

VARRO VILLE



29 January 2019

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

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

Re: Submission on Varroville: Ministerial request to review the Recommendation to list the curtilage expansion of the Varro Ville Homestead and Estate (SHR#00737) ('Review')

I write as the owner (with my husband) of state-listed Varro Ville Homestead (SHR #00737). We are the current 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 (**Commission**).

This submission supplements (and corrects) my presentation at the Hearing on 14 January 2019 at the Commission's offices.

Concerns re Hearing Transcript

I am deeply concerned at the quality of the hearing transcript on the Commission's website as it pertains to my presentation. I note that others read from a pre-prepared presentation which was handed to the transcriber such that no transcribing was necessary. I presented from notes and relied on the professional transcribing that I have previously experienced at parliamentary hearings. I note the following:

- The transcript is littered with errors – examples include reference to heritage expert Alan *Kroeger* (instead of *Croker*); *confirm* (instead of *conform*); *land, creek and collapse* (instead of *land creep and collapse*); *order* (instead of *ought to*), *serious decision* (instead of *Sirius decision*)...and so on, including numerous grammatical errors (missing 's' etc.) and wrong word order.
- Frequent parts of what I said are missing, replaced with 'dashes' where presumably the transcriber could not understand what was said. This is spread throughout the transcript.
- Different sections run into each other that were separated in my presentation.
- Some information is missing without being marked by dashes, suggesting some editing, but may be error.

While the gist of what I said remains, much has been lost and the overall effect is highly disjointed. The transcript should have been marked 'uncorrected proof' or 'draft' to show that we had not had the opportunity to read and correct it. I had previously phoned the Commission to ask that we be given this opportunity and was told it would be put on the Commission's website and we could raise any issues then which would be checked with the tape. The transcript was two days late in being loaded and then appeared in a different section of the site (not under '**Presentations made at the Hearing**') making it difficult to find.

Cemeteries Trust (**CMCT**), the most affected landowner (other than ourselves), supported the recommended expansion, noting it was largely consistent with the larger curtilage recommended in its own Conservation Management Plan (**CMP**) that accompanied its 'spot rezoning' application ('planning proposal'). The larger curtilage is what it agreed to list on the Campbelltown Local Environment Plan 2015 (**CLEP15**) on 20 February 2017 (#1105). In the CMP's Policy 11, the larger expansion was put forward *'to include the majority of the potential [Charles] Sturt dams'*. As support for the larger curtilage, page 78 of the CMP stated under **4.2.6 Dams**, *'There are approximately five out of ten dams remaining on the subject Varroville Estate which date from the pre-1940s and they may form part of Charles Sturt c.1830s hand-made dams. This is highly significant and rare as an early example of water conservation in the colonial period...There was possibly some work done to the dams in the c. 1950s, but they still retain a high integrity...'*

In summary, the CMCT supported the larger curtilage in its CMP; it also supported the larger curtilage's listing on the CLEP15, and supported the slightly expanded version of this (to capture more of the western dams and associated watercourse) that was recommended by the NSWHC to the Heritage Minister. Its support for the curtilage was based on its significance and no issues relevant under s. 32 (1) of the Heritage Act were raised in objection, notably there were no claims that the listing would *'render the item incapable of reasonable or economic use'*, or that the listing would *'cause undue financial hardship'* to the CMCT.

Some minor issues were raised by parties during the public exhibition but these were not relevant issues under the Heritage Act. However for completeness I respond to these issues below:

- a. Site specific exemptions. The CMCT, via its consultants Urbis, requested that site specific exemptions for its cemetery be part of the listing. We wrote to the NSWHC objecting to this as it was inappropriate for the NSWHC to include exemptions for a development that did not yet exist and for which there was no approved development application (**DA**), and further, might not get approval given the environmental constraints of the site. It was also wrong procedurally. The correct procedure is to establish the site's significance first and then assess any development of the site against the listing to ensure the site's significance is not compromised. We note in this regard that the Heritage Division of the Office of Environment and Heritage (**HD**) as delegate for NSWHC had requested the Department of Planning and Environment (**DOPE**) (as delegate for the Minister) and the CMCT to not proceed to assess the site for rezoning until the assessment of the site's significance had concluded. In its submission to the South West Joint Regional Planning Panel (**SWJRPP**) the HD wrote:

