

Lease Variation - Suite 3.02, Level 3 and Level 5, Customs House, 31 Alfred Street, Sydney

File No: S099079

Summary

This report seeks Council approval to vary two leases to Customs House Café Pty Limited, trading as Café Sydney, for Suite 3.02 Level 3 and Level 5, Customs House, 31 Alfred Street, Sydney.

Customs House is a prominent heritage listed building at Circular Quay which is owned by the City of Sydney.

Customs House is occupied by the City of Sydney Visitor Information Centre on the ground floor and two levels of public library and function rooms on Levels 1 and 2. Hub Sydney, which is a co-working environment, lease part Level 3 and Level 4 on a commercial basis and Café Sydney Restaurant is on part Level 3 and Level 5.

In accordance with the National Code of Conduct for Covid Relief for Retail and other Commercial Tenancies, lessors and impacted lessees are to renegotiate rent and other terms of the lease if one party requests the renegotiation.

It is recommended that Council approves the proposed variations to Customs House Café Pty Limited for Suite 3.02 Level 3 and Level 5, Customs House, 31 Alfred Street, Sydney as per Confidential Attachment A. The variation is to extend both leases, currently expiring on 23 November 2029, by five years so that the new expiry date will be 23 November 2034.

Recommendation

It is resolved that:

- (A) Council approve the variation of the current lease to Customs House Café Pty Limited for Suite 3.02, Level 3, Customs House, 31 Alfred Street, Sydney, by extending the term of the lease by an additional five years. The lease termination date will be extended from 23 November 2029 to 23 November 2034;
- (B) Council approve the variation of the current lease to Customs House Café Pty Limited for Level 5, Customs House, 31 Alfred Street, Sydney, by extending the term of the lease by an additional five years. The lease termination date will be extended from 23 November 2029 to 23 November 2034; and
- (C) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the terms of the variation of each lease in accordance with Confidential Attachment A to the subject report.

Attachments

Attachment A. Essential Lease Terms and Conditions (Confidential)

Background

1. Customs House is a prominent heritage listed building at Circular Quay which is owned by the City of Sydney.
2. Customs House is occupied by the City of Sydney Visitor Information Centre on the ground floor and two levels of public library and function rooms on Levels 1 and 2. Hub Sydney, which is a co-working environment, lease part Level 3 and Level 4 on a commercial basis and Café Sydney Restaurant is on part Level 3 and Level 5.
3. Customs House Café Pty Limited, trading as Café Sydney, is a well-known restaurant that has been operating on Level 5, of Customs House since 28 June 1999.
4. Customs House Café Pty Limited has a second lease for administration offices on Level 3 of Customs House.
5. Both leases commenced 24 November 2019, each being for a term of 10 years, and will expire 23 November 2029. Neither lease has an option to renew.
6. In accordance with the National Code of Conduct for Covid Relief for Retail and other Commercial Tenancies, lessors and impacted lessees are to renegotiate rent and other terms of the lease if one party requests the renegotiation.
7. Café Sydney has requested that the City of Sydney forego the annual three per cent rent increase for both leases which is due 24 November 2022. This will assist the business to recover from the impact of Covid.
8. It is recommended that the City forgoes the three per cent rent increase due 24 November 2022 if Café Sydney is willing to extend the term of both leases by five years.
9. Café Sydney has agreed to the extension of term so that both leases will terminate on 23 November 2034.

Financial Implications

10. Should the City agree to no rent increase for November 2022 then there will be a minor shortfall to the remaining seven months of the 2022/23 budget. The shortfall in the current year's budget is offset by securing Café Sydney for an additional five-year term which will provide the City with continuous revenue with no period of vacancy until November 2034.

Relevant Legislation

11. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
12. Attachment A contains confidential information and details which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
14. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise the City's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

KIM WOODBURY

Chief Operating Officer

David Graham, Commercial Property Manager