

The results are:

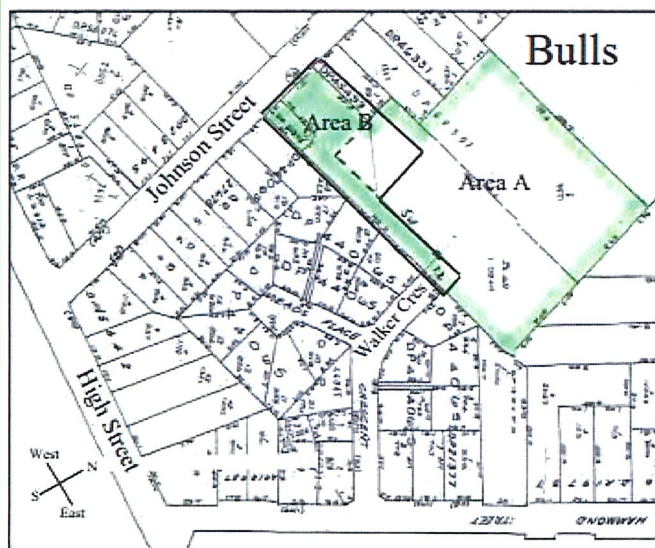
Option A: Retain the park	376
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Option B: Development and park	19
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Invalid	13
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Counted by B.E.Scadden J.P. and B.R.Carter J.P.

What is your opinion for the greater area of Haylock Park to be sold ?



Bruce Dear - survey and petition organiser

Tick preferred option.

Option A

I would like RDC to retain all of Haylock Park for future development as a green area.

Option B

I would like RDC to sell Area A of Haylock Park for residential housing and retain Area B as a park

Name ☐ A ☐ B

Address.....

Name ☐ A ☐ B

Address.....

Voting closes 20 September 2019 - One vote per Rangitikei district resident.

Voting boxes are at Bulls Four Square, Bulls Museum, Marton New World, Turakina Mobil and Taiaroa Store Ratana.

TABLED DOCUMENT

Tabled at Council

on 26 September 2019

6 September 2019

The Chief Executive Officer
Rangitikei District Council
46 High Street
Marton

MATTER NO: CN1365
OUR CONTACT: Aimee Dartnall

Attention: Ross McNeil

By email: ross.mcneil@rangitikei.govt.nz

Objection to the proposed sale of Haylock Park

1. We write to you on behalf of our client, Councillor Graeme Platt, to question the legality of the proposed sale of Haylock Park in Bulls. Our client is concerned that the decision breaches sections 78, 140, 141 of the Local Government Act 2002 (**the Act**). The decision may also be inconsistent with the Council's Long Term Plan.

Decision does not meet Local Government Act 2002 requirements

2. Haylock Park is classified in the Long Term Plan as a "restricted reserve".¹ Restricted reserves are defined as "subject to specific conditions accepted as binding by the Council and which it may not revise without reference to the Courts or a third party. Transfers from these reserves may be made only for certain specified purposes or when certain conditions are met."² The Long Term Plan does not specify whether Haylock Park is a "restricted asset", but if it is, it is subject to similar restrictions on disposal due to legal or other restrictions.
3. This classification properly acknowledges that Haylock Park is an endowment property for the purposes of sections 140 and 141 of the Act. It must be retained for the purpose for which it was vested in the local authority.³ It may only be sold if the conditions in section 141 are met:
 - a) The proposed use of the proceeds of sale is consistent with the purpose of the endowment; and
 - b) The local authority has made a reasonable attempt to notify the donor or his successors that it intends to sell the property and provided them with a reasonable opportunity to provide comment.
4. There is no evidence that either of these criteria have been met.
5. There is no evidence to suggest selling the park in order to fund a highly contested Community Centre is consistent with its original purpose. Dr Haylock bought the Johnston Street green belt land in 1985 in order to create a safe park for the Bulls community so that families did not have to cross the busy state highway to get to the Domain. The land was to be used and developed as an outdoor park for the community to enjoy. Removing green space to build new indoor facilities contradicts this purpose.

¹ Adopted Long Term Plan 2018-2028 at p 167.

² Adopted Long Term Plan 2018-2028 at p 187.

³ Local Government Act 2002, section 140(3).

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6. We note that it is unclear whether the Council has a duty to bring the proposed sale to the Haylock family's attention. It is unclear whether it satisfied this duty, or whether the family became aware of the proposal by other means. If the Council failed to bring the matter to the family's attention, then it also failed to provide them with a reasonable opportunity to comment. Whatever the position, Dr Haylock's family has made it clear that they object to the sale of Haylock Park for any reason, as emphasised in a letter to the Council dated 29 August 2019 opposing the proposed sale. A copy of this letter was tabled at the Council meeting on 29 August 2019.
7. Section 78 of the Act requires the Council to give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter. There is no evidence that the Council has complied with this duty. In fact, the evidence suggests that the views of the community were ignored altogether. The Council received a petition signed by 273 people (roughly 15% of the population of Bulls) who object to the sale of the park. There is no evidence that the views of these 273 people were properly considered. There is also no evidence that the Council considered the views of the Bulls Community Committee, which resolved "That the sale of Haylock Park should be put on hold until further consultation with affected parties has been carried out."⁴ A decision to proceed with the sale without adequate consultation could be grounds for a complaint to the Auditor General.
8. Sections 140 and 141 recognise that local authorities have duties to those who donate property for specific purposes and should not sell that property without proper engagement with the donor. Even if the proposed sale is consistent with the letter of the Act, it is against its spirit and intent. A local authority cannot divest itself of property gifted to it for a specific purpose without regard for the purpose for which it was given. To do so is not only a breach of the Council's equitable obligations to those who made the gift and their families, but it discourages further charitable donations from publically spirited members of the community.

Inconsistency with the Long Term Plan

9. It is debateable whether the removal of one of the few green spaces in Bulls is consistent with the policy goals of the Long Term Plan which signals the Council's intention to have "fewer but better" community facilities. As noted above, there is much debate as to whether the Community Centre will be a "better" facility than Haylock Park.

Summary

10. Our client asks that you explain the steps taken by the Council to meet the legislative requirements for sale of endowed property. If you cannot be sure they have been met, then our client asks that you cease all plans for the sale of Haylock Park immediately.

Yours faithfully
FRANKS OGILVIE



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⁴ Unconfirmed Minutes of Bulls Community Committee Meeting on 6 August 2019, Resolved minute number 19/BCC/020.