'The Heritage Division has awarded Ms Jacqui Kirkby a heritage grant to prepare a Heritage and Curtilage Study for Varroville. The findings of this study are due but yet to be received. These findings are considered to be crucial in determining the appropriate curtilage of the Varroville House [sic] and any Planning Proposal should not proceed before these findings are available. The reports supporting the Planning Proposal such as the draft CMP and Visual Impact Study and Design Master Plan may all need revision and alteration as a result of cross-comparison with this study.'



The NSWHC declined to consider site specific exemptions at the time of its decision on 28 September 2017, and confirmed at the Hearing of 14 January 2019 that this is its procedure.

- b. Statements of Significance. The CMCT, via its consultants Urbis, also requested that the Statements of Significance be amended to those in its CMP rather than our curtilage study - ***Curtilage Study Varro Ville May 2016 by Orwell & Peter Phillips (OPP16)***. The HD correctly noted but did not accept this. A brief comparison between the two reports explains why:

The CMCT's CMP relied heavily on outdated secondary sources, many of which were derived from reports by the same consultants that authored OPP16 – namely Geoffrey Britton and Peter Phillips. Wendy Thorpe was also referenced in Artefact's Historical Archaeological Assessment (**HAA**) which fed into the CMP. Her analysis was input to a prior CMP for Varroville House by Orwell & Peter Phillips of May 1992, both of which are now 26 years old. I note that Geoffrey Britton's *Varroville Landscape Analysis, 2007* is also referenced in Artefact's HAA yet this report is owned by us and has never been publicly released. In any case it has been superseded by OPP16 where Mr Britton substantially revised his findings (as did Peter Phillips from his 1992 CMP for the National Trust). Similarly Mr Britton has substantially revised and expanded his findings on Varroville from the report he co-authored with Colleen Morris for the National Trust of Australia (NSW), *Colonial Landscapes of the Cumberland Plain and Camden, NSW, Final Report*, August 2000 (now almost 19 years old).

The CMCT's CMP only examined its own land and in the context of developing that land for a cemetery. It did not have access to Varro Ville Homestead and, according to its 'Limitations' did not have access to the outbuildings due to safety concerns. Further, its claims that the CMP has been 'endorsed' does not appear to be correct as the only part of government that can endorse a CMP, as we understand it, is the NSWHC and it can only do so for land that is on the State Heritage Register (**SHR**). As the land is not yet on the SHR, and was not at the time it was strangely embedded in the CLEP15 by the DOPE, it has never been 'endorsed'.

OPP16, on the other hand, was commissioned as a curtilage study and took a broad approach to its investigation that included not only the original 1810 Varro Ville estate land, but adjoining land that formed part of its historical connection and visual curtilage. It was subject to a NSW heritage grant that contributed less than 50% of the cost, the rest being paid by my husband and me. The grant, however, meant that it was subject to quality oversight by the HD who we consulted prior to its commissioning. The HD asked us to answer the following *'Do the existing statements of significance capture all the values the property holds?'*

The CMCT may claim that it did *not* rely solely on secondary sources as it commissioned a well-known landscape consultant to conduct the landscape analysis. We know,



however, from our own experience that this analysis is only as good as the base historical material. By way of example, we had started our study in 2007 when the surrounding land was sold to land developers, the Cornish Group. We had tried to keep our costs down by using many of the same secondary sources used in the CMCT's CMP. Geoffrey Britton was also the landscape consultant at that time but his analysis raised more questions than it answered and the significance of the landscape was difficult to establish. For OPP16 then, we decided to return to original sources with a focus on what happened to the land, given that the history of the associated people had already been well covered in prior studies. To that end, Peter Phillips engaged Dr Terry Kass, an expert in land titles (amongst other things) who was able to supply previously unknown maps and aerial photos and traced the use of the land over time. This enabled Mr Britton to uncover a very different story in Varro Ville's heritage landscape, raising its significance at both the state and national levels. The statements of significance in OPP16 thus critically update and supersede the CMCT's CMP's, whose heritage analysis only related to its own land in any case.

