

Resolution of Local Planning Panel

30 October 2019

Item 3

Development Application: 161 Castlereagh Street, Sydney - D/2019/88

The Panel refused consent for Development Application No. D/2019/88 for the following reasons:

- (A) The proposal will result in an FSR of 14.86:1 which exceeds the 12.52:1 FSR (base 8:1 plus 4.52:1 accommodation floor space) development standard prescribed under Clause 4.4 and Clause 4.6 of the Sydney LEP 2012. The Clause 4.6 variation that has been submitted is not supported as Council is not satisfied that the written request has provided adequate justification that compliance with the Floor Space Ratio control is unreasonable or unnecessary. Further, the application does not provide sufficient environmental planning grounds to justify contravening the standard.
- (B) The proposal reduces the amount and quality of the useable open space available to the public in the plaza. The leasable seating zone, for the exclusive use of the pub, is extended with a continuous awning over the outdoor seating area. This will result in a large portion of the plaza being privatised.
- (C) The proposal is contrary to the base consent D/2007/1792/H which permitted additional floor space above the floor space development standard based on public benefits including the plaza. The proposal is contrary to the restrictive covenant which requires a clear demarcation of the "public" and "private/leasable space" space to ensure that the space is not privatised by future uses.
- (D) The new bar known as tenancy 3 will almost entirely encompass the buildings undercroft and will negatively impact on views to and the space around the existing public art installation. The proposal is contrary to the objectives of provision 3.1.5 (public art) of Sydney DCP 2012 which includes a requirement to improve the quality of public artworks in private developments and ensure that public art is an integrated and cohesive part of new developments.
- (E) The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as the form and external appearance of the proposed development does not improve the quality and amenity of the public domain and the proposal will impact on views to the existing art installation.

- (F) The proposal fails to comply with provision 3.5.2 of the Sydney DCP 2012. The proposed awning will encroach significantly on the canopy of the semi-mature hills fig tree located in a planter box on the eastern side of the plaza.
- (G) The proposal is inconsistent with the objectives of Section 3.15 (late night trading management) of the Sydney DCP 2012 as the submitted acoustic report presents a number of technical errors and fails to detail the existing acoustic levels of the surrounding site. Further the recommendations in the report have not been reflected in plans or the submitted Plan of Management and a number of claims in the report of acoustic compliance are not supported, thus failing to ensure that the development will not have an adverse amenity impact on surrounding sensitive uses.
- (H) With consideration of the above matters, approval of the development would not be in the public interest and is contrary to Clause 4.15(1) (e) of the Environmental Planning and Assessment Act 1979. The proposal is inconsistent with the relevant planning controls and will have adverse environmental impacts on the locality.

Carried unanimously.

D/2019/88