

May 2012

**Statement to support s96(1A) application:  
Shop 2, Level 1, 1 Dixon Street,  
Darling Harbour -  
CEO Karaoke**

## 1. Summary

This is a Statement prepared by Alfred Lee, Architect and part owner of CEO Karaoke. It accompanies a Section 96(1A) application to modify development consent DA082-07-07, which applies to Shop 2, Level 1 at 1 Dixon Street, Darling Harbour (aka Haymarket). That application seeks to continue the current operating hours for a further trial period of 5 years, by modifying Condition E1 of the consent.

The premise has operated for 4 years under approved trial periods, and has been managed in close consultation with the NSW Police Force. There is an approved Plan of Management and Security Management Plan. In response to an incident in the most recent year, the business is in the process of purchasing a metal detection gate to effectively screen all customers on entry. The business would welcome any requirement of development consent to ensure this is implemented.

The proposal does not involve any physical permanent works, only a change to a condition relating to hours to allow continuation of trading for a further trial period of 5 years

The proposal has been assessed in accordance with s96 and S79C of the Environmental Planning and Assessment Act 1979, and it is suitable for the site and locality. In summary, the proposal should be supported because:

- (a) The business has existed for over 4 years and has been managed without an ongoing pattern of incidents
- (b) The proposed hours are not changing;
- (c) The application only seeks a further trial period, not permanent trading;
- (d) A measure is proposed to improve security screening (a metal detection gate);
- (e) The site is not within a "liquor freeze" area, and the hours are consistent with hours allowed for in the Council's Late Night Trading DCP (which do not technically apply in any event);
- (f) The use is a positive addition to the adjoining Chinatown precinct and is suited to the basement location and site generally; and
- (g) Granting consent would be in the public interest.

## 2. Background

Development consent (DA 082-07-07) was granted on 11 September 2007 for the internal fitout of Shop 2, Level 1 of 1 Dixon Street Darling Harbour and use as a karaoke venue. A separate development consent was also issued for a Place of Public Entertainment (DA 155/11/07).

The use has approval to operate until 2.00am following Sundays to Wednesdays and until 4.00am following Thursdays to Saturdays, which has been, on the basis of trial periods. The most recent trial period was for 2 years, ending on 14 May 2012.

Condition E1 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 midnight Monday to Sundays

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

(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**

(ii) between 2.00 am and 4.00 am, Thursdays, Friday and Saturdays 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

***(As amended by MOD 82-07-07 (1) on 14 May 2009)***

(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.

## 3. Site and Locality

The site is located on the north-western corner of Dixon and Goulburn Streets, Darling Harbour (aka Haymarket). The karaoke premises occupies the lowest level of the retail podium of the building.



☆ Site

source: Google Maps

Surrounding development is mostly characterised by high rise buildings, containing hotel suites, retail and commercial office uses.

#### 4. Proposal

The proposal involves continuing the currently approved hours, for a further trial period of 5 years.

Specifically, and for the sake of clarity, it is intended that Condition E1(b) (ii and iii) to state:

- (b) Notwithstanding (a) above, the use may operate:
  - I. (as existing)
  - II. *Between 2.00am and 4.00am the following day Thursdays to Saturdays for a trial period until 14 April 2017; and*
  - III. *Between 12 midnight and 2.00am the following day Sundays to Wednesdays for a trial period of 60 months until 14 April 2017.*

No change is proposed to the layout of the premises. No works are proposed (other than for a non-structural metal detection gate at the entry) and no new signage is proposed.

## **5. Economic, Social and Environmental Impacts**

The application has been assessed under s96 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

### **5.1 S96(1A) – Substantially the same development and minimal environmental impact**

The proposal is substantially the same development as approved. The changes proposed do not change the fundamental nature of the proposal and seek to maintain the core elements of the approval, including the approved trading hours and a continued, albeit extended, trial period.

The environmental impacts of the proposed amendment will be minimal.

Other relevant matters under S96(1A) relate to notification and considering submissions, which are matters for the Department of Planning and Infrastructure.

### **5.2 Objects of the EPA Act**

The proposal is consistent with the objects in Section 5 of the Act. Particularly, the proposal is consistent with objects relating to rational and orderly development of land. The orderly development of the land will be assisted by continued use of the purpose built facility adjoining an entertainment precinct. The proposal is not inconsistent with environmentally sustainable development, and is consistent with objectives relating to economic sustainability, with no environmental impacts of any significance.

### **5.2 Environmental Planning Instruments and Draft Environmental Planning Instruments**

#### **(a) State Environmental Planning Policies (SEPPs)**

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 is a deemed SEPP and applies to the site. The proposal is considered consistent with this Plan. No visible external works are proposed and the proposal will not add any impacts to Sydney Harbour.

#### **(b) Darling Harbour Development Plan 1**

The proposal is consistent with the objects of Darling Harbour Development Plan 1, particularly “to encourage the development of a

*variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area”.*

The proposal is permissible under the Plan (and does not alter the approved use).

**(c) City of Sydney Local Environmental Plan 2005 (“the LEP”)**

The site is not covered by the LEP.

Although not a LEP matter, the liquor licence freeze is addressed here. The site is located outside the CBD freeze area:



**(d) Draft Environmental Planning Instruments:**

There are no draft EPIs applying to the site. Draft Sydney LEP 2011 does not apply to the site.

**5.3 Development Control Plans**

There are no DCPs applying to the site. While the City of Sydney Late Night Trading Premises DCP 2007 does not apply to the site, it is nonetheless considered that the proposal would be consistent with that DCP if it applied. It is common for the City Council to apply a trial period of 1-2 years (which has occurred for 4 years), and then a longer trial period of 5 years, such as is proposed, prior to considering permanent trading.

#### **5.4 Any Planning Agreement and the EPA Regulations**

No Planning Agreement applies.

#### **5.5 The likely impacts of the development, including environmental impacts**

There will be no impacts of any significance arising from the proposal, environmental or otherwise. No trees are affected by the proposal.

In terms of loading, loading facilities exist in the building and loading demand will not change to warrant additional numbers of deliveries. The building contains a loading dock. Parking provisions are altered by the proposal, and the site has good access to public transport.

In terms of noise, the development consent was supported by a Noise report, and many conditions of development consent (and licensing consent) regulate noise impacts.

Similarly, a Plan of Management and Security Management Plan has been approved for the premises. These could be amended if desired to make reference to the newly proposed metal detection gate, which could otherwise be specified by a condition of consent.

#### **5.6 The suitability of the site**

The site is suited to the proposal. The use already has consent and the application seeks to maintain the approved hours, which is appropriate in this instance.

The site is situated within "Chinatown" and will enhance the attractiveness of both Chinatown and Darling Harbour. In terms of a karaoke venue, the site is suited to the use.

#### **5.7 Any submissions received**

This is a matter for SHFA/the Department of Planning and Infrastructure.

#### **5.8 The Public Interest**

There will be no negative impacts from the proposal on the amenity of surrounding land, given existing development consent conditions and ability to manage the use in accordance with those conditions, in collaboration with the Police Force where necessary. Granting consent would be in the public interest.

## 6. Conclusion

The proposal has been assessed in accordance with s96 and S79C of the Environmental Planning and Assessment Act 1979, and it is suitable for the site and locality. In summary, the proposal should be supported because:

- (a) The business has existed for over 4 years and has been managed without an ongoing pattern of incidents
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