a Local Reference Group has been established. The Local Reference Group will work with Department of Premier and Cabinet and Community Services in the development of the Centre (see attached terms of reference)

Was this meeting where the Local Reference Group was first formed and put together by 5-6 Council representatives and 5-6 Department of Community affairs ?

Is it correct that the Federal Government department was under the view that the funding was going to be handled by the Fox Street preschool as the Aboriginal group in the first place ?

At no stage of any discussions or talk of any type did anyone else mention how the Porter Park was developed and created in the first place : And as to how much land had to be reserved for open green space area and subsequently as sports field for compatibility for its use.

24 June 2010 : Ballina Shire Council, monthly Meeting : Business paper 6 pages 56 to 61 :

On 21 January 2010 Council's Facilities Committee considered a report concerning a proposal by the NSW Department of Community Services to establish an Aboriginal Child and Family Centre in Ballina. Then Council, at its ordinary meeting held on 28 January 2010 : Resolved to adopt the minutes of the Facilities Committee (Minute No. 280110/21).

Legal / Resource / Financial Implications

There will obviously be a need for careful analysis of the full capital and operational costs to Council if the facility was to proceed. In this regard, the general Manager would need to negotiate formal agreements with the department of Community Services together with future Management arrangements.

Consultation : To date, Council's Consultation concerning the proposed Centre has been limited to the Department of Community Services, the Office of Premier and Cabinet and Representatives of the Local Reference Group.

Council Meeting 24 February 2011 : 9.1 page 45 ; para 4

The plan is submitted for Council's consideration as the basis for undertaking the next step in community engagement, via the undertaking of the necessary amendments to the Ballina Shire Principal Generic Plan of Management for Community Land (POM).

Recommendations : 1. That Council prepare an amendment to the Ballina Shire Generic Plan of Management for Community Land that would have the effect of changing the categorization of Part of Porter Park in West Ballina from "Sportsground" to "General Community Use".

2. The purpose of the amendment is to facilitate the establishment of the proposed Aboriginal Child and Family Centre as provided for under Federal and State Government "Closing the Gap" initiatives. The section of the park to be re-categorized contains an area of approximately 3,800m² (square) within the North-Eastern corner of the Reserve, as per the attached concept plan.

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In Advocate Newspaper dated 5 May 2011 : page 9 : Public Hearing – Draft Amendment No 5: Ballina Shire Principal Generic Plan of Management Community Land Porter Park : West Ballina. Council will hold a Public Hearing in relation to the proposed amendment pursuant to section 40A of the Local Government Act 1993 : commencing at 6.00 pm : Tuesday 31 May 2011 at the Ballina RSL Club in River Street, Ballina : The person Presiding over the Public Hearing will be Mr Darryl Anderson of Darryl Anderson Consulting Pty Ltd. A copy of Mr Anderson's findings with respect of the hearing will be available for Inspection at Council's Customer Service centre and on Council's website.

An opportunity will be available for interested persons to make representations during the Public Hearing. Please contact Council's Strategic & Community Services Group Ph 6686 1284 before 4.00 pm 30 May 2011 if you would like to make such a Representation.

Tuesday 31 May 2011 : at 6.00 pm at Public Meeting : Mr Stephen Barnier, Introduced the Chairman : Darryl Anderson -- Council Reps - Stephen Barnier : David Kitson :
Jillian Pratten : Leigh

Introduction : Stephen Barnier :

The Terms of Reference were definitely not-adequate? The Terms of Reference were deficient in appearance and in meaning? Yes they were in-sufficient in many ways as well as substance.: It gave the appearance of being benevolent to the cause in its Construction :

It did not give the Public Residents and Citizens adequate fair warning of all of the matters to be dealt with, and that are associated with the concerns of the adjoining Residents of the Porter Park area, that had assembled for the meeting.

In the case of Matters of Importance to Resident Citizens, it being most desirable that they be told in the fullest possible way what is proposed, it may well have been best to have forward to them an explanatory memorandum in addition to the Notice of Meeting :

There was no preliminary hearing or consultation what-so-ever with Darryl Anderson.

Council Meeting March 2011 ; In Question time 12 :45 pm Ralph Moss as President of Rate Payers Association asked Question : Was the Council aware and/or had they read the following regulations : [12.14] A Council must arrange a Public Hearing in respect of a proposal to prepare a draft local environmental plan to reclassify community land as operational land. A report of the hearing is to be made Public and is to be furnished to the Director of the Department of Planning and the minister, in conjunction with their consideration of the draft local environmental plan.

On the commencement of a local environmental plan that reclassifies community land as operational land, the land, if it is a public reserve, ceases to be a public reserve, and the land is discharged from any trusts, estates, interests, dedication, conditions, restrictions and covenants affecting the land or any part of the land, except for any reservations from the Crown grant: section 30. [end type on page 12-32]

That is a 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 :

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- € 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 :

Point 5 : Rate Payers and Residents Queries and un—answered concerns of Irregularities and Areas for comment and answers sought from Ballina Council since 12 October 2010:

- A meeting on 12 October at Porter Park in the Rain is insufficient.
- Council has refused and not to put any legislative Laws, Ordinances, Clauses, Regulations, or Rules before the Resident Citizens in relation to the 'Dedication as Public Reserve' of Porter Park from 1980.
- Council has also refused to put the Deposit Plan No 260335 1980/ 46 dated 15/ 05/ 1980: with the Terms and Conditions of Dedication before the Resident Citizens of Porter Park area at West Ballina and that is clearly Misleading and/ or Deceptive Conduct.
- Council must produce the original Plan of Management that was put in place at the time of Dedication in 1980 – That stopped the building of a small facility room along with the Toilet block –as it was not compatible to the Dedication as open space area was under specification.
- When this 1/5 of Porter Park is now surveyed off this 1.856 ha area of Porter Park, how is the open space area going to be retained? And, How is this amount of open space area going to be replaced from within Harbour View Estate area? And, Where and How is it going to be replaced when the Harbour View Estate has now been fully built upon?
- Porter Park has to be de-Registered as a 'Dedicated' Park for Council to be able to survey and sub-divide off the proposed area in North East corner for Aboriginal and Family Centre Building and Car Park ? Is this correct? Is the rest of the Park then open for other Community Buildings?
- The balance of the Council letter dated 9 May 2011 : May well have been written in breach of Procedural Law in relation to the Local Government Act 1993 ? And is inadequate and/ or Misleading and Deceptive in its appearance to the relative subject of Dedicated Title of Porter Park?

This letter and attachments to go with letters already sent to you by E-mail : via Ross Pickering.

All Ballina Council Business papers are on Ballina Council's web site :

Yours Sincerely

Ralph Moss,
President, Ballina District Citizens and Rate Payers Association,
156 Tamar Street, (tel 02 6686 2560)
Ballina 2478

Independent Commission Against Corruption Act 1988 No 35

Part 3 of ICAC Act: 7. Corrupt Conduct

(1) For the purposes of this Act, corrupt conduct is any conduct which falls within the description of corrupt conduct in either or both of subsections (1) and (2) of section 8, but which is not excluded by section 9.

(2) Conduct comprising a conspiracy or attempt to commit or engage in conduct that would be corrupt conduct under section 8 (1) or (2) shall itself be regarded as corrupt conduct under section 8 (1) or (2).

