

Resolution of Local Planning Panel

1 November 2023

Item 6

Development Application: 31A and 5030 Alfred Street, Sydney - D/2023/292

The Panel refused consent for Development Application Number D/2023/292 for the reasons outlined below.

Reasons for Decision

The application was refused for the following reasons:

- (A) The proposed development is inconsistent with clauses 23 and 24 of the Environmental Planning and Assessment Regulation 2021 as the application is not accompanied by the written consent of all owners of the land that form part of the subject site. Crown land owner's consent has not and cannot be obtained as the proposal is inconsistent with the CBD Civic Spaces Plan of Management 2022 which governs the site.
- (B) The proposal is inconsistent with Section 3.36 of the Crown Land Management Act 2016 and the aims of the CBD Civic Spaces Plan of Management 2022.
- (C) The proposed development fails to demonstrate design excellence in accordance with Clause 6.21, 6.21B and 6.21C of Sydney LEP 2012, as it:
 - (i) fails to deliver a high standard of architectural and urban design that is appropriate for the location;
 - (ii) has a form and external appearance that will detract from the quality and amenity of the public domain;
 - (iii) fails to respect the heritage significance of Customs House which is listed as a State and local heritage item;
 - (iv) fails to achieve an appropriate interface and relationship with the Customs House and public domain; and
 - (v) fails to present a suitable bulk, massing or modulation of buildings to address the Circular Quay Special Character Area.

- (D) The proposed development is inconsistent with Clause 7.20(2)(a) of the SLEP 2012 as the site area exceeds 1,500sqm and the site has not been subject of a site specific development control plan, nor has the applicant demonstrated that the preparation of a site specific development control plan is unreasonable or unnecessary in the circumstances or demonstrated to the consent authority that all provisions under Clause 7.20(3) of SLEP 2012 are met.
- (E) The proposed development results in significant adverse impacts on the State and local heritage item Customs House and is contrary to Clause 5.10 of Sydney LEP 2012 and Section 3.9 of Sydney DCP 2012 in relation to heritage conservation.
- (F) The proposal does not accord with the City North Public Domain Plan as the pavilions present as permanent structures which cannot be easily removed to facilitate events or the public use of Customs House Square.
- (G) The proposal does not accord with:
 - (i) Section 2.1.4(e), (g) and (h) of Sydney DCP 2012 as it does not reinforce the area as a major focal point for public celebrations and has not been designed to protect the heritage significance, settings or views of Customs House within the Circular Quay Special Character Area;
 - (ii) Sections 3.1 and 3.2.2 of Sydney DCP 2012 as the pavilions do not provide an appropriate response to the public domain;
 - (iii) Section 3.5.3 of Sydney DCP 2012 as the pavilions are located within close proximity to, and encroach within, the existing tree canopies. The proposal has not demonstrated how the health of the existing trees will be protected;
 - (iv) Section 3.15 of Sydney DCP 2012 in relation to the permissible base and extended outdoor hours of operation;
 - (v) the City of Sydney Outdoor Dining Policy and Guidelines with respect to permanent and fixed structures, barriers, separation of the space from the public domain, and general outdoor dining furniture.
- (H) In light of the above, approval of the application is not in accordance with the public interest, as required under Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

Carried unanimously.

D/2023/292