

22 February 2021

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Culburra Beach NSW 2640

**Sealark Pty Ltd v Independent Planning Commission  
Land & Environment Court appeal re amended plans for 'West Culburra' concept proposal  
Court Proceedings No 2019/78149**

To whom it may concern,

I would like to formally object to the amended concept proposal for 'West Culburra', currently under appeal in the Land & Environment Court by Sealark Pty Ltd.

My family and I have significant concerns about the amended 'West Culburra' development, as can be summarised as follows:

**Council Support without Community Support:**

At January's Ordinary Meeting of Council, a submission was made by Cllr Mitchell Pakes and Cllr Greg Watson to *"reaffirm support for the West Culburra Mixed use concept plan; submit a submission supporting the amended West Culburra Proposed Mixed use concept plan; acknowledge the overwhelming community (Culburra Beach residents and ratepayers) support for the West Culburra mixed use concept plan; acknowledge that the amended West Culburra use concept plan will ensure no storm water runoff or impact on lake Wollumboola; and, acknowledge the addition water quality studies that have been undertaken to ensure minimum impact on the local environment."*

It was very disappointing to learn after the fact that Councillors purporting to represent the residents of Culburra gave incorrect and quite misleading information at the January council meeting, resulting in a vote of support for the development.

Both Councillors Watson and Pakes attended the **Supporters Only** meetings in Culburra in January. These meetings were advertised as 'Supporters Only' to the local residents, and the Councillors, being aware of this, gave the impression at the subsequent Council meeting that there was strong community support for the development.

Without any proof of inclusive community support and without acknowledging the crucial issues identified in the West Culburra groundwater assessment undertaken by HGEO, this submission was supported by the majority of Councillors.

**Consultation:**

Shoalhaven Council's Get Involved website has clearly stated for many, many months that *"Community feedback will be sought when the Planning Proposal and supporting studies are publicly exhibited. This will not occur until all the required reports and State Government conditions have been met. Further updates will be provided through this Get Involved project page."*

Community feedback **was not** sought prior to a report by Council being voted on to support the submission. It has also not been sought in the weeks since the proposal went on public exhibition.

## Rezoning

Council requested 1681.5 hectares of land owned by Halloran Trust, including an area of 1117 hectares at Culburra, inclusive of the West Culburra Development (47 hectares), be rezoned to include residential, commercial, industrial, recreational and environmental.

The Planning Proposal seeks to rezone land in the Culburra Beach, Callala Bay and Currarong localities for the purposes of residential, commercial, industrial, recreation and environmental purposes **to provide an estimated 6,100 houses (5,400 at Culburra Beach and 700 at Callala Bay).**

The NSW Department of Primary Industries (DPI) did not approve the rezoning application however, at Council's Development and Environment Committee meeting on 18 January 2021, all councillors voted in favour of the following: "Halloran Trust Land, Culburra (PP006): seek a new Gateway determination at the appropriate point once potential development footprint is more fully resolved in consultation with the proponent and DPIE."

What that means is should the reapplication for rezoning be successful, the plans for **5,400 new dwellings at Culburra Beach** will well and truly back on the table.

There is no doubt that Halloran Trust will not stop, there is way too much profit in sight. The Trust will develop as much of the land it owns in the Culburra area as it can, for as little money as possible, without true regard for the community or the environment.

If allowed to go proceed, the "Gateway" to Culburra beach will be at Coonemia Road and all of the Crookhaven River foreshore will be developed, with as many small and multi dwelling blocks as possible to ensure maximum profit at the detriment of the community.

Based on feedback received, the community at large are very much under the impression the only area being considered for future development is the proposed West Culburra Development. Many are completely unaware of the proposed rezoning covering such a vast area.

Many residents are unaware that should the application for proposed development be approved, then further development on the rezoned land will follow, as per the information provided on Council's Get Involved website, *"the SSD application covers part of the land within the Planning Proposal (rezoning) and, while it is a separate process, the outcome will inform the future zoning of the land to which it applies."*

## Indigenous History

In 2018, the Jerrinja Local Aboriginal Land Council expressed their deep concerns regarding the lack of consultation between the proponent "Halloran Trust" and the Jerrinja community regarding the proposed development, and the irreversible and destructive impact on the Jerrinja people's culture, heritage, community, future country, waters, flora and fauna.

