

Submission to the "Inquiry into Sportsground Management in NSW"

This submission is late since I did not know about it and the complexity of the topic. However this submission shows the darker side of Councils business and some of its inadequacies.

Tuesday, August 29, 2006

This story relates to a small sporting organisation in the Northern Beaches of Sydney, which started playing soccer in the 1970's. Groups of parents and coaches decide to play soccer on Sunday morning.

Fields availability was ample in those days and the numbers of teams were small.

But by 1995 the competition grew to twenty teams. This amounted to 350 to 400 players called "The Manly Warringah Masters Soccer Club Inc." which held 500 plus members in its register of whom 350 were active players.

The Masters or the "Northern Beaches Soccer Club" as it called it self before Incorporation had a brief unsuccessful association with the Manly Warringah Soccer Association Inc. The Association started to interfere with the Masters playing rules and started to impose Association rules on the Masters. It was agreed after a traumatic year that Masters could not comply and should go it alone.

However all the soccer playing fields were allocated to the Manly Warringah Soccer Association to do, as it liked, by the "Manly Warringah and Pittwater Sporting Union Inc." This Sporting Union is administering the Community Land Sports grounds and is a "Delegated body of Warringah Council" and their activities are rubber stamped by Pittwater, Manly and Mosman Councils.

The Sporting Union members representatives (Delegates) of all Sports which requiring access to Community Land Sports Grounds. Rugby codes, Soccer, Cricket and Netball and so on.

The Sporting Union is a logical and apparently cheap solution for Council to deal with these user groups without introducing user pay systems.

However when the Masters applied for membership of the Sporting Union this was opposed by the Executive of the Sporting Union and voted against by its members.

Initially the Sporting Union believed that the Soccer Association should provide the Masters with fields and insisted it did so for two years.

The Soccer Association started to schedule Girls games at times the Masters normally played despite the fact that ample fields were available. The Soccer Association claimed it did not have enough fields. This is proven to be not true. Masters ended up playing more of their games on school grounds. However insufficient school grounds were available for the Masters.

The Masters Soccer continued year after year to apply for membership of the Sporting Union but were voted against by its membership.

The Sporting Union Members, who themselves had never been subjected to a vote decided against the Masters membership. This is where the powers of the Sporting Union are way outside the boundaries of what they are supposed to be doing. The Sporting Union should allocate fields to sporting Clubs. The Soccer Association became bolder and then informed the Masters that it could no longer provide Fields. It mustered support from the Mayor, (now sacked) for an extension of the delegated powers of the Sporting Union.

The extension allocated more power to the Sporting Union and included the summer period as well, previously Masters was able to hire direct from Council during the summer.

Since Masters Soccer played soccer during the summer the allocation was outside the jurisdiction of the Sporting Union and we had some security of supply. The approval by Councilors voting 5 to 4 in favor, made it more difficult for the Masters to gain allocation of grounds. I cannot begin to explain all the hurdles put in place in the context of this submission.

We now had a situation where the grounds we used to use were empty and not used and Master had to play double-headers on school grounds into the summer heat.

An ultimatum was put by Mayor that we join the Soccer Association and that if we did not we would not play. The Executive of the Masters resisted this direction and found themselves without fields. We ended up a soccer club without fields.

Councilors were sacked by the State Government and classed as dysfunctional.

This procedure took far too long for the Masters to survive.

The elected Councilors;

The elected Councilors position was that they would not go against decisions made by the Sporting Union. None of the Councilors was prepared to get to the bottom of the issue or to determine why a Sporting body such as the Masters in pursuit of healthy pastime on Sunday morning would be denied access to playing grounds.

Masters wrote many letters over 5 years to explain their plight; we were asking for help but never received any real help.

It is fair to say that the Councilors did not understand the implication of their ignorance but they were prepared to see a community group without normal allocation of fields.

The Council Managers.

First there was a Manager that overstated his qualifications and we never met eye to eye but he did assign some department managers to hold meetings with the Masters and the Soccer Association in an effort to make deals with the Soccer Association. Unfortunately these meetings seemed to make matters worse, but Council would always support the Status Quo never the Masters. Later they went into hiding and could no longer be reached.

The next Manager, still the current Manager did not turn out to any different from the previous Manager and it still does not occur to him that something is not quite right.

Not even was the legality of what was happening to the Masters ever tested to our knowledge by Council management.

The Masters.

As the President, of the "Manly Warringah Masters Soccer Club Inc." I worked to resolve the issues with my Executive for about 5 years trying to make sense out of the situation, we spend about \$12000 on legal advice.

Nothing we did worked long term; we had small gains and successes to be followed by larger blows handed out by the Soccer Association and the Sporting Union. The Soccer Association grew bolder in the knowledge that Council would not support the

under dog and gave them free rein to do as they liked. The strength of their numbers in the Sporting Union and the obvious influence they had there gave Masters no chance. Masters looked at the legality of what was happening. There was no precedent! The Sporting Union is a unique creation in Warringah and not used elsewhere. Master was discriminated against and excluded from community facilities by the combined effort of the Soccer Association and the Sporting Union. However the anti discrimination law in Australia is quite weak and does not embrace our situation.

The Anti Competition Body believes that they did not have to act because we are a non-profit organisation and not in commercial business so to speak?

The NSW Ombudsman also had a way with words that was in favor of Council and he made no effort to look into the legality of the situation just made up a story, which was challenged and then he made up another story.

