

VARROVILLE

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(██████████)

23 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](mailto:ipcn@ipcn.nsw.gov.au)**

Dear Ms McLean:

**Re: Outstanding issues - Varro Ville curtilage expansion review**

As follow up to outstanding issues:

1. I note the publication on the Commission's website of legal letters written on behalf of my husband and me by EDONSW. While we do not personally have an issue with their publication, I have referred this to EDONSW and have asked it to contact you if it has any issue, noting that the publication is already a *fait accompli*.
2. I refer to the letter published on the website from Mills Oakley that we requested be published yesterday having been made aware of it in other correspondence on the Commission's website. It is deeply concerning to us that we had to request its publication given that our own correspondence was automatically listed. We are further concerned that the letter shows that the Commission was aware that Mills Oakley intended to have at least five speakers – all consultants for the CMCT - and failed to list these speakers in its schedule or advise us in writing or conversation that this was intended. Had we known then we would have asked our own consultants to be present to respond to the issues raised. This does not appear to be consistent with the Commission's stated commitment to transparency or fairness in the process. We will be writing to Professor O'Kane to express our concerns in this regard.
3. We note that we were advised that the transcripts of the hearing were to be published last Friday. It is now COB Wednesday and the transcripts are still not published. This gives us little to no time to respond by the submission deadline of 28 January 2019 – either to correct the transcript if there are errors or to respond to issues raised by the other parties. We ask that this deadline be extended to account for the delay.
4. We refer again to your mention of 'orders' under the *Heritage Act 1977* as a way of protecting the heritage the subject of the curtilage expansion. The phone number at the Heritage Council that you provided was to a person who does not work at the Heritage Division and who claims to be *not* an

expert in the operation of the Heritage Act. However having sought further clarification elsewhere I can confirm that *for all practical purposes*, our previous understanding on this remains unchanged. Until recently neither the Heritage Minister nor the Chair of the Heritage Council (who is the consultant for the CMCT) could have been expected to support any orders to prevent harm to heritage on the CMCT's land. Further, it is our understanding that, given the narrow definition of 'relics' and the narrow scope for applying other orders (for example to 'maintenance') to non SHR-listed heritage items, the only order that offers any serious disincentive against harm is an Interim Heritage Order, as we noted in our letter of 7 December 2018. If you have different advice then we would be pleased to hear it. Otherwise all we can do is hold the Commission accountable for the outcome.

Yours sincerely



For: Jacqui Kirkby and Peter Gibbs