

kass-hermes
urban planning +
development

Section 96 (1A)
Modification
DA82 - 07 - 07
Continuation of
Extended Trading
Hours

CEO Karaoke
Shop 2 Level 1
1 Dixon Street
Central Sydney

Department of
Planning
March 2010

1. INTRODUCTION

Consent was granted, on 11 September 2007, to Alfred Lee – T & W Holding to undertake an internal fitout of Shop2, Level 1; 1 Dixon Street for use as a karaoke venue, operating as CEO Karaoke, as detailed in the Notice of Determination of DA 082-07-07. Development consent has also been granted to use the subject premises as a Place of Public Entertainment (POPE) under DA 155/11/07.

On 14th May 2009, a s96(2) Modification to the consent was granted which approved for the extension of trading hours on a trial period (**Attachment A**). The approved hours of operation in Condition E1 were as follows :

Conditions E1 (b) (ii) and (b) (iii) lapse on 14 May 2010.

E1	<p>Hours of Operation</p> <p>The hours of operation are regulated as follows:</p> <p>(a) The hours of operation must be restricted to between 11am and 12 midnight Monday to Sundays.</p> <p>(b) Notwithstanding (a) above, the use may operate:</p> <p>(i). between 12 midnight and 2.00 am the following days Thursdays to Saturdays for a trial period of 12 months 24 months from the date of approval of the Occupation Certificate until 14 May 2011</p> <p>(ii). between 2.00 am and 4.00 am, Thursdays, Friday and Saturdays for a trial period until 14 May 2010</p> <p>(iii). between midnight to 2.00 am, Sundays, Mondays, Tuesday and Wednesdays for a trial period until 14 May 2010</p> <p style="text-align: right;">[As amended by MOD 82-07-07 (1) on 14 May 2009]</p> <p>(c) A further application may be lodged to continue the trading hours outlined in (b) above before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.</p>
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However, under the provisions of Condition E1 (c), a further application may be lodged prior to the end of the trial period for the continuation of the extended trading hours.

This report seeks continuation of the extended hours for a further 2 years in accordance with the provisions of the City of Sydney Late Night Trading DCP . It has been prepared by Kass-Hermes on behalf of the Mr Hugo Tam, Managing Director of T & W Holdings Pty Ltd, operators of CEO Karaoke.

Attachments to the report are as follows:

- **Attachment A** - Notice of Determination DA 082-07-07 (as amended on 9 May 2009)
- **Attachment B** - Incident Report Log

2. THE SITE

2.1. LOCATION

The subject site is located at 1 Dixon Street, Haymarket (Figure 1)

