

VARROVILLE

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23 July 2018

David McNamara
Director Secretariat, NSW Independent Planning Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000

Sent by email to ipcn@ipcn.nsw.gov.au

Dear David:

Re: Crown Cemetery Development Varroville – A085/18 – use of our research in the assessment

I write to you as the owner (with my husband) of state-listed Varro Ville Homestead (SHR #00737) located on an 8 acre battle-axe block *in the middle of* the Varroville cemetery development proposed by the Catholic Metropolitan Cemeteries Trust (CMCT) – *Crown Cemetery Development Varroville – A085/18 (Varroville cemetery)*.

On 12 July 2018 I wrote on behalf of the Scenic Hills Association to the Chair of the NSW Independent Planning Commission (NIPC) about our concerns with the cemetery assessment process going forward, noting that the Planning Minister's delegation had had the effect of terminating the previous process at a critical point. I also expressed our concern about how our submissions, provided under a different process, would be handled by the NIPC and sought a meeting with the NIPC to discuss our concerns.

From your email of 13 July 2018 and our subsequent phone conversation, I understand that the NIPC is waiting for Campbelltown City Council to provide all the relevant material it holds in relation to the Varroville cemetery development application (DA) and that the Commission will finalise the next steps in the process once that material has been reviewed and will upload this to its website and inform us directly.

Our Association continues to seek a meeting with the NIPC as per our letter of 12 July 2018, however in the interim, I wish to raise my particular concern as the owner of Varro Ville Homestead (with my husband Peter Gibbs), regarding the handling by the NIPC of our research report - ***Curtilage Study Varro Ville by Orwell & Peter Phillips, May 2016*** – provided with our submission on the Varroville cemetery DA to Campbelltown Council. As explained on the phone, the report specifically identifies archaeology and other agricultural and estate features on the proposed cemetery land surrounding Varro Ville Homestead, that is critical to the preservation of the Homestead's state heritage significance, but which is not yet protected under the *Heritage Act 1977*. Until such time as the land is listed as part of a curtilage expansion for the Homestead (which is in progress), those elements can be destroyed without penalty by anyone with access to that land. We wish for the report to inform the DA assessment (indeed it is critical that it do so), however we are concerned about it being provided to anyone outside the NIPC while this is still being finalised.

The matter of the report's publication is also currently before the Information and Privacy Commissioner due to a proposal (for the second time) by Information Officers of the Department of Planning (DoP) to release the report to a land developer acting for a Scenic Hills landowner (Scenic Pty Ltd). We are objecting to its release for most of the same reasons as here: that it breaches proper process (it is part of two ongoing planning investigations and may be used by us in legal proceedings), is subject to copyright agreements and puts state significant heritage at risk for as long as the land remains unprotected under the Heritage Act.

Thus while we have no problem with some parts of the report being published – indeed the Office of Environment & Heritage has already largely published **Part 7 Cultural Significance** - we ask that the report as a whole not be released to anyone outside the NIPC, or parts thereof published, without our permission. Further, if this in anyway inhibits its use in the assessment of the DA, we ask that the NIPC contact us.

We note that this situation would be greatly relieved if the Heritage Minister had carried out her duties under the Heritage Act. More than eight months have passed since the Heritage Council of NSW (NSWHC) recommended to its Minister that Varro Ville Homestead's state heritage curtilage be expanded to include land intended for the cemetery, based largely on this report. The minutes of the NSWHC meeting of 28 September 2017 (when it resolved to recommend the expansion) showed there were no impediments to its listing: the NSWHC had arrived at a compromise in order to not have any further delay, the CMCT had publicly agreed to the listing as advertised, and the CMCT had accepted that no site specific exemptions for its cemetery would be included at that time. We also note that the NSWHC - supported by us, the Scenic Hills Association and state branches of the National Trust and the Australian Garden History Society - had previously made submissions asking the DoP and the CMCT to defer its cemetery planning proposal until the curtilage expansion process had been completed, noting that a revised Conservation Management Plan (CMP) and Masterplan may be required. This was ignored, and though still relevant, the CMCT has pushed ahead with its DA using an outdated CMP and largely unchanged Masterplan in the vacuum created by the Heritage Minister who is now in breach of the Act.

It is pertinent to say here that the Heritage Minister's inaction and the ongoing attempts by the DoP to provide our report to land developers seeking to overturn the planning controls of the Scenic Hills Environmental Protection Area (including the CMCT) *before* protections are in place, have significantly undermined our trust in the planning process and in government as it has been shown in all cases so far that these actions have been contrary to government legislation and proper process. We further feel that until the expanded curtilage has been resolved and the process has been legally complied with in that regard, the DA cannot be properly considered because the heritage of the site is central to any consideration of its development potential. Our report, which was part-funded by a grant from the NSWHC, is a key contributor to that consideration and its use would be greatly facilitated by the gazetting of the proposed curtilage expansion as per the NSWHC resolution of 28 September 2017 based on the assessed significance of the site.

Yours sincerely



For: Jacqui Kirkby and Peter Gibbs