



Contact: Anna Summerhayes

Natalie Vella
Senior Solicitor
EDO NSW

Email: [REDACTED]

Dear Ms Vella

**Ministerial Request to Review Recommendation for Heritage Listing of Varroville
Curtilage**

I refer to your letter dated 22 November 2018 in relation to the confidentiality of the Curtilage Study prepared by Orwell and Peter Phillips dated May 2016 (the Study).

The Independent Planning Commission (the Commission) appreciates that your clients have concerns in relation to making the Study publicly available at this stage.

However, the Commission does not consider it appropriate to defer its decision as to whether to make the Study publicly available until after the NSW Civil & Administrative Tribunal (NCAT) has finally determined the matter.

We note that:

- the NCAT proceedings are separate unrelated proceedings which turn on the application of the *Government Information (Public Access) Act 2009*. The outcome of those proceedings will have no relevant bearing on the Commission's review; and
- the Commission has been requested by the Minister for Heritage to review the Heritage Council's recommendation. Under section 36(2) of the *Heritage Act 1977* it states that "the Independent Planning Commission is to provide a report in writing to the Minister containing a summary of the submissions made to the review, the findings of the Commission with respect to those submissions and a recommendation as to how those submissions should be dealt with".

The Commission must adopt a process in the review that is transparent and fair to interested parties. Consistent with those objectives, the Chair of the Commission panel has decided that interested parties must be given the opportunity to respond to the substance of the material that is put forward by another party on the basis that it should be taken into account and relied upon by the Commission in its review.

If your clients remain of the view that they wish the Commission to have regard to the Study, either in whole or in part, in undertaking its review, then the Commission considers that other interested parties participating in the review should be given an opportunity to consider and make submissions in respect of the same material.

If your clients do not wish the Commission to have regard to the Study in preparing its report, please advise accordingly.

Alternatively, if and to the extent that your clients wish the Commission to have regard to the Study, please advise whether you wish that to be on the basis of the Study in its entirety or a partially redacted version of the Study.

If your clients confirm that they wish the Commission to have regard to the Study, either in its entirety or in a partially redacted form, the same material will be available to other interested parties, subject to the condition that access be limited to the interested parties' legal advisers and heritage experts only and on the basis that those parties will not disclose the contents of the Study.

In those circumstances, the Commission would withhold the publication of the Study (redacted or unredacted) on its website until after the Minister for Heritage has made her decision.

Please provide a response to this letter by **4pm on Friday, 30 November 2018**.

Should you require any further information please contact Anna Summerhayes, A/Director Secretariat on [REDACTED]

Yours faithfully



Holly Stjernqvist

A/Counsel assisting the Independent Planning Commission

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