

VARROVILLE

VARROVILLE NSW 2566

MINTO NSW 2566

21 January 2019

Ms Sam McLean
Director Secretariat,
NSW Independent Planning Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000

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

Dear Ms McLean:

Re: Review of the recommendation to list the curtilage extension of the Varro Ville Homestead & Estate - Access to our Curtilage Study

We refer to your letter of 17 January 2019 which we received on Friday afternoon 18 January, once again giving us little time to respond.

We remain concerned that the Independent Planning Commission (**the Commission**) has not adequately addressed our concerns, particularly those raised in our letter of 7 December 2018 where we expressed the view that we were being put in a no-win situation with regard to the protection of Varro Ville's state heritage significance relating to the availability to all parties of our curtilage study (or part thereof). We feel that the protection of heritage identified in that study has not been addressed. As your response to this we note your reference to 'orders' under the **Heritage Act 1977** in your letter and reiterate *our* understanding that *unless* or *until* the land the subject of the curtilage expansion is put on the State Heritage Register (SHR) there is no statutory protection (including the ability to impose 'orders') and little disincentive against harm to the identified heritage. At the public hearing last Monday I referenced two incidences where we asked the Heritage Division to intervene to protect heritage on the surrounding land and it wrote back to us stating that there was nothing it could do for as long as the land/items were not on the SHR. It gives us no confidence that this ongoing misunderstanding with regard to the operation of the Heritage Act continues.

Nevertheless it is clear that unless we provide access to our study it will not be considered by the Panel, which would make the review somewhat irrelevant. We therefore have no choice but to agree to make our curtilage study available as suggested in your letter, i.e. that the Commission would make it available on a 'view only' basis at the Commission's office to **lawyers and heritage advisers** of interested parties only and that the Commission will advise those accessing the study that no copies of the study are to be made. The Commission has further undertaken today (by phone) to keep a register of those accessing the study (including the organisations for which they work), and that an officer of the Commission would be in the room with anyone who accesses the study while they are viewing it.

Having raised our concerns with the Commission, the risk to heritage of the Commission's decisions is fully the responsibility of the Commission. The Commission has made it clear that it is independent of other agencies (indeed each Commission Panel is independent of each other) such that the actions of other agencies have no application to the Commission. This reinforces the care that the Commission must take in ensuring that its processes do not compromise the outcome of Panel deliberations, regardless of the actions of other agencies.

I hope this resolves the current impasse.

Yours sincerely

A large black rectangular redaction box covering the signature area.

For: Jacqui Kirkby and Peter Gibbs