

VARROVILLE

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7 November 2018

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

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

Dear Sir/Madam:

Re: Heritage Minister's referral to IPCN: 'Varroville: Request for Advice on proposed listing on State Heritage Register'

We write to you as the owners of state-listed Varro Ville Homestead (SHR #00737) and nominators of the curtilage expansion for Varro Ville on the State Heritage Register (SHR) that is the subject of the above request to the Independent Planning Commission of NSW (IPCN). We ask that this letter be provided to the Chair of this project, Mr Richard Mackay.

We note that the Heritage Minister lodged this request on 12 October 2018 but we were only notified when it was listed on the IPCN website on 30 October 2018 along with the material sent to the IPCN (since taken down). I subsequently wrote to the Planning Minister (copied to the Heritage Minister and the IPCN) on behalf of the Scenic Hills Association and as an owner of the Homestead, raising our concerns about IPCN procedures for dealing with such requests - including the publication of some of this material which is still being disputed elsewhere under the *Government Information (Public Access) Act 2009 (GIPAA)* - and the delayed timing of this request to the IPCN which could unfairly weigh the process in favour a development application (DA) over the same land that is also with the IPCN (***Crown Cemetery Development Varroville (A085/18)***). We understand that this letter, with attachments, was given to Mr Mackay.

The purpose of this letter is thus twofold:

While we are concerned about this referral to the IPCN being made outside the deadline provided under the *Heritage Act 1977*, if this review is to proceed then we request that we be permitted to appear before the IPCN to make our case as the owners of the Homestead to which the expansion applies (altering the Homestead's SHR listing) and as the nominators of the curtilage expansion. Since its state listing in 1993, the Homestead has been relying for much of its significance on elements outside its SHR boundary on land owned by others. A formal nomination of a curtilage expansion for Varro Ville was lodged in 2000 by others and remained 'pending' when we bought the property in 2006. After the Catholic Metropolitan Cemeteries Trust (CMCT) took out an option on the surrounding land in 2013 with a view to having it rezoned to permit cemeteries, we were invited by the Office of Environment & Heritage (OEH) to participate in reactivating the curtilage expansion for Varro Ville and we requested a heritage grant to help us commission our own study to enable us to effectively participate in this process. Most of the funding for the project was provided

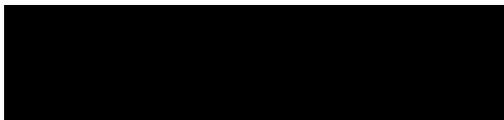
by us. On advice from the OEH, our report addressed purely the significance of Varro Ville, not any specific development – as required under the *Heritage Act 1977* - with the understanding that any future development would be assessed against the maintenance of this significance. As we understand it, the role of any proposed development in this assessment is only in so far as it provides urgency to resolving the listing so that Varro Ville’s state significance is preserved in any future development assessment – the latter being the remit of the planning authorities and the NSW Heritage Council (NSWHC). We thus maintain our support for the stance of the OEH in its prior submissions, as delegate for the NSWHC, that the expanded curtilage be finalised prior to the consideration of any development on the affected land. Moral support for this stance is that all purchasers of the surrounding land since 2000 have been made aware, prior to purchase, of a pending investigation of that land for a curtilage expansion.

We also wish to formally lodge our objection to our research report - ***Curtilage Study Varro Ville by Orwell & Peter Phillips, May 2016*** - being provided to any party (including the CMCT), or published on the IPCN website, on the basis that it is time sensitive. We have successfully prevented its publication on this basis in one prior appeal under the GIPAA conducted by the OEH, with a second one subject to ongoing appeal rights. We ask that this process be respected. While we have given the OEH permission to publish those parts of the report necessary for the curtilage expansion process, we are concerned, amongst other things, that our report identifies elements in the landscape underpinning Varro Ville’s state significance that can be destroyed without penalty by those seeking to develop the land. We feel our concerns are justified by statements made by or on behalf of the CMCT - both oral (in a meeting with us) and written (the Varroville Cemetery DA, along with recent correspondence sourced under the GIPAA) - and by actions taken on the CMCT’s land that have been the subject of ongoing correspondence between us and the OEH.

The curtilage expansion is not controversial in itself: all affected landowners purportedly agreed to the compromise that was reached during the process conducted by the OEH. This included not having any site specific exemptions included at this time. Further the CMCT’s own research - ***Conservation Management Plan, Varroville Estate: 166-176 St Andrews Road, Varroville, Urbis October 2015*** - while flawed, nevertheless supports this curtilage expansion on the SHR and was tabled by the CMCT in support of its application (planning proposal) to have its land rezoned to permit cemeteries. The only controversy in this matter then is the Heritage Minister’s ongoing breach of the *Heritage Act 1977* in not making her decision within 14 days of receiving the NSWHC’s recommendation in October 2017.

Finally, on behalf of all those who made *submissions* on the curtilage expansion, and with regard to our own *correspondence* with the OEH, we ask that *if there is any intention to make this specific material public*, our personal information or anything that identifies us be deleted or made subject to third party review rights under the GIPAA before publication. These submissions and correspondence were provided under a different process and procedures to that of the IPCN’s with, we believe, no expectation that they would be published in the way that they were when they were loaded to the IPCN website on 30 October 2018.

Yours sincerely



For: Jacqui Kirkby and Peter Gibbs