The Jerrinja people advised "Our Culture is a whole lot more than physical evidence of thousands of years of occupation left by our ancestors. It is also the intangible cultural values and beliefs we still hold and feel today. The Jerrinja people are committed to sharing this culture, heritage and land with future generations."

The JLALC also raised "concerns the proposed development would have a destructive impact on our culture and heritage, ancient midden and other sites along the Crookhaven River plus impact on water quality of the river, flora and fauna.

The Jerrinja Local Aboriginal Land Council advised they are not opposed to sustainable development per se, however as the traditional custodians of these lands and waters, are adamant in their opposition to this development and the significant destruction it will have on the country.

The proposed developer has engaged studies to encompass Aboriginal assessments of the West Culburra Development site, noting the previous Jerrinja submission to undertake a detailed study was passed over for a remotely based consultant. **Of major concern is that at no stage has any in-depth archaeological studies been undertaken.**

#### **Water Quality:**

Despite technical studies clearly showing the potential detrimental impact the proposed development could have on waterways, not to mention inadequate and inconsistent address of water quality management and monitoring by the developers, these issues were not conclusively addressed by the developers, and were overlooked / down played by council.

It is inconceivable that the removal of native flora and the development of 300+ dwellings plus industrial and commercial tenancies would not have significant impact on water quality. The long-term movement of sediments, nutrients and pollutants from the upper slopes to the waterbody over extended years of earthworks, clearing of vegetation and construction of dwellings and industrial properties will surely result in the serious compromise of Crookhaven River.

The Office of Environment and Heritage (OEH) identified that satisfying water quality requirements for the development would remain the greatest environmental challenge for development of the area. It will be extremely difficult and unlikely that the developer would be able to adequately filter pollutants emanating from the residential and industrial developments, particularly taking into consideration the lifetime of the development.

The Crookhaven catchment is extremely sensitive area of wetlands and foreshore environments and stringent protection of the foreshore zone will be essential over the life of the project and will require an ongoing commit to the management of this area.

OEH also advised considerable improvement of the water sensitive design and monitoring measures is required to support the claim that a treatment system can be implemented to reduce the export of pollutants in the order of predevelopment levels.

The Environmental Sensitivity of Lake Wollumboola report by Scanes concludes that Lake Wollumboola should be regarded as a unique and highly valuable example of an intact backdune lagoon, and accordingly be given high conservation status.

Given the high ecological values of the lake, coupled with its potential sensitivity to permanent state change (and loss of these ecological values), the report recommends that a precautionary approach be adopted as a high priority when assessing development proposals in the Lake Wollumboola catchment.

As the main ridgeline of the catchment between Lake Wollumboola and Crookhaven River runs north of Culburra Road and incorporates the proposed West Culburra Development, the revised proposal by the developer does not satisfactorily or conclusively demonstrate that the impacts would be negligible. Potential biobanking of land south of Culburra Road does not address this issue.

The West Culburra groundwater assessment conducted by HGEO showed:

1. For practical purposes, the divide between the Lake Wollumboola and Crookhaven River groundwater catchments should be considered coincident with the surface water catchment defined by topography. Groundwater levels across the site are consistent with this interpretation.
2. Areas between the main ridgeline north of Culburra Road and the mid-slope areas in both catchments are dominated by rainfall recharge. It is recommended that land use within the recharge-dominated areas of Lake Wollumboola Catchment (mid-slope to ridge-top) includes significant open and unpaved areas in those important recharge areas,
3. Faulted and fractured zones within the siltstone aquifer result in domains of high permeability (0.5 – 15 m/day). **There is potential for relatively rapid migration of contaminants from recharge zones to receiving waters such as Lake Wollumboola and the Crookhaven River via fracture zones, should contamination reach the water table as a result of land development. (Note the report mentions both)**
4. Half (4/8) of the monitoring bores in the study showed groundwater within 1.5 m of the surface. Three of those 4 monitoring bores were located on the lower slopes towards the Crookhaven River. The report advised **shallow groundwater levels and sub-artesian groundwater pressures on the lower slopes facing the Crookhaven River may present challenges for excavations and drainage in the area.**
5. Further assessment of groundwater and the potential impacts should be undertaken.