The Members of Parliament we approached were nice and wrote a few letters to no avail and said they could do nothing, again no legal advice obtained by them while they have the resources.

It took three years of letter writing by solicitors to conclude that Council and Sporting Union had all the answers and were virtually untouchable.

The next logical step by the Masters Executive was to proceed with a specialist Barrister. However time took its toll and the lack of fields split the Masters, alarm bells were ringing about the cost of an open-ended court battle and was a big concern. The Membership decided that they would leave the Masters and give up their independence and play under the umbrella of the Soccer Association.

The Masters Executive had no choice but to advise their last loyal teams to go and join the Soccer Association as well.

The Minister for Local Councils and Minister for Sport and Recreation never questioned the situation or used their resources to get legal advice.. The last advice we received from the Minister of Local Councils was that the newly appointed Administrator would resolve all matters that were wrong with Warringah Council. Time was not on our side and the split in the Masters could not be resolved without guaranteed supply of fields.

We waited for Councilors to be sacked and we approached the Administrator to no avail. He did nothing and took advice from the same staff in Council that knew the issues well and advised him that we were just trouble makers. The Administrator started to personalise the issue and say that I was not happy and that everyone else was and that he could not promise that he would do something. He had no interest in the finer academic details or appreciation for the Masters as an independent organisation. He also did not look into the legality of the Delegated powers and the compliance of the Sporting Union Constitution with the Local Government Act 1993 which does in fact not discriminate against any community member.

Since I do not have a legal qualification, I cannot give a legal opinion. However research done by my legal advisers and myself, have given me a clue as to where a challenge in the Land and Environment would go.

It has taken me about 6 years to come to this understanding, no doubt an able Barrister would have arrived at that conclusion a lot faster.

The Masters have a right to play soccer as an independent entity as has anyone else.

The isolation the Masters was put in should never have occurred since they are members of the community.

The Council and Sporting Union had no right to obstruct the activities of the Masters and should in fact have supported their endeavor to play Sport since they are supposed to promote Sport.

The Sporting Union should have accepted membership of the Masters and allocate grounds as they are delegated to do.

Council should have recognised problems with the delegation. Council have very few delegated bodies and they should make sure they comply with every law in the land and protect people, not abuse them.

Why did this not happen?

The rules of Incorporation gave the Sporting Union the power to decide who can be a member. This is the main flaw in the Delegated Power constructed Council, by naïve probably amateurish drafting of this delegation, without given thought to the consequences.

I am advised, that "The Sporting Union Constitution" failed the generic constitution test on 12 points out of 15.

We asked the now the sacked Council to clean up the wording of the Delegation but the group of 5 refused.

Who is at fault?

"The Sporting Union Constitution" is a self-serving document and was written in good faith by people with little or no knowledge of the Local Government Act 1993 or human right or democratic rights. The Administrator thought that that was "high mighty" perhaps it would be for car dealers. Incorporation imposed after formation added the members and elected Executive structure as set out by the Fair Trading and gave them the power to exclude applicants and to become a members only Club.

This should have been recognised by Council Management and the delegation of powers should have been amended and clarified the conditions of membership of the Sporting Union has been neglected and this neglect of the Delegation of power to the Sporting Union enables them to do as they see fit. The Sporting Union is very streetwise as we learned over time and used this power to destroy the Masters and to assist the Soccer Association in their monopolistic drive to control all soccer in this area. However when the Delegation was reviewed no outside input was called for and when I questioned this, I was told that they (Council) did not have to go public.

The Manly Warringah and Pittwater Sporting Union Inc. have been given control over Community Land, classed as Sport grounds. In effect the Community Sport grounds have been locked up in a Sporting Union to do as they see fit. Without any checks and balances, and are administered by self serving amateurs with limited knowledge of the Local Government Act 1993 and its later amendments. No proper publications for the public of what they do are published. They are a secret society.

The question arises, who has the knowledge and the expertise to work within the Act? The answer is that the responsibility is with the Council Manager. The Act states that the Council governance has to work in compliance with the Act.

The Warringah Council Governance is responsible for proper administration and compliance of all aspects of its Delegate the Sporting Union. In other words one could say that the Warringah Council governance or the General Manager who is responsible for the proper administration and has neglected to do so. The Victims, the Manly Warringah Masters Soccer Club Inc. have suffered unjust treatment as a result of mal administration. This issue caused a lot of pain as natural justice was denied

It is astounding in my opinion that Council governance allowed the destruction of the

Manly Warringah Master Soccer Club Inc. to happen while every person we talked too realised something was wrong!

Disappointing also from my perspective is, that Council Governance did not make any attempt to examine their own proceedings and but blamed it on Masters Soccer and dismissed them as troublemakers.

Further disappointment is that the current Administrator who is to rectify all the wrongs in the Warringah aligned himself so easily with the mal administrators he is to give guidance to and educate.

The mal administration of the Councils Delegated Body "The Manly Warringah and Pittwater Sporting Union Inc." continues today because Council does not have the intellect to recognise its own shortcomings and to rectify this with proper proceedings

I personally regret not having the finances to go to court and get a proper determination of this issue.

I hope this commission will look into the legalities of Delegated Authority in Councils in this particular this case and perhaps other delegations that are not thought through properly. A Delegated Authority that gives powers beyond the law cannot be tolerated.

For me this issue is now academic, since the Sport I enjoyed gives me no longer the pleasure it ones did, too much water has gone under the bridge.

Regards Wouter Wurth

Ex President Manly Warringah Masters Soccer Club Inc.