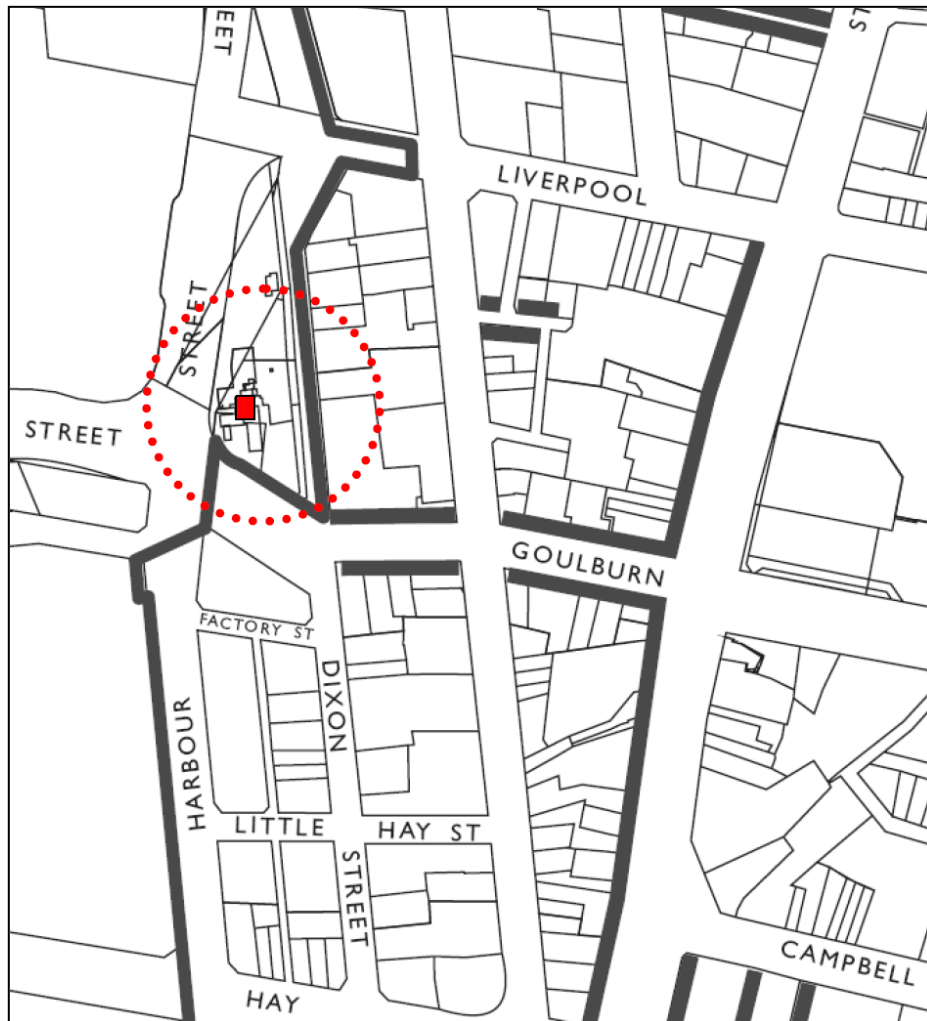


Figure 1 – Location Plan

2.2. DEVELOPMENT CONTROLS

The relevant controls for this site are:-

- The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Darling Harbour Development Plan No 1
- City of Sydney DCP – Late Night Trading Premises

3. PROPOSAL

Condition E1 currently states:

“E1 Hours of Operation

The hours of operation are regulated as follows:

(a) The hours of operation must be restricted to between 11am and 12 m to Sundays.

(b) Notwithstanding (a) above, the use may operate:

(i). between 12 midnight and 2.00 am the following days Thursdays to trial period of 24 months until 14 May 2011

(ii). between 2.00 am and 4.00 am, Thursdays, Friday and Saturday for a trial period until 14 May 2010

(iii). between midnight to 2.00 am, Sundays, Mondays, Tuesday and Wednesdays for a trial period until 14 May 2010.”

A section 96 (1A) modification is sought to DA 082-07-07 to modify Condition E1 (b) (ii) and (b) (iii) to continue the extended trading hours until 2012; such that the consent reads as follows:

E1 Hours of Operation

The hours of operation are regulated as follows:

(a) The hours of operation must be restricted to between 11am and 12 m to Sundays.

(b) Notwithstanding (a) above, the use may operate:

(i). between 12 midnight and 2.00 am the following days Thursdays to trial period of 24 months until 14 May 2011

(ii). between 2.00 am and 4.00 am, Thursdays, Friday and Saturday **for a trial period until 14 May 2010 2012**

(iii). between midnight to 2.00 am, Sundays, Mondays, Tuesday and Wednesdays **for a trial period until 14 May-2010-2012.**

4. SECTION 96 (1A)

Under the provisions of Section 96(1A) of the Environmental Planning and Assessment Act, development consent may be modified if the consent authority:-

4.1.1. is satisfied that the proposed modification is of minimal environmental impact;

Comment: It is considered that the proposed modification consent involving the continuation of the extended trading hours between 2am and 4 am on Thursdays, Fridays and Saturdays and between midnight and 2am on Sundays, Mondays, Tuesdays and Wednesdays is of minimal environmental impact for the following reasons:

