

Attachment A

Letter from the Applicant

The Chair
Local Planning Panel
City of Sydney Council
456 Kent Street
SYDNEY NSW 2000

RE: Item 3 - Development Application D/2021/893 - 28-30 Orwell Street, Potts Point

I refer to Item 3 presented to the City of Sydney Local Planning Panel for determination.

We have reviewed and generally support the officer's recommendation of approval. However, I wish to advise that the recommended **deferred commencement condition** is potentially in breach of Section 4.47(3) of the Environmental Planning & Assessment Act.

The development has been fully assessed by Heritage NSW and General Terms of Approval (GTAs) have been issued for the proposal, including consent conditions (which are not deferred commencement). Condition 1 of the GTAs requires comprehensive structural design details to be provided with the Section 60 Application under the Heritage Act 1977.

With respect to all heritage considerations, Heritage NSW and the Heritage Council are the only authority for buildings that are listed on the State Heritage Register. Under Section 4.47(3) of the Environmental Planning & Assessment Act 1979, all heritage related consent conditions:

*"must be **consistent** with the general terms of any approval proposed to be granted by the approval body (in this case, Heritage NSW) in relation to the development and of which the consent authority is informed".*

In this case, the LPP has been presented with a draft **deferred commencement consent** condition that imposes far more onerous heritage conditions than are contained in the GTAs. Specifically, the applicant is unable to activate the development consent until Council's Deferred Commencement Condition 1 is satisfied. This condition directly conflicts with and is far more onerous than the Heritage GTAs.

Council's Deferred Commencement Condition specifically requires detailed structural engineering design, services, demolition, excavation, geotechnical and construction methodology documentation. The stated reason and purpose for Council's Deferred Commencement Condition is for heritage reasons. Part G of the condition includes specific reference to the underlying heritage rationale.

This deferred commencement condition commits the applicant to several million dollars in design documentation expense before the consent can be activated. The condition is in direct conflict with the requirements of Heritage NSW and Section 4.47(3) of the Environmental Planning & Assessment Act 1979.

It is requested that this condition be deleted, and a full consent granted, given the GTAs already include detailed structural design details and that condition is not opposed.



Giovanni Cirillo

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17/07/23