(3) Conduct comprising such a conspiracy or attempt is not excluded by section 9 if, had the conspiracy or attempt been brought to fruition in further conduct could constitute or involve an offence or grounds referred to in that section.

Section : 8. General Nature of (1) Corrupt Conduct :

(1) Corrupt conduct is :

- (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- (c) any conduct of a public official or former public official that constitutes or involves a **breach of public trust**, or
- (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit of any other person.

(2) Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters :

- (a) Official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion, or imposition),
- (b) bribery,
- (c) blackmail,
- (d) obtaining or offering secret commissions,
- (e) fraud,

(end quotes ICAC Act)

Ballina District Citizens and Ratepayers Association Inc.

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Further information as stated in our first submission.

Independently chaired Public Meeting, held by council.

The definition of "altering categorization of community land, was not explained by either the Chairman [Darryl Anderson], or representatives of Council who were present. There was only a "half-baked explanation of what the meeting was to consist of.

The existing Plan of Management was NOT put before the people at the hearing , nor at any stage prior to that!

Questions that need to be answered before this project is allowed to proceed further.

We request that the Development Application, now before Council, and awaiting terms of lease conditions only, be stopped indefinitely, or until this entire matter can be revisited after allegations of nepotism and cronyism within the LRG, and possible bribery of Council have been dealt with.

Question 1. What amount of intimidation was placed upon Ballina Shire Councillors at their monthly meeting February 24 2011, by the presence in the chamber of the Local Reference Group's Rent-a-crowd of about 120 aboriginal people?

Question 2. Why were the 25 plus children under 14 years of age, not at school?

Question 3. Why was this kind of circus allowed to go ahead by Ballina Shire Council? They were aware of it before the event, because they had hired extra security guards, expecting a riot!

Question 4. Why didn't Darryl Anderson have copies of the terms of reference for this meeting ready to hand out? The terms of reference only came to light in Mr. Andersons final report to Council, and by then it was too late, the decisions had all been made.

Why were these terms of reference so narrow that they could lead the chairman to only one decision, the decision that Ballina Shire Council wanted to hear from him.

Question 4. Why did the terms of reference not provide for a preliminary hearing to discuss the rules of the meeting? Citizens were never given an adequate warning of the confined and narrow terms of reference, and that these terms would be so inadequate and flawed!

Question 5. Why did Chairman Anderson state at the start of the meeting that there would only be 3 minutes allotted to each speaker, when the General Manager had told us there would be 5 minutes with a further 2 minutes extension if required. Our speakers had tailored their responses to a 5 minute window. This alone put our case at a decided disadvantage. This is not consistent with Councils code of conduct, or code of meetings practice.

Question 6. If Ballina council had nothing to hide, why did they refuse to allow any recording or photography of this meeting?

Question 7. The terms of reference were such that the meeting only concerned itself with the suitability of Porter Park as a possible site for the Centre, His terms of reference did not allow him to evaluate ANY OTHER SITE! In fact in all the time since this Centre was first mooted, no other sites have been publicly evaluated!

We believe that bribery may have taken place here, as previously outlined by BSC accepting a sum of \$110,000. from DoFCS, for "the considerable work done by you and your staff". [letter

from Ms Sonia Stewart of DoFCS Sydney to BSC General Manager P. Hickey, copy available!

We are enclosing a photostat copy of BSC's Code of Conduct, pages 3 to 10 that may be of assistance to your investigators in an anticipated inquiry

It is our belief that Ballina Shire Council has breached its "duty of care" and we are also of the opinion that they have also breached their own "Code of conduct" in the matter of the proposed Aboriginal Child and Family Centre, Porter Park, West Ballina.

Yours Sincerely,

*Ralph Moss.
President. B.D.C.R.A.*

Encls:

Ballina District Citizens and Rate Payers Association Inc.
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Submission to Independent Commission Against Corruption

The Ballina District Citizens and Rate Payers Association respectfully submits the following concerns over the manner in which the Ballina Shire Council has been involved in the two (2) year long process for setting up the Federally funded Aboriginal Child and Family Centre in Ballina.

The Rate Payers Association are focusing on the Council and their most questionable conduct to the Ballina Community : There have been a lot of Misleading statements in relation to the re-categorisation of the 1980 'Dedicated Porter Park'. For a proposal to build an 'Aboriginal Child and Family Centre on Porter Park.

December 2009: Department of Family and Community Services write to Council announcing that Ballina has been chosen for an Aboriginal Child and Family Centre, and advise that Treelands Reserve [preferred site – alongside existing Ballina District Community Centre] and Canal Road are suitable sites.

The Local Reference Group [Aboriginal] is formed, although names of its Members have not been disclosed – or where ever this group was formed at which meeting with Department of Family Community Services and Council?

June 2010: Council most graciously offer Porter Park at West Ballina to Local Reference Group [Aboriginal] and they are pleased to accept. Ballina Council advise Department of Community Services head office to get project underway. They [Ballina Council] will organise re-zoning and re-categorisation of Park Land. [from Sports field to Community Land] The Local Reference Group then start developing a master plan for ALL of Porter Park : No demographic study was done, No assessment of Porter Park's suitability was done : No Public Consultation was undertaken and No other potential sites or potential locations were investigated.

Council Meeting 24/ 06/ 2010 – page 56 – Council adopted – Minutes of the Facilities Committee (Minute No. 280110/ 21).

Page 60 – Consultation concerning the proposed centre has been limited to the Department of Community Services, the Office of Premier and Cabinet and representatives of the facility's Local Reference Group. Question Why weren't the Residents notified 28 days before this meeting of Council ? By Law that should have happened then.

October 2010: Council decide it is about time the local Rate Paying Residents were informed of their plans and an information session is informally held in the Porter Park [with a handful of (28- 30) Residents in inclement weather drizzle cold conditions : The Local Citizens are outraged and appalled at treatment : And form a Save Porter Park group : and call on the Rate Payers Association for support :

February 2011: Council votes to proceed further with Porter Park : Both Councillors and Council staff deceived the Public Citizens by stating "Porter Park is only an option" None of Citizens and Rate Payers were aware that the decision had already been made, without any proper Public Consultation with the Residents, Citizens and/ or Rate Payers : But, Council gave warm (Hugs-n-Kisses) welcome to LRG's Rent-a-Crowd of 150 individual People including 25 to 30 children under the age of 10 years of age : All to intimidate the Councillors thoughts and procedural undertaking on consideration business paper 9.1 – necessary amendments to Plan of Management (Resident Public had been denied these plans of Porter Park for 1 year)

Council Meeting March 2011: In question time 12. 45pm :
Was the Council aware or had they read following legislative regulations :

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[12.14] A Council ; On the commencement of a local environmental plan that reclassifies community land as operational land, the land, if it is a public reserve, ceases to be a public reserve, and the land is discharged from any trusts, estates, interests, dedication, conditions, restrictions and covenants affecting the land or any part of the land, except for any reservations from the Crown grant: [end quote]

[Clearly this procedural Law breached in Anderson report page 3 last paragraph] What happens to balance of Porter Park? How is it going to be surveyed off? questions were asked.

April 5, 2011: Council accepts cheque from Department of Family and Community Services for the sum of \$110,000 supposedly for "considerable work undertaken by you and your staff working with us and the Local Reference Group". Ballina Shire Council has nothing to do with the construction of the Aboriginal Child and Family Centre, this payment can easily be construed as a gratuity for bending to Department of Family and Community Services preference of location. Council even issues Department of Family and Community Services with an invoice which says "One off grant for Aboriginal Child and Family Centre", and the amount of \$100,000 now has \$10,000 GST added to it by Council.

