



*The Chief Judge  
District Court of NSW*

The Hon Robyn Parker MLC  
Committee Chair  
General Purpose Standing Committee No. 2  
Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY 2000

28 November, 2006

Dear Madam Chair,

**Inquiry into the 2006-2007 Budget Estimates**

I refer to your letter of 24 November when you seek access to parts of the judgment approved by Judge Phelan for publication. I assume your interest in the judgment is the suggestion in Dr. Shepherd's evidence before the Committee that Judge Phelan had determined that evidence in relation to previous children could not be considered.

I have now had the opportunity of reviewing the judgment of Judge Phelan and nowhere in the judgment did Judge Phelan suggest that evidence relating to previous children was irrelevant. Indeed Judge Phelan noted action taken in respect of other children who were 13, 11 and 9 at the time of the hearing relating to the particular child who was then only 2. The focus of the judgment was on the capacity of the mother to care for this child at that time.

Neither in this judgment nor in any other judgment that I am aware of has it been suggested that the parenting history cannot be considered.

The case was heard in a closed court and the judgment would not ordinarily be available. If the only portion you seek to have released is that which is said to promulgate some rule of law about evidence, then I can only advise you that since the judgment does not do that, there is no part of the judgment which is relevant to your Inquiry.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'R O Blanch'.

The Hon Justice R O Blanch  
**CHIEF JUDGE**