

VARROVILLE

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20 December 2018

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 Sir/Madam:

***Re: Heritage Minister's referral to Independent Planning Commission (IPCN): 'Varroville: Request for Advice on proposed listing on State Heritage Register' - use of our curtilage study in the IPCN review***

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 wrote to you on 5 December 2018 regarding the treatment of our curtilage study - ***Curtilage Study Varro Ville by Orwell & Peter Phillips, May 2016 (the Study)*** - in the IPCN's review of the proposed curtilage expansion for Varro Ville on the State Heritage Register (SHR).

Since then, it has come to our attention that the Study has been made available to a representative of Mills Oakley, the legal firm acting for the Catholic Metropolitan Cemeteries Trust (CMCT) in this matter. We understand that this release was done as part of the IPCN's assessment of a development application (DA) for the land the subject of the curtilage expansion - ***Crown Cemetery Development Varroville – A085/18 – Campbelltown Council's role in the ongoing assessment and document management*** - without our consent and while negotiations for its public release were still in the process of being finalised. We understand that Mills Oakley was given access to the Study on a 'view only' basis on 22 November 2018 at the Campbelltown Council premises as part of Council's management of the DA documents for the IPCN.

We understood that Campbelltown Council was no longer responsible for the DA and had been instructed by the Planning Minister to forward all documentation to the IPCN. We note, contrary to Campbelltown Council's view on this matter, that Penrith Council has referred similar requests to access the DA documents for the Wallacia cemetery (also with the IPCN for assessment) to the IPCN.

Can the IPCN advise whether Campbelltown Council has acted with the authority and knowledge of the IPCN in allowing access to our Study (and continuing to do so)? If it has, can the IPCN explain why it (the IPCN) decided to act contrary to its prior undertakings to us, on what basis it did so, and why it did not advise us of this in its correspondence with us and EDONSW acting on our behalf?

If Campbelltown Council did *not* act with the authority and knowledge of the IPCN in allowing access to our Study as part of the DA documents for the Varroville cemetery, can the IPCN advise what action it will take with Council in relation to this matter both past and future?

Can the IPCN further advise us whether the Department of Planning, as part of its assessment of the Varroville Cemetery DA for the IPCN, has also given anyone access to our Study?

It is an ongoing source of distress to us that had the curtilage expansion been decided within the timeframe mandated by the *Heritage Act 1977* and had the expansion been approved and gazetted (it being non-controversial at the time), the public release of the Study in relation to the DA, providing it was in accordance with the OEH's Permission to Use the material signed by us on 14 May 2016 (i.e. '*limited to a resolution unsuitable for publication-quality printing*'), was not an issue for us as we only seek to ensure the protection of the state heritage significance of Varro Ville and our investment in it. We made this clear to everyone involved in this that dealing with the curtilage expansion before the DA and in accordance with the *Heritage Act* was essentially to proper process. The fact that this has not happened, as evidenced by this latest event, continues to undermine trust in this process.

We thus reiterate *the stance we took in our letter of 5 December 2018 regarding the use of our study in the IPCN's review* and continue to request that the Study not be published at this time, it being time-sensitive. However, now that Mills Oakley has viewed the Study (irrespective of whether this was legally done or not) and noting that Mills Oakley acts for both the CMCT (the other party in this matter) and another landowner whose land is covered in that study (Scenic Pty Ltd), can the IPCN respond to the following:

1. Will the IPCN panel now accept to include *the whole of* the Study in its review of the curtilage expansion without further release of the study until after the Minister has made her decision - noting that its public release is not a statutory requirement of the IPCN in any case?
2. Since Varro Ville's heritage significance is now at risk (as outlined in our letter of 5 December), can the IPCN advise how it will ensure the protection of Varro Ville's state heritage significance while this matter is being resolved?

Yours sincerely



For: Jacqui Kirkby and Peter Gibbs