Despite changes made to the proposal, the developer has not provided a 100% fail safe solution to protect the waterways during construction and during the life term of the development. The ongoing potential for contamination from hundreds of residential dwellings and industrial businesses may well result in the decimation of the oyster farming industry as well as important ecological environments.

### Environmental Impact

The developer's application mentions land being currently used for cattle grazing but there is little evidence of this in the areas proposed for redevelopment. The areas are very forested and despite travelling past the proposed area on a daily basis I am yet to see evidence of any domestic animals in the proposed development area. I have however seen extensive native fauna in a woodland habitat.

The Crookhaven Catchment is an extremely sensitive area of wetlands and foreshore environment and the diversion of stormwaters has the potential to significantly impact the native fauna and flora that thrive in the existing habitats and wildlife corridors including the glossy black cockatoo.

The OEH advised the land proposed to be cleared includes lowland forest areas with considerable environmental areas. Our bushland is already under strain after the recent bushfires and the *Department of Agriculture, Water and the Environment* reported on 20 March 2020 that it is necessary to "... protect unburnt areas within or adjacent to recently burnt ground that provide refuge, as well as unburnt areas that are not adjacent to burnt areas, especially from extensive, intense fire."

Following the destruction in the 2019-2020 bushfires, the removal of 47 ha of semi-mature forest is a significant loss of moderate to good forest vegetation, and tree hollow resources cannot be mitigated by the utilisation of the cleared trunks and branches in the surrounding bush.

The OEH previously confirmed the area includes a Powerful Owl nest tree and a number of threatened microchiropteran bat records on or near the site, so there are clearly some important threatened fauna species habitat values on this site.

The vegetation occurring along the foreshore of the Crookhaven River and associated drainage features should be considered to form part of the Swamp Oak Floodplain forest and Swamp Sclerophyll forest Endangered Ecological Communities. OEH noted the vegetation mapping indicates the plant species occurring within these vegetation types are consistent with the species known to occur within these EECs.

It is noted that agreed boundaries of the floodplain wet EECs will not be included in the development footprint if development is excluded from the foreshore zone, however it is important to note that any development of the proposed land will affect the natural flow of water into these EECs.

The estuary supports extensive areas of marine vegetation (including seagrass, mangroves and saltmarsh) and Priority Oyster Aquaculture Areas (oyster farms) and both commercial and recreational fishing grounds.

The Department of Primary Industry (DPI) advise developments should aim to achieve “no net loss” of Key Fish Habitats and no significant impact upon commercial and recreational fishing and the developer has not shown conclusively that the development can be carried out without substantial risk of significant adverse impact upon the fisheries values of the Crookhaven River estuary.

### **Traffic**

Congested traffic leads to slower travel time, while increasing the number of turning points off a road are a proven safety hazard. The addition of three roundabouts on the approach to Culburra increases the risk of accidents significantly on a road that has already seen fatalities in the past year.

The proposed new development will potentially add 1000 additional cars and industrial traffic on any one day on a one way in / one way out road that, despite recent Council works, is a narrow road in poor condition and with little room for driver error.

The road would need a significant upgrade between Nowra and Culburra to be considered safe for a significant increase in traffic. Roads and Maritime Services have previously indicated the development will have a significant impact on traffic including waiting times Kalandar St and Princess Highway

The most concerning aspect of adding such significant traffic to the Culburra Road is the potential for loss of life during emergency evacuations. In 2009 in Victoria, and again in 2020 in NSW, we saw extremely frightening examples of ensuing traffic chaos when thousands of people tried to evacuate all at once from areas with limited road access.