Finally, the embedding of the CMCT's CMP in CLEP15 did not mean it could never be superseded. The CMCT's consultants' and legal advisers' claims about the operation of clause 7.8A of the CLEP15 (specifically relating to the CMCT's land surrounding Varro Ville Homestead, which references the CMP) are not consistent with our own understanding. Clause 7.8A is merely one of the clauses in the CLEP15 that the CMCT's development must comply with. It does not override the rest of CLEP15. Further it does not override any CMP endorsed by the NSWHC for land on the SHR, which can only be endorsed by the NSWHC. We also understand that those CMPs are required to be updated about every five to ten years. Though the CMCT's CMP is deeply flawed (as described above, but also as outlined in our submission to the DA assessment where we elaborate on the many inconsistencies in the document along with its reliance on outdated secondary sources), the CMCT's CMP nevertheless specifically allows for updating: Policy 9 states: *'All future planning [etc.]... must be guided by the statement of significance and significant spaces, landscape, fabric and building elements identified in this CMP together with any additional detailed research and assessment [my emphasis].'*

- c. Objections from the Office of Strategic Lands (OSL) to the inclusion of its land (Lot 4 DP 23957) in the curtilage expansion. The HD correctly dismissed OSL's objections to the inclusion of its land in the curtilage on the basis that there were other ways to handle these – notably if the land is to be later used for state infrastructure this would switch off the Heritage Act.

The OSL objections are, however, either ill-informed or disingenuous. Firstly it misquoted Campbelltown City Council, which manages this land, in claiming it joined with OSL in objecting to the land's inclusion in the curtilage. Council has since made a submission correcting this. Secondly a search by us under the *Government Information (Public Access) Act 2009 (GIPAA)* in 2013 showed the OSL negotiating with the CMCT to include



properly tested. We do not feel it is an appropriate role for the Commission to conduct a quasi-merits appeal or judicial review of the process to date. Nor is it appropriate to give the CMCT a second bite of the cherry to reverse its prior position because it has misjudged the outcome. If the Commission has, as stated on its website, *'an important role to play in building community confidence in the decision-making processes for major development and land-use planning state-wide'*, then it cannot be seen to support Ministers in perverting the planning process and weighting the outcome in favour of large developers at the community's, or other affected landowners' expense. The Minister's delay in making a decision has allowed the CMCT to progress its DA for a cemetery at Varroville on the land the subject of this curtilage expansion. In sending this recommendation to the Commission, 'out of time' and without good cause (as it was *not* controversial at the time the Minister was required to make the decision), the Minister would appear to be delaying this decision further while the DA progresses, but also giving the CMCT a 'second bite of the cherry' to reverse its position. By further exposing the heritage identified in our curtilage study to risk of destruction while the land remains outside the protection of the Heritage Act, the Commission could also be seen to be assisting the progression of the Varroville cemetery DA at the cost of the site's state heritage significance, similar to the perceived Ministerial interference in not signing the NSWHC's request for an Interim Heritage Order (IHO) in 2014 that would have protected the site while its significance was being determined. The Commission must be independent of Ministerial influence and interference, or the perception thereof, the more so as we are now operating in the Pre-Election Period in the lead up to the 2019 NSW Elections in March.

This raises issues regarding the time frame for the Commission's consideration of this matter. The material uploaded to the Commission's website is up to the point of the Ministerial Briefing of 31 October 2017 as the period that is being reviewed. The HD provided us with a different cut-off date when it told us in an email of 10 October 2017 that it could not include three submissions we had identified as validly sent within the public exhibition period that supported the curtilage expansion, including one from Historic Houses Association (sent twice). We were advised by the then Listings Manager, Katrina Stankowski that *'as the Heritage Council has already made its recommendation [on 28 September 2017], the submissions cannot be considered as part of the official documentation.'*

Yet now we have a situation where the CMCT can change its position, resubmit and gather support from those who depend on it for cemetery space and employment, who did not previously submit anything during the public exhibition of the curtilage expansion in July-August 2017.

