



Mr Jorge Van Den Brande  
Planning Officer  
NSW Independent Planning Commission  
Level 3, 201 Elizabeth Street  
SYDNEY NSW 2000  
**Via Email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au)**

Dear Mr Van Den Brande

### **Curtilage Extension Varroville**

Further to the Heritage Council's submission at the Independent Planning Commission hearing on 14 January 2019, the Council would like to provide the following clarifying information on a number of matters that were raised.

### **Exemptions**

Standard exemptions apply via an order made under section 57(2) of the *Heritage Act 1977* to all state heritage listed sites. The standard exemptions cover routine maintenance and minor activities such as weeding and spraying.

Site Specific Exemptions (SSE) are often recommended to the Minister for Heritage with a new listing if this is requested by the owner or manager of the site. They are specific to the site and would generally cover works needed to operate the site and carrying out of the general business of the owner/manager eg operating a farm. They provide efficiency for both the owner/manager and the Office of Environment and Heritage, reducing the number and cost of applications and approvals that need to be managed.

SSE are also often recommended with a listing if the site has a pre-existing approved development for change to the site. On rare occasions SSE have been recommended for a site for a proposed development where the development has been designed in consultation with the Heritage Council. As SSE can only be approved for a listed site the development would have to be negotiated in relation to the heritage values and be sufficiently certain for the Council to be confident to make this recommendation. The SSE proposed by the Catholic Metropolitan Cemeteries Trust (CMCT) had not been lodged at the time the Heritage Council made its listing recommendation to the Minister and had not been developed in negotiation with the Heritage Council such that the Council had supported the proposed design. In addition, with a large complex development like a cemetery the possibility of significant changes occurring through the approval process meant it lacked the level of certainty that the Council would require.

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The Heritage Council did however provide comments on the development application and committed to finalising and recommending SSE if the development was in line with those comments and the cemetery was approved to proceed.

### **Reliance on the Orwell and Phillips Curtilage (OPP) Report**

The Heritage Council, and OEH in advising the Heritage Council, did refer to a range of sources including the Conservation Management Plan commissioned by the CMCT to assess the heritage value of the extended curtilage for the listing. However, the primary source was the OPP report. The Council believes this was appropriate as it was commissioned for this purpose and partly funded by the Heritage Council under the NSW Heritage Grants program. The research was undertaken by highly regarded heritage professionals who had also undertaken earlier work on the Varroville estate not funded by the owner of the Homestead. Their starting point for this research was this earlier study. Between the original study and the more recent work the authors considered a wide range of primary sources.

The Heritage Council considers the OPP report to be a robust report and it was reasonable in all the circumstances to rely on it to help the Council form an opinion about the appropriate curtilage to recommend to the Minister for Heritage for listing. However, the Council did not rely solely on the OPP report, as evidenced in the Heritage Council reaching a different conclusion about the appropriate extension of the Varroville listing curtilage. The report assisted the Council along with other sources, all previous documents used in assessments of Varroville and the submissions to form an opinion about the heritage values and the curtilage recommendation.

In concluding, the Heritage Council would like to express a view on the contention that 93,000 burials are put at risk by extending the curtilage of the Varroville listing. Listing on the heritage register does not prevent development rather it requires approval of the Heritage Council in order to ensure that the heritage values of the site are protected.

As Dr. Dunn indicated at the hearing the Heritage Council supports its recommended extended curtilage as a balance between the use of the site and the protection of the most significant heritage values of the Varroville estate.

Yours sincerely



**PAULINE MCKENZIE**  
**Executive Director**

Heritage Division  
Office of Environment and Heritage  
(on behalf of the Heritage Council of NSW)  
29/01/2019