Which prompts us to ask the following questions:-

1. How could Council maintain its independence if they had been paid a fee to do the bidding of Department of Family and Community Services.
2. Was Council acting as an agent for Department of Community Services, and also acting on behalf of Ballina Community/ Residents/ Ratepayers?
3. In relation to 2 [above], did Council have a conflict of interest which was not publicly declared?
4. What would have been the Community's reaction if they knew that Council had a conflict of interest, and particularly, had been a fee to represent Department of Family Services?
5. **Was this fee a bribe?**
6. On what basis was the fee negotiated?
7. Did The Councillors authorise the charging of the fee?
8. Did Council management have authority to negotiate/ charge the fee without Council's consent?
9. Was the Council's support of Porter Park option conditional upon the payment of the fee by Department of Family Services?
10. Would the fee still have been paid by Department of Family Services if Council did not support the Porter Park option?
11. What part of the Department of Family Services budget was the \$110,000 fee drawn from? We are currently awaiting documents from Department of Family Services under the GIPAA, which may throw more light on the above. These documents will be forwarded to you upon request as soon as they are made available to us.

March to May 2011: Council's change to the Plan of Management, to allow the Centre to be built on Porter park is Publicly exhibited. Over 100 letters of objection are received by Council including two (2) from Prominent Aboriginal Families, who state they have been refused a seat on the mysterious Local Reference Group.

May 2011: Council use a 'Planning Consultant' frequently employed by themselves as an "Independent Chairperson" to chair an Open Public Meeting. The Chairperson should have declared himself as unfit by reason of '**Conflict of Interest**', as he was a frequent Employee of Ballina Council.

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Impartiality: Page 3 – 2 para - Definition of altering “categorisation” of community land was not spelt out by either Chairman Anderson or Council - there was only a half-baked explanation as to what ‘Hearing’ was about.

3 – para - Plan of Management was not put before the People at any stage of hearing or for the previous 3 weeks or at any time prior to that.

Public Constructional Questions : Public Questions of Legal Nature : that need to be Answered : We request that the Development Application to build on Porter Park be stopped and deferred until the following points of Law are Investigated :

1. What amount of Intimidation was exercised over the Ballina Councillors at their monthly meeting held on 24th February 2011 by the Local Reference Groups Rent-a – Crowd of 120 plus Aboriginal People in Council Chamber and Building? (a) Why were the 25 plus children under 14 years Not at school? Why was this allowed to be organised by Council and Councillors ?
2. Ballina Council was NOT fully aware of the following ‘Legislative Law Regulations’? : [12.14] That a Council : On the commencement of a local environmental plan that reclassifies community land as operational land, the land, if it is a public reserve, ceases to be a public reserve, and the land is discharged from any trusts, estates, interests, dedication, conditions, restrictions and covenants affecting the land or any part of the land, except for any reservations from the Crown grant: Q - How is it Ballina Council : has not complied to the above Procedural Parliamentary Legislation and Law ?
3. Tuesday 31st May 2011 : Council in considering proposed change of Porter Park from Park Reserve to General Community use said : The “Categorisation” of the land would not change : Amendment to Plan of Management : There was : No definition of the “categorising or altering the categorisation of Community Land”?
4. Darryl Anderson : reads ‘Terms of Reference’ : He did not have copies of this terms of reference were definitely not-adequate : Public and Interested Parties were not consulted prior to the hearing ? Terms of reference were flawed, deficient in appearance and meaning : And, were insufficient and defective in substance.
The Terms of Reference gave the appearance of being benevolent to a Party in construction :
(a) Fairness Principle : The Terms of Reference did not provide for a Preliminary Hearing to be held at Council Chambers between Council and the Representatives of the different stakeholder groups before the Hearing commenced to determine the Adequacy of the Terms of Reference as to whether they were sufficient, deficient in substance and/ or Flawed?
5. The Public Resident Citizens were not given an adequate fair warning of the confined narrow matters that would be discussed : And, that the associated concerns of the matter belonging to the Citizens may not be dealt with in a Fair, Reasonable, Equitable or Logical Manner :
(a) The Deposit Plan Map – D.P. 260335 dated 15/ 05/ 1980 ; D.P. 260662 dated 22/ 08/ 1980 ; IT IS INTENDED TO DEDICATE LOT 30 TO THE PUBLIC AS PUBLIC RESERVE (on both Maps) Further States : COUNCIL CLERK’S CERTIFICATE : SUB-DIVISION NO 1980 / 46; DATED 15/ 5/ 1980 SUB-DIVISION NO 1980 / 91 DATED 22/ 08/ 1980 (signed G.L. PEARSE) The 1.856 ha area of land now referred to as “Porter Park” was dedicated as “public reserve” upon the registration of Deposit Plan No. 260335 in 1980. When were these two D.P.’s Gazetted, and what were the terms, conditions, rules and regulations of the Gazetting? These Public articles were definitely not put before the Public. And, Why was these Public documents not put before the Residents and Citizens, instead they had to wait on Mr Anderson to produce them to the public in his report?
6. The Public, Resident Citizens were not given a copy or a displayed copy of the original Plan of Management attached to the title from 1980.

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7. Speaking Time: Chairman Anderson stated: Three (3) Minutes allowed only with one Minute extension. – But, The General Manager, Paul Hickey, in a letter addressed to Ralph Moss dated 25 May 2011; stated that: Five minutes would be the allocated time. Thus, that then means that the Rights of Speech and freedom of speech were being very restricted Not in compliance with Council's Code of Conduct? and Code of Meeting Practice?
No Guide Lines given to Chair Person: No Visible Transparency of Natural Justice being delivered.

8. 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? Where the Hearing could have started at 9.30 am and could have been run under the same conditions as a Council meeting: or in similar type of terms as a Court Hearing: with terms of reference: as an ordinary local Court, under a Court system type of rules, regulations, by-laws, clauses and ordinances? (about 52 people seated in Chamber and seating for further 30 people in foyer and the monitor could have been turned up for them to hear Chamber proceedings?)

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

9. Quality of the Process – A Mediator shall conduct the mediation fairly, diligently, and in a manner consistent with the principle of self-determination by the parties.

September 2011: Development Application is on display until 22 October 2011.

Ballina Rate Payers welcome the establishment of an Aboriginal Child and Family Centre, however a location has to be chosen that, does not have to get built up on Flood Plain, would assist in getting the project off to a reasonable chance of success.

Investigations are currently underway into the mismanagement of the other two parties, and together with the questionable activities of the Ballina Council, there is enough justification to examine the entire project.

We respectfully request the Independent Commission Against Corruption to ask the Minister for Local Government to place a moratorium on this project until such time as it takes for above matters to be thoroughly investigated.

It is our belief that Ballina Council has breached their "Duty of Care" and we are also of the opinion that Council have also breached their own "Code of Conduct", in the matter of the proposed Aboriginal Child and Family Centre, Porter Park, West Ballina.

We are enclosing a photo-stat copy of Ballina Shire Council's Code of Conduct pages 3 to 10 that may be of assistance to your Investigators in an anticipated inquiry.

