

Professor Mary O'Kane AC
Chair
NSW Independent Planning Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000

By email only: ipcn@ipcn.nsw.gov.au

Dear Professor O'Kane

West Culburra Concept Proposal (SSD 3846)

I refer to the above proposal and write to you to express Council's concern regarding the recommendation of the University of NSW Water Research Laboratory (WRL) in their review of the water quality issues related to the Development Application (DA).

The report recommends:

"the final decision on the project application awaits the final results of the Gateway Determination for the Planning Proposal associated with groundwater investigation"

We are concerned as this recommendation presents procedural issues for the application. In our submission it was requested that the DA should be determined without further delay.

It may be that the Commission agrees with the WRL that the details in the DA fail to justify it from a water quality perspective. If this is the case, then the Commission can consider determining the DA rather than defer it for another 15 months or more for the Planning Proposal (PP) studies. This would provide the following procedural benefits:

1. It would enliven the applicant's right of appeal to the Land and Environment Court of NSW if the DA is refused. We consider this to be an important aspect of procedural fairness for the applicant in this case.
2. It will allow Council, the proponent, government agencies and the community to focus on the PP and its master planning rather than having their attention split between multiple processes that are parallel but not complimentary.

3. It will allow the biodiversity certification of the precinct to proceed sooner rather than later. While the DA remains undetermined it is not possible to finalise the biodiversity certification of the site because Part 3A applications are assessed under separate legislative arrangements. A determination of the DA will provide certainty here and allow the certification application to proceed.
4. It will reduce confusion in the community. We are concerned that many members of the community struggle to understand the subtleties of the differences between the DA and the PP. Determining the DA will close this process and eliminate this difficulty for the community.

As outlined above, we ask the commission to determine this DA without further delay.

If you need further information about this matter, please contact Grant Rokobauer, Planning Environment & Development Group on (02) 4429 3522. Please quote Council's reference 3A10/1003 (D18/326737).

Yours faithfully



Phil Costello
Director - Planning Environment & Development
25/9/2018