The ability of large vested interests to influence governments and planning authorities to continually move the goal posts every time they find that the process is not giving them the outcome they want is a significant cause of the community's loss of trust and confidence in government generally and the planning process in particular.

Finally, if the Commission is opening up the timeframe to consider this as if the original public exhibition was still running, then there is a lot of valid information missing from the Commission's website. In particular we have lodged a GIPAA search for correspondence between the CMCT, its advisers and the HD and government Ministers, which we hope will explain more about why the Minister has not made the curtilage decision and why this recommendation has been referred to the



Commission out of time. The CMCT and its advisers are objecting to our having this correspondence and it will be months before we can access it. If the Commission can load up all our correspondence without regard for the normal operation of the GIPAA then it can request and upload this correspondence as well.

Moral context for the curtilage expansion

While this Review is concerned with assessing the significance of Varro Ville, there is a moral context that we have observed operating 'informally' in these decisions – that is, it appears to be rare for listings to be made if the owner objects. In our discussions with the HD, this appears to be the only reason for the OPP16's recommended 'critical minimum curtilage' being further reduced. The CMCT did not want it to extend over the land where it wanted to put its cemetery buildings (part Lot B DP370979) and Scenic did not want it to extend to its ridgeline (part Lot 1 DP 541916). Both pieces of land have been excluded despite otherwise being identified as critical to Varro Ville's state heritage significance in the OPP16 study and later submissions.

The moral context in this case is thus worth noting as follows:

1. A nomination for an expansion of Varro Ville Homestead's curtilage was made in 2000 and remained pending (with boundaries undefined) when we and other affected landowners (the CMCT and Scenic) bought our respective pieces of the Varro Ville estate in 2006, 2016 and 2012 respectively. Indeed when the CMCT's land changed hands in 2007 (for the first time since 1950) the then Heritage Office wrote to Colliers International at Parramatta asking it to advise this to prospective purchasers of the land. The then owners of the land told me that, on legal advice, they had incorporated the letter into the sales contract. When land developer, the Cornish Group, emerged as the purchaser, we met with it and suggested we carry out a joint curtilage study. The Cornish Group refused on the basis that it had its own heritage consultants. It engaged Paul Rappoport and we engaged Design 5 and Geoffrey Britton.¹ The CMCT has never pretended to be unaware of the proposed curtilage expansion. Indeed an Urbis Valuation document sourced under the GIPAA in 2013 shows that the Rappoport draft curtilage was used and is remarkably similar to the smaller curtilage proposed by the CMCT in its CMP (and now apparently its preferred curtilage), which seems to have more to do with maximising the value of the land than its heritage significance.
2. The National Trust listed Varro Ville on its heritage register in 1976 with a curtilage that included all the CMCT's land and more. The National Trust's submission states this (but is not part of the documentation listed on the Commission's website, despite being listed in the Ministerial Briefing papers).
3. The CMCT committed to the curtilage expansion during the rezoning of its land. The CMCT's CMP supported the larger curtilage to include the western dams. Submissions to the rezoning (for example from the National Trust) relied on this. The CMCT's Planning Proposal

¹ We suspended our study when the Cornish Group's proposed development was rejected by Campbelltown Council and our report ran over time resulting in our losing our heritage grant.



(spot rezoning application) also claimed that its proposed cemetery '*...respects the important colonial and non-colonial landscape*' as well as the CLEP15 objective '*to preserve the rural heritage landscape character of the Scenic Hills.*'

4. Papers sourced under the GIPAA in 2016 showed that the CMCT persuaded the Minister for Primary Industries to waive his prior conditions relating to the purchase of the Varroville land (namely that all planning approvals – rezoning and DA – were to be in place before the CMCT could complete the purchase of the land) and purchased the land in its own name in January 2016 (without publicly informing the rezoning process). At that time the DOPE and the CMCT had been informed that a curtilage expansion investigation was underway and that we had a heritage grant approved for our study.

