

Huskisson Heritage Association Inc.

Ms Liana Hoult
Principal Legal Officer, Litigation
Department of Planning, Industry and Environment
legalservices@planning.nsw.gov.au

Re: **West Culburra SSD 3846**

We write in support of the letter submitted from the Lake Wollumboola Protection Association Inc (below).

We are all too familiar with 'expert advice' and how one expert can disagree with another. This is not to denigrate the concept of expertise, but we agree with the arguments of the attached letter that this expert advice needs to be made public, and that if the IPC comes to an agreed settlement on conditions that are not made public until the conclusion of the s.34 process, this is very disturbing. Without transparency and public participation, the decision to enter into a secret agreement as outlined in this letter is very concerning to the community.

As a group of people with no axe to grind except for respect for heritage, our Association notes the concerns going back years for the impact of this development on the Indigenous heritage, and the lack of consultation, as outlined in the submission to the amended development by Heritage NSW – Aboriginal Cultural Heritage. Natural heritage in this area is very precious and impacts on the sensitive environments Lake Wollumboola and the Crookhaven River Estuary – water quality, ecology etc – have been raised with you by people well informed in these matters.

In view of the extreme environmental importance of this major planning issue, proposing an agreement on conditions that are not be made public until after the decisions have been finalised should not be undertaken. The process should take its course through the L&EC.

Yours sincerely
Dr. Shirley Fitzgerald
President, Huskisson Heritage Association
(Joanne Warren, Public Officer)
PO Box 51
Huskisson, NSW 2540
Ph: 423 981 959
27th October 2021

Dear Ms Hoult,

22.10. 2021

West Culburra SSD 3846.

We refer to your letter of 19 October 2021 suggesting that the NSW Independent Planning Commission (IPC) is proposing to enter into an agreement with conditions under s.34 of the Land and Environment Court Act, disposing of the proceedings before the LEC in relation to West Culburra SSD 3846, being the appeal against the 2018 refusal of consent by the IPC. This letter is on behalf of Lake Wollumboola Protection Association Inc (represented by Ms Frances Bray), Ms Narelle Wright, Culburra Beach resident and business owner and Mrs

Delia Lowe, Jerrinja Traditional owner, all objectors in the appeal, who made presentations at the May 10th 2021 Public meeting.

It is understood that an Amended Proposal was filed with leave and placed on public exhibition in January 2021 in response to which many submissions were filed. In May 2021 as objectors, we were invited by the DPIE representing the IPC to make submissions to a public meeting, 10th May in the s.34 conciliation conference proceedings. At that time no suggestion was made that the IPC were considering agreeing to the Amended Proposal; on the contrary our understanding was that the IPC continued to oppose it and we understood we were invited to reaffirm our objections in support of the IPC's earlier refusal.

We are now advised that the IPC has received expert advice on issues in the Amended Proposal, as occurred with its consideration of the previous West Culburra application and that the IPC is now considering an agreed settlement on conditions which would not be made public until the conclusion of the s.34 process. Nor would the IPC's expert advice be made public.

This matter has a long history over more than a decade. It is a major planning matter involving fundamental issues of indigenous heritage protection, fauna and flora protection, coastal land management and water quality and coastal development. It is also being decided in the context of the recent NSW bushfires in coastal regions.

Our submissions relied on expert indigenous knowledge and expert advice including rejection as not credible of claimed 33% reductions in nutrient runoff to wetlands and the Crookhaven River.

We submit to the IPC that it would be entirely contrary to the whole intent of NSW planning law involving transparency and public participation, for the matter to be resolved in secret in the s.34 process.

The IPC is not obliged in the s.34 process to come to agreement. Instead, the IPC should now be proposing that the determination proceed to a full public hearing before the Court in which the expert advice and all proposed conditions can be the subject of public submission.

The IPC may well in that forum state its agreement to certain conditions but those conditions and the determination of approval or rejection, should ultimately be the subject of scrutiny and decision by the Court.

Would you please confirm that the individual members of the IPC whose decision is under appeal have been provided with a copy of this letter so that in giving instructions to DPIE in the matter they are fully aware of our position and the need for transparency on such a major planning matter?

Yours sincerely,

Ms Frances Bray. PSM BA B Ed Dip Ed President Lake Wollumboola Protection Association Inc
PO Box 90 Culburra Beach. francesbray@bigpond.com

Mrs Narelle Wright.

Mrs Delia Lowe Jerrinja Elder.