- **Continuation of Existing Trading Hours:** The premises have operated since 14 May 2009 under these hours and this application only seeks their continuation;
- **Successful Operation of Premises during Trial Period:** There have been no incidents during this period which gave rise to a detrimental environmental impact on the amenity of the area;
- **Demonstrated Ability of Management to Maintain Amenity of the Area:** The managers of the premises have demonstrated that they are able to maintain appropriate behaviour of patrons such that the amenity of the area in the vicinity of the premises is able to be maintained. They have achieved this by the use of dedicated security personnel on the premises at all times during the operation of the venue. The premises have CCTV at key locations and in each room to monitor patron behaviour. It also operates under an Operation and Security Management Plan which was part of the original application for the use of the premises. A copy of the Incident Register during December 2009 and January 2010 (Attachment B) illustrate the manner in which the premises are managed

Having regard to the successful operation of both the Security Management and the CCTV system, there should be minimal impact on the amenity of the area arising from the continuation of extended trading hours.

- **The nature of Chinatown and night time patronage of the late night venues / isolated location of CEO Karaoke:** Chinatown has established itself as an area associated with food, shopping and entertainment. It is a major tourist destination and one which reinforces the 24 hour operation of Sydney as a global city.

The location of CEO Karaoke is within the Chinatown precinct on Level 1 of the retail complex of 1 Dixon Street. It has no street frontage or any significant signage. It is therefore considered that given its location together with the operation of its Security Management Plan and CCTV, it is unlikely that the venue will affect the amenity of the surrounding area with the continuation of the extended hours of operation.

4.1.2. it is satisfied the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all under this section)

Comment: It is considered that the proposed continuation of the existing extended trading hours will be substantially the same development as that originally approved.

4.1.3. it has been notified in accordance with :-

- 4.1.3.1. the regulations, if the regulations so require; or
- 4.1.3.2. a development control plan, if the consent authority is a council that has made a DCP under Section 72 of the Act that requires the notification or advertising of applications for modification of a development consent;

Comment: This is a matter for the Department of Planning.

4.1.4. has considered any submissions made in relation to the proposed modification

Comment: This is a matter for the Department of Planning.

5. STATEMENT OF ENVIRONMENTAL EFFECTS

Under the provisions of 79C (1), the consent authority is to take into consideration such of the following matters as are of relevance to the development: -

(1) Any Environmental Planning Instrument

• The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed modifications are considered to be consistent with the aims of the SREP Sydney Harbour Catchment 2005

• Darling Harbour Development Plan No 1

The proposed modifications are considered to be consistent with the objectives of the Darling Harbour Development Plan No 1 and are also considered to be permissible under that Plan.

• City of Sydney DCP – Late Night Trading Premises

The City of Sydney now deals with all new development on the subject site. However, modifications to existing consents are still dealt with by the Department of Planning. Consequently, the DCP does is considered appropriate to apply the subject site.

Below is an extract relating to Trading Hours and Trial Periods:

3.1 Trading Hours and trial periods

- a. A renewal or extension of trading hours may only be permitted if Council is satisfied that a late night trading premises has demonstrated good management performance and compliance with a plan of anagement (or management checklist) following the completion of a satisfactory trial period.
- b. Category A and B premises seeking extended trading hours may be permitted up to two additional operating hours per trial period if a previous trial period is considered by the Council to have been satisfactory.
- c. Trial periods may be permitted up to the following durations:
 - i. First trial – 1 year
 - ii. Second trial – 2 years
 - iii. Third and subsequent trials – 5 years
- d. Once the full range of extended trading hours are reached (as prescribed in Table 1), a DA must be lodged every 5 years to renew trading hours.
- e. If the Council determines that a trial period has been unsatisfactory then trading hours will revert to the base late night trading hours; or whatever hours have been approved as the maximum trading hours prior to the commencement of this DCP).