There are two implications from this:

- The CMCT (and Scenic) took business risks in acquiring land at Varroville that no one else should be obliged to offset. This has implications for any claims under s. 32 (1) of the Heritage Act concerning the listing's impact on '*reasonable or economic use*' of the land or the listing's ability to '*cause undue financial hardship*'.
- The CMCT committed to the larger curtilage expansion and to respecting the site's heritage during the rezoning. It cannot now move the goalposts to remove impediments to its DA. If planning authorities, including the Commission supported this it would significantly undermine our and the wider community's '*confidence in the decision-making processes for major development and land-use planning*' in this state.

Misrepresentations in the Ministerial Briefing Document

At the Hearing of 14 January 2019 I raised concerns about certain statements in the Ministerial Briefing document. I reiterate these briefly here:

1. Papers to the NSWHC of 28 September 2017 referred to an IHO request of 6 August 2014 that the Heritage Minister (Rob Stokes) responded to on 8 September 2014. The Minister did *not* sign the IHO but was quoted thus: the Minister '*has asked that the Heritage Council work with the landowners towards managing the heritage values as part of development (including potentially a heritage listing nomination).*' This appears to be a misunderstanding that has since been clarified at the Ministerial level. Papers sourced informally under the GIPAA show that the quote was on a Post It note attached to the IHO request by an unknown author quoting 'Ed' (presumably Edward Steane, the Minister's heritage advisor) in turn quoting the Minister. In a letter to us, the HD linked this with the MacArthur Memorial Park (Varroville cemetery) development. However in a letter of 23 January 2015 to Jai Rowell, MP for Wollondilly, Minister Stokes clearly separated the curtilage assessment from development saying:

'As the parcels of land concerned, that of Varroville Homestead and its landscape and outbuildings, are in separate ownership, I have requested that OEH work with both owners to manage the heritage values of the landscape and outbuildings as part of any future development. I have also requested



State Heritage at risk without the 'minimum' curtilage expansion recommended in our curtilage study

It is clear to us that unless the curtilage is expanded, the heritage significance of Varro Ville will be compromised, and probably fatally so. We note the following in support of our concerns:

1. The CMCT's demonstrated attitude to heritage and its actions to date:
 - a. The CMCT developed its cemetery plans for the land surrounding Varro Ville Homestead (the subject of this curtilage expansion) in isolation from us. We have been told that it asked others (such as our Carmelite neighbours) to keep the proposal from us on the basis of '*commercial in confidence*'. In August 2013 it presented its plans to Campbelltown City Council and called an invitation-only media conference (to which we were not invited and had no knowledge of) to announce its plans. The first official knowledge we had of the cemetery was when local journalists phoned us after the media event to get our reaction. The CMCT then called us to a meeting where it presented its unsympathetic modern cemetery plans as a '*fait accompli*'.
 - b. In our meeting of August 2013, the CMCT told us that it did '*not want to put any money into heritage unless [it was] forced to*' and added that it thought it would be '*forced to*'. After several other unpleasant comments (which we later documented in a letter to the Minister for Primary Industries) we walked out of the meeting determined to recommence our 2007 curtilage study, grants permitting.
 - c. The CMCT did not offer to buy our house in that first (and only) meeting but later appeared on Channel Ten claiming to have done so. The CMCT has never made any offer for our house, but induced us to get a valuation without any guarantees. It later asked to send its own valuers and heritage consultants to our home which we declined.
 - d. Despite all the heritage studies it has been obliged to conduct, and feedback during the rezoning process from us and other heritage organisations, its proposal and Masterplan have remained essentially unchanged and unsympathetic to heritage.
 - e. The Varroville cemetery DA's Heritage Impact Statement (HIS) references the Burra Charter in support of its philosophy to '*record and destroy*' Varro Ville's landscape heritage. This has been criticised by us, our heritage landscape consultant and the National Trust in submissions to the DA. The National Trust has placed its submission on its website: <https://www.nationaltrust.org.au/initiatives/varroville/>
 - f. We have had to battle the CMCT over the deterioration of the Varro Ville outbuildings, one of which has been identified in OPP16 as probably the original grantee's first house and of exceptional significance. Despite claims at the Hearing on 14 January that the CMCT had shown respect for the site's heritage by taking steps to protect these, in fact we had to appeal to Campbelltown Council to investigate their plight and Council issued an order to the owners to secure the roofs against wild cat storms at the time. We had to make a second complaint before proper action was taken, which even now is insufficient to prevent damage.