Yours Sincerely

Yours Sincerely

Ralph Moss
President Ballina Citizens
Rate Payers Association

INTRODUCTION : Information Sheet states : In 2008 at the Council of Australian Governments' (COAG) meeting, the Prime Minister and all State and Territory Premiers agreed to work together to improve the early childhood outcomes of Indigenous Australian Children within a decade. The Rate Payers Association fully support the Ballina concept, but not at Porter Park.

Site : Point 1. In December 2009, Ballina Council received notice from DOCS and the Local Reference Group and The NSW Department of Human Services, Community Services etc, that Porter Park was the preferred site for this Community asset. There was two years of Consultation with Ballina Council before the local Resident Citizens were notified by Council of the intended Building the Proposed Aboriginal Child and Family Centre at Porter Park in West Ballina.

Point 2. History of Porter Park :

1. 1969 *former Planning Scheme – Interim Development Order No. 1* – covered Harbourview Estate where Porter Park is located. Development was subject to preparation of a Development Control Plan in 1970 ; DCP required these areas to be provided as part of any development of the land.
2. Porter Park was created from Developed Private Property and so much land had to be put aside for Open Green Space Area and Sporting activities.. [according to 1938 Parish Map]
3. Concurrence by the Director of the then State Planning Authority.
4. (a). Earliest DCP that Council has on record is one approved in 1973. Why? When they are custodians of these documents?
(b). The 1973 and subsequently amended DCPs show the area now occupied by Porter Park as allocated for “Playing Fields”; and area of Marge Porter Place as Children’s Playground.
5. The 1.856 ha area of land now referred to as “Porter Park” was dedicated as “public reserve” upon the registration of Deposit Plan No. 260335 in 1980. The Total open space provided within the Harbour view Estate is thus 2.25ha.
6. Porter Park is further supplemented by additional land containing an area of 3,490 m (square) to south. This land is described as Lot 58 DP 260662 and was originally closed road, and dedicated as “Public Park” to allow for the extension of Sunnybank Drive.

The following reasons are why the Rate Payers Association are against this development of Porter Park :

- Why was the Porter Park – Deposit Plan No 260335 1980/ 46 dated 15/ 05/ 1980 : Not put before the adjoining Residents of Porter Park area : West Ballina on 12 October 2010 ??
- Consisting of an area of 1.856 ha area of land now referred to as “Porter Park” that was dedicated as “public reserve” upon the registration of Deposit Plan No. 260335 in 1980 – by itself.
- Why has the ‘Terms and Conditions of Dedication’? not been put before the Residents of Porter Park?

IT IS INTENDED TO DEDICATE LOT 30 TO THE PUBLIC AS PUBLIC RESERVE

At bottom : I, Bruce Richard Davies, Under Secretary for Lands and Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 20th day of October, 1980. (signed)

What happened to Porter Park Title from time of Dedication to 22 June 1995?

3 A). 1. The unnamed “Children’s Playground” was dedicated as Lot 21 DP 242676 in the first stage of development in 1972 and an area of 3,952 m (square).

Open Space Provision

The amount of open space shown on the D C P appears to have been based upon, or at least approximates long standing open space guideline of 2.83 ha per 1000 incoming residents for “green field” sites.

There was 195 residential lots created plus a commercial area of 3.0ha between Kalinga St and Highway. The occupancy rate at time of 3.5 persons per dwelling. This means that there should have been 2.83ha ; Provided for open space and in actual fact there was only 2.25ha approved on D.A. belonging to D.P.

Covenant

As indicated and demonstrated above, Porter Park was dedicated to Council for public recreation as part of the normal open space provision for new residential subdivisions. Council is of view that the only restrictions on the use of this land flow from Government legislation, unless it can be demonstrated otherwise to the contrary.

Plan of Management

The *Local Government Act 1993* prohibits the sale of Community Land and requires its use and any licensing/ leasing to be consistent with a Plan of Management. Council does not have a separate Plan of Management (POM) for Porter Park. Council does however have a Principal Generic Plan of Management for Community Land (Principal POM) under the *Local Government Act 1993*. Porter Park is currently classified as Community Land and categorized as 'sportsground' under the Principal POM, which may be viewed on Council's website typing "POM" into the search function.

The Act recognizes that the uses of Community Land can change in response to changing Community needs and provides a Public consultation process that Councils must follow before any such changes are made. These requirements are outlined in Part 2 – Public Land of Local Government Act 1993 and include the need to place on Public exhibition any amendments to the Plan of Management. Prior to the use of Porter Park for any facility or use that is not associated with a 'sportsground', an amendment to the Principal Plan of Management will be needed to change part of the Park's current 'sportsground' categorization and for any new uses to be specifically endorsed. Such an amendment is required to be Publicly exhibited and a Public Hearing held.

NSW DEPARTMENT OF COMMUNITY SERVICES

Mr Paul Hickey ;
General Manager, BSC

22 December 2009

The Child and Family centre will also comprise of a new building in Ballina. Critical to this is to ensure suitable land is secured. The Community and Local Reference group have identified the following sites (see attached map), which I would like to further discuss with you :

- Cnr Cherry and Moon Streets, Treelands Reserve (next to the Community Centre)
- Canal Road (in between the TAFE campus and Saunders Oval where the visiting circus sets up each year).

I would like to suggest that we meet on Monday 11 January 2010 at 10.00 am. I am happy to attend your office. Can you please confirm your availability to Kylie Coldwell, Senior Regional Strategies Officer on 66 83 5607 or Kylie.Coldwell@community.nsw.gov.au Regards, Kym Langill ;

Origin of Local Reference Group 22/ 12/ 2009 & 21/ 01/ 2010 ;

Note :- No mention of Porter Park as of December 2009 :

Chair (Lenkunar Roberts) of Local Aboriginal Reference Group addressed the Council at June monthly meeting as Porter Park the preferred site. On film file at Council.

Point 4 : MAPS of PORTER PARK

Point 5 : Rate Payers and Residents Queries and un—answered concerns of Irregularities and Areas for comment and answers sought from Ballina Council since 12 October 2010:

- Council has not and did not attempt to put before the People the legal Status of the Development Control Plan (DCP) that was endorsed by the Director of the then State Planning Authority in 1970. (ie) A meeting at Porter park in the Rain is insufficient.
- Council has refused and not put any legislative Laws, Ordinances, Clauses, Regulations, or Rules before the Resident Citizens in relation to the ‘Dedication as Public Reserve’ of Porter Park from 1970 or 1980.
- Council has also refused to put the Deposit Plan No 260335 1980/ 46 dated 15/ 05/ 1980 : with the Terms and Conditions of Dedication before the Resident Citizens of Porter Park area at West Ballina and that is clearly Misleading and/ or Deceptive Conduct.
- Council must produce the original Plan of Management that was put in place at the time of Dedication in 1980 – That stopped the building of a small facility room along with the Toilet block – as it was not compatible to the Dedication as open space area was under specification.
- When this 1/5 of Porter park is now surveyed off this 1.856 ha area of Porter Park, how is the open space area going to be retained? And , How is this amount of open space area going to be replaced from within Harbour View Estate area? And, Where and How is it going to be replaced when the Harbour View Estate has now been fully built upon?
- Porter Park has to be de-Registered as a ‘Dedicated’ Park for Council to be able to survey and sub-divide off the proposed area in North East corner for Aboriginal and Family Centre Building and Car Park ? Is this correct ? Is the rest of the Park then open for other Community Buildings?
- The balance of the Council letter dated 9 May 2011 : May well have been written in breach of Procedural Law in relation to the Local Government Act 1993 ? And is inadequate and/ or Misleading and Deceptive in its appearance to the relative subject of Dedicated Title of Porter Park?