In relation to the heads of consideration of s3.1 of the DCP above, the following comments are provided:

a. Continuation of Extended Trading Hours

The subject premises have operated since 14 May 2009 and have successfully completed a one year trail period for extended hours between 2am and 4am on Thursday to Saturday nights and between midnight to 2am on Sundays to Wednesdays. On this basis it is considered appropriate that a further extension can be made for a further 2 years (ie until 14 May 2012) in accordance with the terms of the DCP.

b. Size of Extension of Trading Hours

1 Dixon St, within the SHFA area of Chinatown, is directly adjacent to the “Late Night Management Areas” (coloured green in the **Figure 1** below) of the City of Sydney DCP on Late Night Trading; as such extension of indoor trading hours up to 4am is permissible.



Figure 1 – Extract from City of Sydney Late Night Trading DCP showing Classification of Precincts at Night Trading

Table 1 – Trading Hours

	CATEGORY A PREMISES		CATEGORY B PREMISES	
	Indoor Trading Hours	Outdoor Trading Hours	Indoor Trading Hours	Outdoor Trading Hours
LATE NIGHT MANAGEMENT	Base – 6am to Midnight Extended – 24 hours	Base – 10am to 10pm Extended – 10am to 1am	Base – 6am to 2am the following day Extended – 24 hours	Base – 6am to 10pm Extended – 6am to 1am
CITY LIVING	Base – 7am to 11pm Extended – 7am to 5am the following day	Base – 10am to 8pm Extended – 10am to midnight	Base – 7am to 1am the following day Extended – 7am to 5am the following day	Base – 9am to 8pm Extended – 9am to midnight
LOCAL CENTRE	Base – 10am to 10pm Extended – 10am to midnight	Base – 10am to 8pm Extended – 10am to 10pm	Base – 6am to 11pm Extended – 6am to midnight	Base – 10am to 8pm Extended – 10am to 10pm
ALL OTHER CATEGORY A PREMISES	Base – 10am to 10pm Extended – 10am to Midnight	Base – 10am to 8pm Extended – 10am to 10pm		

Figure 2 – Extract from City of Sydney Late Night Trading DCP showing Classification of Hours of Operation of Late Night Trading Premises

c. Duration of Trading Hours

As noted above and restated in section 3.1 (c) of the DCP, where a successful trial has been undertaken, a 2 year extension is permissible on a trial basis for a 2 year trial.

Consequently, in accordance with the DCP, consent is sought for a 2 year extension of trading hours between 2am and 4am on Thursday to Saturday nights and between midnight to 2am on Sundays to Wednesdays.

(2) Any draft Environmental Planning Instrument that has been placed on public exhibition

There are no draft Environmental Planning Instruments which are relevant to the proposed shopfront modifications and the new window in Palings lane..

(3) The regulations (to the extent that they describe matters for the purpose of the assessment)

There is no matter prescribed under the Regulation that is relevant to this application.

(4) The likely impacts of the development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality.

As discussed above, it is submitted that there will be no significant detrimental effects associated with the proposed continuation of extended trading hours until 14 May 2012.

(5) The suitability of the site for the development

The proposed modification only involves the continuation of extended trading hours for until 2012. The site is therefore still suitable for the development.

(6) The public interest

It is considered that the proposed modification will have minimal if any, detrimental environmental, social or economic impact and assist in maintaining the vitality of the City's Chinatown area. Its approval is therefore considered to be in the public interest.

6. CONCLUSION

It is considered that the proposed modification of the existing consent, involving the continuation of extended trading hours for a further 2 years, will have no significant detrimental environmental, social or economic effects and will assist in maintaining the vitality of the Chinatown precinct of the City.

It is therefore submitted that the proposed modification is in the public interest and should be approved.

John Kass
Director
Kass-Hermes