openings. We had previously permitted three openings prior to moving in while we were still trying to sell our state listed East Maitland home. Historic House Trust led two tours, and the Australian Garden History Society (AGHS) one. We have had numerous requests since from the National Trust, AGHS, Furniture History Society, Historic Houses Association and local groups – all of which we have had to decline.

- e. The CMCT's mooted ownership of the Homestead and Estate is not the answer given its record to date and the customary approach of developers evident in the CMCT's plans. Typically developers claim they must develop around heritage buildings in order to pay for their maintenance. The community is then held to ransom in a Sophie's choice: the destruction of the buildings or the destruction of their contexts. It is well established that the destruction of context not only destroys the heritage significance of buildings but also their financial value. Thus five to ten years later, when these buildings need further maintenance (as they always do) no one can justify the ongoing investment. The focus on buildings is, in any event, fifty years out of date. What is proposed to be lost at Varro Ville is a unique agricultural landscape with features, such as the agricultural trenching and other water conservation methods established by Sturt and his predecessor Thomas Wills.

This is clearly not the way to protect and conserve the state's heritage.

Brief Commentary on submissions and presentations at the Hearing of 14 January 2019 objecting to the curtilage expansion.

The submissions made by consultants, advisors and others apparently beholden to the CMCT are barely worth mentioning as they all appear to have missed the point of this Review, i.e. that this is about establishing a curtilage expansion based on the significance of the site for the state of NSW, independently of any development. The submissions are obsessively focussed on objecting to the curtilage due to the desire to see a cemetery on the site.

Nevertheless, in case any of these arguments carry weight I address some of these below:

1. The claim that the CMCT's land at Varroville has been set aside for/specifically designated as a cemetery. This claim is not consistent with our understanding of the spot rezoning of the CMCT's land surrounding Varro Ville Homestead. The CMCT and its consultants might have hoped for this outcome, but it had claimed during the rezoning process that it was not intending to change the zoning but merely to have 'cemeteries' added as a permissible land use for the site. As a consequence, that is all that it was given - with development subject to consent. We urge the Commission to gain its own advice if it intends to give any weight to the CMCT's claims, particularly with regard to the '*reasonable or economic use*' of the site. The zoning permits a number of other land uses and a number of them are completely compatible, even enhance, the heritage value of the land. We note that the land has successfully been used as a riding school, dairy, cattle property. Its tourism value as a heritage site has never been explored.



statements that I have made in regard to the cemetery and the CMCT and welcome the CMCT making a submission on my behalf and saving me the effort, though how it relates to the curtilage expansion is a mystery. I also note that no other person in the community has been quoted (despite numerous objections across the community in the media) and the CMCT has omitted the online 'trolling' and misinformation in the media by its PR agent Tim Allerton that we had to bear. This was directed not only at my husband and me but even to a Catholic Priest (from the Carmelite community) who spoke out against the cemetery and the CMCT's treatment of us. Is the inclusion of these media articles to play to a perceived prejudice in the community and among decision makers relating to membership of the Catholic Church? If so, then it is ill-conceived given the support we have had from members of the Catholic community in Campbelltown and in particular from the Carmelite Nuns and Friars whose land adjoins the CMCT's at Varroville.