Point 6 : **Code of Conduct – Complaint :**

Purpose of the Code of Conduct:

The Model Code of Conduct for Local Councils in NSW sets the minimum requirements of behaviour for Council officials in carrying out their functions. The model code of conduct has been developed to educate Councillors for learning and teaching of their own Duty of Care.

- Shall enable Officials to fulfil their statutory duty to act honestly, to exercise a reasonable degree of care and diligence in the exercise in the discharge of his official Duties. (section 439)
- To take all reasonable steps to ensure that the information upon which decisions or actions are based is factually correct and that all relevant information has been obtained and dispersed.
- A Councillor, Member of Staff or delegate must not act contrary to law.
- Act in a way that enhances public confidence in the integrity of local Government.

In relation to Public Notice – Hearing pursuant to section 40A of the Local Government Act 1993;

This Public Notice : Does this notice comply and conform to Ballina Council’s Code of Conduct :

PART 2 : STANDARDS OF CONDUCT

This Part of the Model Code sets out the conduct obligations required of Council Officials.

These are the enforceable standards of Conduct. Failure by a Councillor to comply with Part 2, the standards of Conduct, of Council’s Code of Conduct constitutes misbehaviour and may constitute a

OBJECTION TO PORTER PARK.
Aboriginal Family/Daycare/Health Centre
Construction.

I Lee SOUTAR of 2 Daydream Ave
West Ballina. Object to the
Proposal by Ballina Council to
Construct said Centre on Porter
Park.

(Reasons)

1. OPEN SPACE Requirements:- West Ballina
already is well behind required open
space per ratio of population.

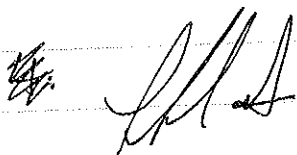
2. INCREASED TRAFFIC and NOISE:-

Such Centre would cause much more
traffic, noise to residential streets
in area of Porter Park.

3. CRICKET GROUND:

Council always stated a cricket ground
would still be incorporated in plans. But
now are doing back flip.

West Ballina needs a pitch for kids
to play on. NOT having to travel onto
Island.



L. SOUTAR

2 DAYDREAM AVE

WEST BALLINA

9/5/12

RECORDS SCANNED
10 MAY 2012
Doc No: 12/9764
Batch No:

The General Manager
 Ballina Shire Council
 PO Box 450 Ballina 2478

OBJECTION TO PROPOSAL TO LEASE AN AREA OF 'COMMUNITY' LAND

We the undersigned express our strong objection to the Agreement for Lease AND Lease Agreement with the Department of Family and Community Services NSW for a term of twenty one (21) years for the construction and operation of an Aboriginal Child and Family Centre upon Part Lot 30 DP 260335 and Part Lot 65 DP 261759, Hayman Street, West Ballina known as Porter Park

The grounds of our objection include:

1. That we and our Bundjalung Elders on Cabbage Tree Island were not adequately consulted in the decision to construct this Centre on Porter Park nor was our voice heard when we objected to its location
2. That our Elders were not represented on the Reference Group and those Elders who asked to be represented were refused
3. That we have no confidence in the ability of the Bunjum Cooperative to manage and administer the Centre
4. That in order to service the entire Aboriginal community the location for the Centre should be elsewhere
5. That Porter Park in its entirety is needed for Open Space and recreation for the West Ballina community, both Indigenous and non-Indigenous
6. That superior alternative locations have always existed but were rejected without adequate assessment
7. That the process leading to this lease agreement has been deeply flawed through improper collusions between Ballina Shire Council and the State Department responsible for the Centre
8. That because of the serious rifts this project has created across Ballina's Indigenous Community it is destructive to our Community's interests and welfare for the process to proceed
9. That no further progress should be undertaken until the Minister for Aboriginal Affairs has finished investigations into setting up a comprehensive and representative Indigenous Reference Group for the Aboriginal community of Ballina and his recommendations implemented

Name (Printed)	Residential Address	Signature
Shenee Anderson	Cabbage tree Island	S. Anderson
Roslyn Anderson	2/30 Simpson Avenue, Wallongbar	R. Anderson
Renee Anderson	Cabbage Tree Island	R. Anderson
Sharleen Anderson	Cabbage tree Island	S. Anderson
Julia Anderson	1 Amy pl Ballina	J. Anderson
Sasha Anderson	1 Amy pl Ballina	S. Anderson
Leonie Kapeen	Cabbage tree Island	L. Kapeen
Rebecca Anderson	Cabbage tree Island	R. Anderson
S. Anderson	4 Claire circuit Ballina	S. Anderson

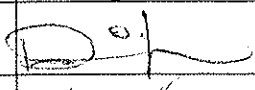

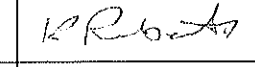
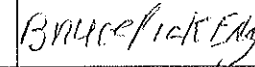
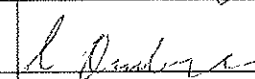
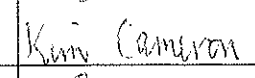

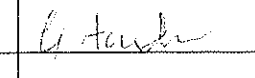
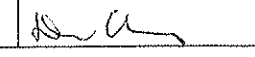
The General Manager
 Ballina Shire Council
 PO Box 450 Ballina 2478

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Name (Printed)	Residential Address	Signature
Lynette Simpson	Cabbage Tree Island Wardell	
Richard Walker	Cabbage Tree Island Wardell	
Rae Roberts	Cabbage Tree Island Wardell	
Bruce Pickering	Cabbage Tree Island	
LAURENCE Anderson	Lumley Lane WARDILL	
Kim Cameron	Lumley Lane Wardell	
Elaine Anderson	Cabbage tree Island	
Georgina Anderson	Cabbage tree Island	
DIANNE ANDERSON	CABBAGE TREE ISLAND	

The General Manager
 Ballina Shire Council
 PO Box 450 Ballina 2478

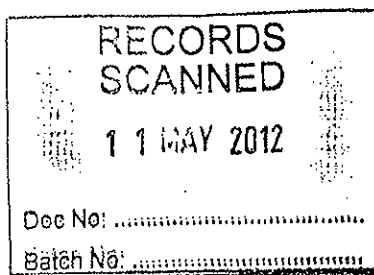
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Name (Printed)	Residential Address	Signature
LEANNO ANDERSON	68 Lamkeys Lane WARDERL	
LAWRAIE ANDERSON	Cabbage Tree Island.	
Aura Speltz	Cabbage Tree Island	
Patrick B. Robert	cabbagetree Island	P.B.R.
LEANNO ANDERSON	CABBAGE TREE ISLAND	Signature
DOUGLAS ANDERSON	CABBAGE TREE ISLAND	
PAUL ANDERSON	CABBAGE TREE ISLAND	
Lisa Anderson	1/30 Simpson Avenue Wollongbar	
Maria Anderson	Cabbage Tree Island	



Mr Chris Grant
Property Manager
Ballina Shire Council
PO Box 450
Ballina .NSW 2478

Dear Sir

I object to lease going ahead as there are too many unfinished answers for an Aboriginal Child and Family Centre to be built on Porter Park for these reasons:-

- 1) Where is the data to support the need for an Aboriginal Child and Family Centre to be built on Porter Park, West Ballina there has to be strong evidence before investing Taxpayers money otherwise it will be a waste of money and a lot of heartache.
- 2) The closure of the Temporary Centre in Tamar Street prior to Christmas 2011 would suggest that there are insufficient numbers to support the building at Porter Park.
- 3) How many babies/children are in West Ballina as opposed to Ballina Island, Wardell or East Ballina? Data is required for the age groups 0-1 yrs, 2-3yrs and 4-5yrs who would be using the centre.
- 4) This data is vital evidence to support any Centre and it has to be for the majority of the Community. If Council were genuinely concerned for the need of such a Centre to be built then let it be for all the right reasons and not for Council's benefit.
- 5) Concern of the expansion of the Centre in the future would take up more open space in West Ballina as there is a deficit of open space now in West Ballina estate.