Hundreds of people were stuck in cars in areas where the fires actually hit. It was the extreme luck of changing wind direction and the efforts of fire crew on the ground, rather than strategic planning, that resulted in lives being saved in the recent south coast bushfires. The issue of traffic flow during emergencies was raised by regional councils as a significant concern during the Bushfire Royal Commission

Culburra Road has one access point, and as could be seen during the 2019-2020 bushfires when hundreds of residents were attempting to funnel out of the town following an evacuate now order, better planning of evacuation routes and future development in our local bushfire-prone areas is required so the community does not find itself in "a worst-case scenario", with hundreds of lives at stake.

### **Dwellings**

The building standards of 300+ proposed residences are far too low, with small block sizes, no retention of natural habitat or trees, and no consideration given to passive solar design or sustainable building principles. It is bewildering that, in 2021, a major development would be presented that does not incorporate best-practice design principles aimed at creating more sustainable living that is future focussed and environmentally responsible. However, the amended concept plan constrains no evidence of such values, indicating that the primary concern of such a development is to line the pockets of landholders and developers, rather than to actually enhance the lifestyle or opportunities of the broader community.

It is extremely disappointing that despite more than 10 years of trying to win major development approval in the area, the proponent is still presenting concept plans that do not meet high standards of sustainable building practice or design that aim to benefit the community beyond the immediate economic advantages of the landholder.

In that decade, Culburra Beach has continued to become a tourist 'hot spot' that tends to be overwhelmed in summer months with holidaymakers, seeing some long-time locals struggle to find appropriate housing. To this end, more sustainable residential housing is required in the area, but the scale and poor design standards of the Sealark proposal is an insult to both residents and visitors as it threatens the very ecology, culture and community it claims to serve.

While the inclusion of affordable housing is to be commended, affordable housing should not be restricted to single or multi-bedroom units and houses. Affordable housing should include affordable family home blocks to accommodate growing families as well as sufficient sized blocks to allow for garden space. It should include accessible one level townhouses with courtyards to cater for the older population.

### **Infrastructure**

Developers have promised a raft of community infrastructure 'improvements' in the final stages of the proposal, including a rockpool, cycleway, High School and indoor aquatic centre, but no guarantees to ever deliver these have been made.

The same team of developers made similar assurances in nearby towns of Vincentia, St Georges Basin, Nowra and Callala Bay, but despite the residential developments occurring, the community infrastructure did not eventuate. The developer's proven track record of broken promises should be a stark warning and evidence of their purely commercial incentives.

Masterplanned estates are a "feel-good design" however as can be seen by the above town examples, the provision of community infrastructure is rarely delivered by the developers. Lags in infrastructure provision cost our local economy and affect people's quality of life, often leading to social issues.

As a result, the necessary infrastructure then becomes the responsibility of Shoalhaven City Council, putting massive pressure on limited resources to ensure people have access to a good local park and playground, a well-located school and health services and a frequent and reliable local bus service.

Too many local communities in Shoalhaven have witnessed the delivery of poor quality housing development which is not well integrated into the local area and not accompanied by the infrastructure and services needed to support it. It is deeply frustrating because if you know housing and residents are coming, the infrastructure that should go in ahead of the housing.

Social priorities and town character should not be compromised in order to cater for our growth. If we don't get the timing of infrastructure and new housing right, Culburra Beach risks being characterised by congested roads, lack of public transport, over-enrolment in schools, health shortages and constraints on community infrastructure.

### **Retail**

There is no evidence for many of the economic claims made by the developer in its proposal, in fact many are wildly contradictory. For example, based on regional, sustainable norms Culburra Beach should have 4,000 square metres of retail space. But we actually have 7,100 square metres of retail space.

The developer expects its development to add 847 residents (interestingly they assume only 1-2% of homes will become holiday homes – so the resident number could be lower than this). This would potentially absorb 900 square metres of excess retail space, but would still leave Culburra with 2,200 square metres more retail space than is appropriate for a town of its size.

The developer goes on to say an additional 2,438 square metres of retail space is warranted in West Culburra. So if the development is approved, we will have 93% too much retail space instead of just 75% too much currently.

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I understand the requirement for strategic development in the region, but it should be undertaken in a careful and considered way with a focus greater on the character of the community, the health of the environment and waterways, the local economy, the importance of traffic safety, the relevance of indigenous history and the guaranteed undertaking of infrastructure, rather than the developers profit and loss sheet.

With regards

