



Ms Jacqui Kirkby
Scenic Hills Association Inc

MINTO 2566

11 January 2019

Dear Madam

ms Kirkby

**Review of the recommendation to list the curtilage extension of the
Varroville Homestead & Estate (SHR00737) ('Review')**

I refer to your letters to the Independent Planning Commission ('Commission') dated 7 and 20 December 2018 in relation to your concerns about the process undertaken by the Commission in reviewing the Heritage Council's recommendation ('Review'), the timing of the Minister for Heritage referral and matters relating to the *Government Information (Public Access) Act 2009* (GIPA Act).

I also refer to the letters sent to your solicitors at the EDO NSW from the Commission Secretariat dated 28 November 2018 and 30 November 2018. As previously stated the Commission does not intend to reconsider its position outlined in the letter 30 November 2018 in relation to the Curtilage Study Varroville by Orwell & Peter Phillips dated May 2016 (Study).

Timing of Minister for Heritage's referral

In relation to the timing of the Minister's referral the Commission notes your comments about the timing of the request to review made to the Commission, having regard to the 14-day time period in s. 34 of the *Heritage Act 1977*. As you will appreciate, the Commission has no control over the timing of any request made by the Minister under s. 34. The Commission is proceeding on the basis that it has received an effective request from the Minister to review the matter and will be proceeding accordingly.

Matters relating to GIPA Act

As to the interaction with the GIPA Act you have made a number of comments to the effect that the IPC is circumventing, contravening or undermining the GIPA Act, having regard to the unresolved application for access to certain documents under that Act. With respect, you appear to have misunderstood the scope and purpose of the GIPA Act. Nothing in that Act has the effect that particular information, whether the subject of an application for access or not, is required to be kept confidential for all purposes and by all agencies. The GIPA Act establishes a procedure by which people may seek access to government information. Such applications are to be determined in accordance with the procedures and principles set out in the Act, including the classification of certain information as exempt from release in response to an application under that Act. The GIPA Act does not provide, either expressly or by implication, that information which is classified as exempt from release for the purposes of that Act (or which may come to be found to be properly classified as exempt in Tribunal proceedings) must be kept confidential generally.

Confidential Curtilage Study

As explained in the Commission's previous letters dated 28 November and 30 November 2018, the Commission must adopt a process in the review that is transparent and fair to interested parties.

If you 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.

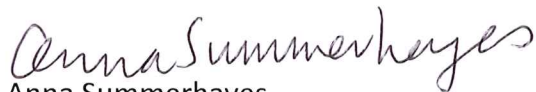
You state in your letter dated 7 December 2018 that *"the only part of our Study that we can release is pp 102-120...and the same restricted access because the map on p.119 identifies heritage on land owned by Scenic Pty Ltd"*.

Please confirm that this is the only section of the Study that forms part of your submission to the Commission and will be provided to the interested parties to be given the opportunity to consider and make submissions. If so, the Commission will return the full report to you and requests that you make the relevant redactions to the Study and resubmit it to the Commission.

We look forward to meeting with you on 14 January 2019 to hear your submission. Please note that the Commission will accept written submissions or comments up to **one week** after the hearing. There may be opportunities for interested parties to comment on any material following this time.

If you have any further questions regarding our process, please contact Jorge Van Den Brande on (02) 9383 2100 or email ipcn@ipcn.nsw.gov.au.

Yours sincerely



Anna Summerhayes

Independent Planning Commission NSW

Copy: Mr Brendon Dobbie, EDO NSW

11/1/19