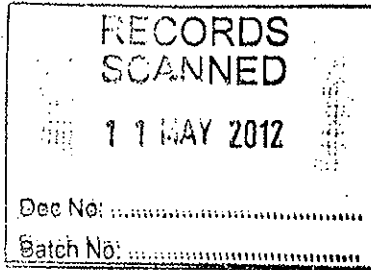
Concerned Resident and Ratepayer of West Ballina

Dianne Hume

A handwritten signature in black ink, appearing to read "Dianne Hume".

PO Box 856

Ballina NSW 2478



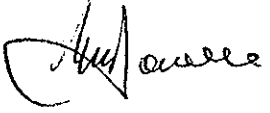
Mr Chris Grant
Property Manager,
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Dear Sir

I object to the lease of our park for the following reasons:-

- 1) Community consultation was inadequate and decisions had been made before ratepayers were notified of council's plans. It is not clear in the lease agreement whether expansion into more of Porter Park is likely or not.
- 2) The temporary Aboriginal Child and Family Centre has been closed since last Christmas and why?
- 3) If Council are genuine about building a Centre then let the majority of the Community decide as it will be for their welfare not Councils.

Ratepayer S

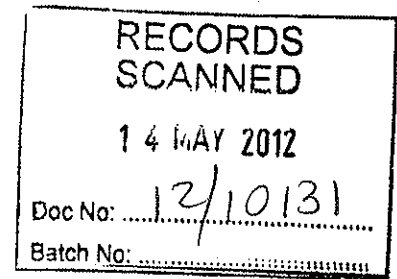
Bill & Anne Howell 21 Riverside Dr Ballina


Denis Magnay

148 Tamar ST.

Ballina. 2478

8-5-12.



Ballina Shire Council

General Manager

Please find my submission to the Leasing proposal for the land at Porter Park West Ballina

Firstly I am a long term resident and ratepayer of Ballina Shire and do not live or own any property at Porter Park or West Ballina.

I wish to make complaints about any leasing arrangements relating to the land at Porter Park West Ballina for use as a Child and Family centre..

Because one of the main planks for Gov. Funding is that there has to be reasonable Community acceptance of the project.

My complaints are as follows.

- 1; There is no reasonable acceptance of the project by the Community
- 2; The land was set aside for open space for the Community many years previous and was well undersized at the time.
- 3; A process adopted by the Council to test Community acceptance ultimately showed there was hardly any genuine support.
- 4; Records will show that a very large number of Indigenous people as well as non-Indigenous people are opposed to this project on Porter Park.
- 5; Two major parts of the process to acquire re-categorisation of the land and development which would give Councillors information for a fair decision was the Calling of Submissions and the Public Hearing. The result on both of these could be described as severely misrepresented. Thus giving Councillors, a distorted view of the facts.
- 6; Because these premises can't be used for Educational purposes I am concerned that the entire project is one only of disruption.

PUBLIC HEARING.

I attended the Public hearing which related to this project and was so disturbed by it that I felt duty bound to file a report. [for the record]

PLEASE FIND MY REPORT ENCLOSED. Dated 20-6-11 which forms part of this Submission.

Denis Magnay

PORTER PARK.

To all Ballina Councillors

20-6-11

Special Report by Denis Magnay.

Preliminary.

This report relates to the Public Meeting held at the Ballina R.S.L 31-5-2011 by Ballina Council into the re-categorisation of land at Porter Park to enable an Aboriginal Child & Family Centre to be built thereon.

I believe the process to conduct the Hearing is badly FLAWED & the result handed down by Mr Daryl Anderson Chairperson should be discarded by Councillors

I must advise that I do not live at West Ballina, but am a long-time resident & ratepayer in the Ballina Shire.

I am non- Indigenous.

I became involved in this issue because many Local established Aboriginal Families are among my best friends through sport.

Over the last 50 years I have personally trained 95% of all Aboriginal Boxers in Ballina Shire. That would amount to many hundreds of Aboriginal & Non Aboriginal.

It hurts to see the collision course which Aboriginal & Non Aboriginals are now on after decades of understanding & co-operation in Ballina Shire.

Because of the foregoing I find myself well positioned to talk to both party's & have done so.

Except for the serious racial conflict now underway, it doesn't affect me if the Facility is at Porter Park or not. I did attend the hearing & I did make a deputation. The thing I am concerned about is whether fair play is observed in the process of the hearing.

Hence my Report.

PLEASE FIND EXIBITS A-K AS ATTACHED TO THIS REPORT.

Secret Local Reference Group (L.R.G)

The Groups who are supposed to be represented by this Group are well documented (Exhibit) A

Unfortunately my enquiries to Council, Bunjum, DOCS, Cabbage Tree Island & numerous Elders there are no one able or willing to advise me as to whom the Members actually are. There appears to be a cloak of secrecy over this issue.

"Independent Chairperson"

In Mr Anderson's report he quotes from the Local Gov. Act of 1993 that the Chairperson is to be "a Person independent of the Council" (Exhibit) B. However Council advises me by letter that Mr. Anderson services have been used by the Council on a number of occasions (Exhibit) C.

It would have to be close to if not a conflict of interest. I am concerned what would happen to Mr Anderson's services to Council if his findings were contrary to Council's expectation?

No Guidelines given to Chairperson.

Prior to the Hearing I was informed by Council in writing that Mr Anderson has not been given any Guidelines or directives by Council. (Exhibit) D

Contrary to that statement Mr Anderson writes in his report that "Council has provided me with the following terms of reference for the Hearing" (Exhibit) E

Because of the previous reference by Mr Anderson of a "Brief & Terms of Reference" I contend Mr Anderson must have been briefed & given guidelines or directives by Council. (Exhibit) F,

Because there was no Terms of Reference or Guidelines publically available prior to the hearing, myself & many others went ahead & prepared our deputation to what we considered to be appropriate issues.

Ruled Out:

As a consequence of Speakers not having advanced knowledge of any Terms of Reference Mr Anderson merely discounted most of the issues from those **Against** the use of Porter Park as "either not relevant or are ""Beyond the terms of reference"

Bias Reporting:

In the report Mr Anderson says that the key issues have been assessed & distilled into Sections of the report. It must be realised Mr Anderson only distilled the issues put forward by Speakers who were **Against** the Park into 5 sections (Exhibit) G

There is not one section for the 70% of those who spoke **for** the Park. Maybe that is because the majority of them said almost the same thing, word for word.

The only "mention" which related to those **for** was a lengthy written report from a Senior Staffer.

