

The Estate of the Late J O Fairfax AC

Suite 1, Level 26
25 Bligh Street
Sydney NSW 2000



3rd December 2021
Mr Viv May
Administrator
Wingecarribee Shire Council
Civic Centre
68 Elizabeth St
Moss Vale NSW 2577

Dear Mr May

Proposal to amend Wingecarribee LEP 2010 to enable the legal enforcement of Purchasers' Agreements for land within West Retford Park

I write to you as a Joint Executor of the Estate of the Late James Fairfax AC, and his long time business adviser.

Mr Fairfax owned the heritage listed property "Retford Park" on Old South Road, Bowral from 1964 until he gifted it to the National Trust of Australia (NTA) in 2016, and he continued to live at the property from the date of the gift until his death in 2017.

He was a supporter of a number of local charities during the period of his ownership, as well as supporting many other charities and art galleries.

He had long planned to gift the historic house to a suitable long term owner who would maintain the property and enable the public to see both the house and garden on a regular basis, into the future. The NTA was such an owner and accepted the property together with a cash endowment of \$10 million, to be invested to provide income to assist in the maintenance of the property including the garden. He also encouraged the re-purposing of buildings on the property for other purposes after his death. The establishment of the Southern Highlands Art Gallery in the old dairy on the property is an example of this. He held the view that by these actions he would provide support for the whole of Bowral and the Shire.

He caused the development of residential land adjoining the Heritage Property including the land referred to as "West Retford Park". He wished that this parcel of land be developed in a manner that would complement the adjoining historic house. To that end he had Design Guidelines established to which all purchasers were required to sign. Most of the purchasers felt that such compliance would preserve and enhance the value of their properties. Mr Fairfax and his advisers believed that the entering into of these covenants would ensure an adherence to the guidelines which in turn would be sympathetic to the heritage property and maintain and enhance the general ambience of the neighbourhood.

We were deeply disappointed to learn, some time after Mr Fairfax's gift of the heritage property, that despite the covenants that all purchasers had entered into, those covenants could not be enforced against owners of corner lots who wished to subdivide their lot (all lots being of 1,000 sqm or greater).

We sought legal advice on this matter, which we have supplied to the Council. That advice was that Council may be able to amend Clause 1.9A of the LEP to prevent such subdivisions. Later an alternative of amending the DCP to achieve the same end was suggested. A meeting of the Planning Panel held in July 2021 supported this approach, we understand that the Gateway committee of the NSW Planning Department subsequently considered this matter and did not rule out such an approach. However the Planning Panel meeting held on 1 December 2021 voted not to proceed. I note that the composition of the Planning Panel on 1 December included only one of the Members of the Panel at the July meeting.

On behalf of the Estate, and the vast majority of owners of land in this area, I respectfully ask that in your decision on this matter you consider all of the circumstances, particularly Mr Fairfax's generosity to the district and his wish to maintain the integrity of the housing plans for this area, and then recommend that this matter be considered by the NSW Dept of Planning.

I would be happy to provide any further information that you require.

Yours sincerely,

A solid black rectangular redaction box covering the signature of the Joint Executor.

Joint Executor