4. Other Submissions

I deal with these briefly:

- a. Peter George Thomson. Mr Thomson is one of only two residents/landholders (the other being Scenic) who spoke in favour of the cemetery at the public hearing into the rezoning. Both Thomson and Scenic have made applications to rezone land in the Scenic Hills for development. This does not make their submissions invalid, but the claims need to be scrutinised in that light. Mr Thomson claims '*my family owned Varroville from the 1940's up until the property was sold to WF Ross in the 1950s.*' Our curtilage study OPP16 traces all land titles up to the present time and shows that this statement is untrue. Robert Stanley Thomson bought and sold the Varro Ville Homestead lot on the same day in an apparent land speculation deal when the estate (owned by A J Smith) was subdivided for the first time in mid-1950. Mr Thomson's family appears to have retained some estate land closer to the current M31 but not any land relevant to his subsequent comments about the estate. I note that Mr Thomson would be aware that the land was successfully opened to the public over a long period of time when it was leased to the adjoining riding school, which makes one of his comments curious. I also note that there is no evidence that W F Ross carried out any works on the Varro Ville dams as he quickly on-sold the land in the same year he bought it.
- b. Submission by unknown heritage expert. A submission claiming great expertise and experience in heritage has had all identifying details (name, company) redacted. The Commission can give no credence to an 'expert' who does not want to be identified.
- c. Submissions by the Muslim Cemetery Board Inc. and Jewish Board of Deputies. Like many of the other submissions, these have nothing to contribute to the expansion of Varro Ville's curtilage based on significance. Like many other submissions these also contain misstatements of fact which the Commission will readily be able to identify for itself without my trawling through these. I would just like to say that it is sad to see these two organisations supporting the destruction of NSW's heritage in order to support their own cultural practices that could be practiced on less sensitive land elsewhere and where that does not cause us so much personal and financial harm. We support their right to minority cultural practice but not at ours or others expense or at the expense of NSW's (and potentially Australia's) cultural heritage.

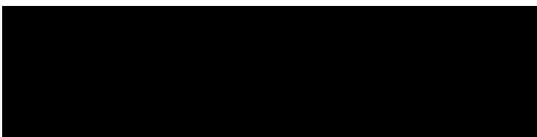


If the Commission intends to alter the recommended curtilage in any way, we urge it to expand it further to include all that land identified in the OPP16 study, and subsequently by our consultants, as the 'minimum critical curtilage.' This would include all of Lot B DP370979 and part Lot 1 DP 541916. This would largely capture the landscape setting of Varro Ville as seen from public lookouts on Bunbury Curran Hill and St Andrews Road. It would also include Bunbury Curran Hill, noting its significance to the identity of the estate and its role in historical writings such as those of Governor Lachlan Macquarie in 1810 when he visited the estate. It would also capture the important ridgeline overlooking the Homestead and outbuildings, which forms a critical part of the estate core's visual curtilage.

Finally, I have been reluctant to make any comment about aboriginal heritage in our prior submissions as we could not afford to include any original research in our study and I did not want to 'use' aboriginal history to support our case without their permission and sufficient evidence. However, given the desperation of Varro Ville's current situation, I wish to draw the Commission's attention to the 'potential' importance of the views in this regard. One of our consultants in 2007 commented that in his prior experience working on these studies, many colonial houses are built on special aboriginal places. He believed that Varro Ville Homestead (and its prior homestead) was likely to be one of these. He then pointed to two landmarks observable from the Homestead along the range, including Bunbury Curran Hill, that he believe would also be likely candidates. The views from the Homestead are magical. If visitors walked up the hill to the Homestead backwards they would note that the range rises up from behind St Andrews Road with them. These changing views as one moves around inside the estate are a mystery but critically important to the heritage significance of the estate and the preservation of the country's early colonial house sitings and their impact on the original inhabitants. No one with any sensitivity could take in these views without feeling the dispossession of those who had them first. If the views are lost so will be the ability to feel the impact in the same way. 'Recording' before 'destroying' does not achieve that end.

My husband and I are merely the current caretakers of Varro Ville Homestead. If the heritage is lost it will be the state's (and potentially) Australia's loss for future generations. We urge the Commission to recommend a curtilage expansion that captures all the significance the land holds at the state level, independently of any development that may or may not emerge in the future.

Yours sincerely

A large black rectangular redaction box covering the signature area.

For: Jacqui Kirkby and Peter Gibbs

A series of black rectangular redaction marks at the bottom of the page, consisting of several horizontal bars of varying lengths.