For Council to be able to introduce this unchallengeable document from a previous Council meeting into the hearing phase of the process is surely evident of the direction in which Council wishes the decision to go. (Exhibit)H

Speaking Time:

Prior to the hearing I rang Council & enquired as to how much time would speakers be permitted?

I was informed it would be 5 minutes. That was confirmed in a letter by Council. (Exhibit)I

To my dismay when I arrived at the hearing I was informed that only 3 minutes would be permitted. Like numerous other Speakers I was forced to hurriedly reduce my deputation. This had the effect of eliminating a great deal of meaning from my deputation which was previously tailored to take exactly 5 minutes.

No Recording Allowed:

Unfortunately for concerned citizens the Terms of Reference as supplied in Mr Anderson's report advises "The conduct of the hearing shall not be photographed, filmed or recorded "(Exhibit) J

This move obviously makes it very hard for any Speaker to challenge the final decision of the Chairperson if they consider it to be **BIASED**

Not Transparent:

Because the only recording of the hearing was to be by written notes by Council Staff & Mr Anderson (Exhibit) K

This surely must be considered a planned move to avoid transparency.

Only two Councillors Present:

To my knowledge only two Councillors attended the hearing & therefore not having the event recorded makes it much more serious.

Issues Ignored:

Some of the more **serious issues** which some Speakers projected were: Doubtful makeup of the Local Reference Groups, Bullying of elderly citizens who wished to oppose the plan & the growing presence of racial conflict. Mr Anderson obviously didn't mention any of these because they weren't significant or he ruled them out as not coming within his "Brief or Terms of Reference"

Indigenous People Only Used.

It appears that only one Clan of Indigenous people have been used by Council in an attempt to acquire a certain outcome. That Clan obviously felt obliged to co-operate in fear of losing the chance to acquire the Centre in Ballina for all Indigenous People

In Summary:

1: Local Reference Group: (L.R.G) can't be identified.

2: Independent Chairperson: Council says Mr Anderson "Has been used by Council on a number of occasions"

3: "No guidelines given to Chairperson by Council" says Council.

Mr Anderson says "Council has provided me with the following Terms of Reference"

4: Deputations Ruled Out:

Most Deputations **against** Porter Park ruled out because "either not relevant or are beyond the Terms of Reference'. Deputations **for** Porter Park not mentioned.

5: Speaking Time Reduced from 5 minutes to 3 minutes

6: No recording of Hearing Allowed

7: Transparency nonexistent:

8: Serious Issues: of bullying, physical threats, & doubtful L.R.G establishment not mentioned in report.

9: Indigenous People only Used: One group only

10: No Councillors present: If no Councillors attended & there is no recording of the event then the accuracy & extent of the notes taken by Mr Anderson & Staff is paramount for Councillors information.

Finally.

My opinion (for what it's worth) is the hearing doesn't appear to have been conducted Fair & Equitably. Council should declare the "Hearing" a non-event & start afresh by consulting all stakeholders for any site which is to be used in the future. Advice to me at the moment is that Litigation is eminent if this process continues.

Denis Magnay 148 Tamar St. Ballina 2478

0266865139 M 0412493367



Local Community

The most significant aspect of the Centre project has been the engagement and participation of the local Aboriginal community. To achieve this, the local Aboriginal community determined who and how it would be represented and a Local Reference Group has been established from local community members and Aboriginal community organisations that have a role in child and family services. The membership of the Local Reference Group is as follows and includes a balance of men and women and residents of both Ballina and Cabbage Tree Island.

- Parents
- Elders
- Youth
- Ballina Cabbage Tree Island Local Aboriginal Education Consultative Group
- Bullinah Aboriginal Health Service
- Bullinah Goori Services Actions Group (Aboriginal interagency)
- Jali Local Aboriginal Land Council
- Bunjum Aboriginal Cooperative Ltd.

EXHIBIT A

The Local Reference Group has developed a vision paper (attached) for the Centre which has been an influential tool for planning.

The Local Reference has worked very closely with Community Services in local planning and decision making for the Centre. The Centre project is viewed as a community owned project and the Local Reference Group indicates that the local Aboriginal community will continue to have active involvement in the Centre development and in its operating and growth into the future. The partnership with the Local Reference Group has been the core strength to the Centre project

EXHIBIT B

The Local Government Act, 1993 prescribes a process which Councils must follow when classifying, reclassifying or changing the categorisation (ie. use) of a Public Reserve. That process involves public exhibition of the Draft Amendment to the Plan of Management, conducting a Public Hearing by a person independent of the Council and consideration by the Council of all submissions and any recommendation from the Public Hearing, prior to making a final decision on the Plan of Management. Having regard to the processes undertaken to date, it is my view that objections on the grounds of a lack of due process and denial of natural justice are not well founded.

Page 2
Mr Magnay
25 May 2011

EXHIBIT C

10 Mr Anderson's services as a professional consultant have been used by Council on a number of occasions;

many years on the Far North Coast of NSW, in both the private and public sectors, in relation to land use planning. Importantly, Mr Anderson is entirely independent, as is required under the Local Government Act 1993;

EXHIBIT D

7 Mr Anderson has not been given any guidelines or directives by Council as to the manner in which the hearing is to be conducted. I expect that he will use his professional discretion and judgement in conducting the hearing;

Section 40A of the Local Government Act 1993 provides that a Council must hold a Public Hearing in respect of the proposed Plan of Management (including an amendment) if the proposed Plan would have the effect of categorising, or altering the categorisation, of community land under Section 36(4) of the Act.

The proposed Amendment No. 5 of the Plan of Management will have the effect of altering the category of part of Porter Park and therefore a Public Hearing is mandatory.

I have been appointed by Council to conduct the Public Hearing and Council has provided me with the following terms of reference for the Hearing.

- a) The public hearing shall be held on Tuesday 31 May 2011 at the Ballina RSL Club function room.
- b) The appointed presiding officer may review the written submissions lodged to form an understanding of the issues that are likely to be raised. X
- c) The appointed presiding officer shall inspect Porter Park and its environs prior to the public hearing.
- d) The appointed presiding officer shall preside over this hearing and have the power to:
 - 1. Open the hearing
 - 2. Call forward persons who want to be heard
 - 3. Rule how long a person may speak
 - 4. Rule submissions out of order
 - 5. Call for order
 - 6. Close the hearing
- e) The appointed presiding officer shall give all persons who have registered their intention to speak at the hearing prior to the hearing day the opportunity to be heard. X
- f) The speakers shall be heard in the order of registration.
- g) The time allocated each speaker shall be determined by the presiding officer, but should consist of a set time for all speakers, with discretion to allow speakers additional time.
- h) The presiding officer may, where he/she considers it appropriate, and where time permits, to allow additional persons to speak who have not registered, after all registered speakers have been heard.
- i) The presiding officer may organize assistance from Council staff to record the proceedings in the form of notes.
- j) The conduct of the hearing shall not be photographed, filmed or recorded. X
- k) The presiding officer shall prepare a report of the hearing and the presentations made in the form that he/she considers appropriate, and submit such to Council within 14 days.

EXHIBIT E

Based on notes taken by myself and Council Officers during the Public Hearing, the key issues of relevance raised by speakers have been distilled and are assessed in the following sections of this Report.

EXHIBIT F

3.1 The Aboriginal Child and Family Centre Should Be at Treelands Reserve

My brief and the Terms of Reference for the Public Hearing require me to consider the Draft Amendment to the Plan of Management in respect of Porter Park. Whether or not the facilities should be at Treelands Reserve or elsewhere is therefore not relevant to the Public Hearing. X

BRIEF

3.2 Incorrect Demographic Data and Statistics on West Ballina

NOT IT

Two registered speakers did not attend the Hearing and a further five unregistered speakers, also addressed the Hearing. Several speakers spoke twice, once in their capacity representing organisations and once as a private individual.

Of the 47 speakers 14 (approximately 30%) spoke in objection to the proposed Amendment to the Plan of Management and 33 (approximately 70%) spoke in support of the proposed Amendment to the Plan of Management.

A number of speakers provided copies of written submissions to me following their oral submission.

The issues raised by the speakers were essentially the same as those contained in the written submissions received by Council during the public exhibition period.

Some of the speakers raised issues which are either not relevant or are beyond the terms of reference and scope of the Public Hearing and this Report. Some of those issues would be more appropriately addressed by Council Officers in their report to Council.

Based on notes taken by myself and Council Officers during the Public Hearing, the key issues of relevance raised by speakers have been distilled and are assessed in the following sections of this Report.

out (3.1) **The Aboriginal Child and Family Centre Should Be at Treelands Reserve**

My brief and the Terms of Reference for the Public Hearing require me to consider the Draft Amendment to the Plan of Management in respect of Porter Park: Whether or not the facilities should be at Treelands Reserve or elsewhere is therefore not relevant to the Public Hearing.

BRIEF X

out (3.2) **Incorrect Demographic Data and Statistics on West Ballina**

It is beyond the scope of my brief and Terms of Reference to comment on this issue. However, I note that Porter Park is supported by the key State Agencies, the majority of speakers at the Public Hearing and the majority of persons who made written submissions to the exhibited Draft Plan.

EXHIBIT G NOT TO COMMENT

out (3.3) **Traffic, Noise and Lighting Studies**

Amendment of the Plan of Management as proposed is intended to enable the proposed land use within Porter Park. The amendment does not authorise the use. In the event that Council does amend the Plan of Management, the proponents can then lodge a Development Application supported by all necessary plans and specialists reports/studies. The Consent Authority would be obliged to consider the Development Application on its planning merits. In the event that the Consent Authority were to grant Development Consent that would then authorise the construction and use of the facility, subject to any conditions which may be imposed on the Development Consent.

3.4 Council Does Not Own Porter Park, Just Manages It

NOT APPLICABLE

out (3.5) **Loss of Amenity**

FROM PAGE 9

OUT

Figure 2 is a Conceptual Layout showing the potential footprint of the Aboriginal Child and Family Centre and its relationship with adjoining land. Potential adverse amenity impacts could include noise, traffic and headlight glare. The area to be categorised to community use to accommodate the Aboriginal Child and Family Centre is located within the northeast corner of Porter Park such that there are only two immediately adjoining residential dwellings to the east. Subject to careful detailed design of the Aboriginal Child and Family Centre building and outdoor areas, regulation of uses, operating hours and amplified music by way of conditions imposed on any Development Consent which may be issued, I am satisfied that the potential amenity impacts can be appropriately managed and mitigated.

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Town Planning & Development Consultants

person independent of the Council and considering the recommendation from the Public Hearing, prior to making a final decision on the Plan of Management. Having regard to the processes undertaken to date, it is my view that objections on the grounds of a lack of due process and denial of natural justice are not well founded. X

out 3.5

Loss of Amenity

Figure 2 is a Conceptual Layout showing the potential footprint of the Aboriginal Child and Family Centre and its relationship with adjoining land. Potential adverse amenity impacts could include noise, traffic and headlight glare. The area to be categorised to community use to accommodate the Aboriginal Child and Family Centre is located within the northeast corner of Porter Park such that there are only two immediately adjoining residential dwellings to the east. Subject to careful detailed design of the Aboriginal Child and Family Centre building and outdoor areas, regulation of uses, operating hours and amplified music by way of conditions imposed on any Development Consent which may be issued, I am satisfied that the potential amenity impacts can be appropriately managed and mitigated.

out 3.6

Loss of Parkland and Cricket Oval

Porter Park has an area of 1,856 hectares and the area proposed to be re-categorised to accommodate the Aboriginal Child and Family Centre is 3800m² which represents a reduction in area of approximately 20%. In the context of the current and likely future uses of Porter Park for organised sporting events and general recreational activities, the reduction is not considered to be significant.

At its meeting on 24 February 2011, Ballina Shire Council considered a report in relation to site options for the proposed Aboriginal Child and Family Centre. That report includes comments from Ballina Shire Council's Manager of Open Spaces and Reserves as follows.

"Porter Park consists of an open space which accommodates one cricket oval with a synthetic wicket and there is room on each side of the wicket for a soccer field.

The park has an amenity block which provides toilet facilities but no change rooms.

The park is currently used for lower grade cricket in summer and is not used for any organised winter sport. There is also the casual use of the reserve by the public.

The level of sporting use in Porter Park has been the subject of consideration by Council for some time. The reserve is not used by any of the winter sports as sporting clubs need to have as many games at the one location as possible to efficiently run their clubs.

Clubs run canteens to raise money to finance the club activities and with all the games located at the one facility they can efficiently manage referees and scheduling of games.

Clubs have been approached in the past to encourage the use of Porter Park however they have all declined, stating that the decentralisation of their training and competition games is not a viable option for them.

EXHIBIT H

Porter Park was considered for the location of an athletics track however the site is not large enough to accommodate a track.

Cricket is the only sport that is able to use single fields and so they utilise Porter Park.

Saunders Oval currently has one cricket oval with a synthetic cricket wicket. Should Porter Park cricket oval be no longer available there is room to install a second cricket wicket at Saunders Oval. This would replace the loss of the Porter Park facility. An extension to Saunders Ovals is currently being undertaken and there may be room for an additional third cricket oval.

Saunders Oval provides a higher level of amenities with toilets and change rooms.

Discussions have been conducted with the Ballina Bears Cricket Club with regard to the possible relocation of cricket from Porter Park to Saunders Oval.

The club executive has conveyed its disappointment that Porter Park could potentially become unavailable for junior and lower grade cricket. However, this is acceptable to the club on the basis that alternative facilities within and adjacent to Saunders Oval are available in a timely fashion.

As indicated on Figure 2 a suitable cricket ground can be retained on the remainder of Porter Park and the siting and concept design of the proposed Aboriginal Child and Family Centre retains adequate view corridors and passive surveillance from existing streets.

In my view, having regard to the above, objections on the grounds of loss of parkland and cricket ground are not well founded.

PAUL HICKEY 25-MAY 2011

- j) Information on Government Gazette notices is available on the following web site. www.nsw.gov.au/gazette
- k) Five minutes is the allocated time.
- l) This is not a Council meeting therefore I am uncertain as to whether any Councillors will attend. Nevertheless it is not a meeting where Councillors will be required to answer questions.

EXHIBIT J

m) As per the previous item.

form of notes

- j) The conduct of the hearing shall not be photographed, filmed or recorded.
- k) The presiding officer shall prepare a report of the hearing and the presentations made in the form that he/she considers appropriate, and submit such to Council within 14 days.

EXH. J

X

EXH. K

- i) been heard.
- j) The presiding officer may organize assistance from Council staff to record the proceedings in the form of notes.