



Planning

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SYDNEY NSW 2000

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Our ref: DA 167-10-2008 MOD 1

Notice of Modification of Development Consent

Issued under section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*, and pursuant to section 96(1A).

Reference No.	09/01554
Modification Application Number	DA 167-10-2008 MOD 1
Development Application Number	SHFA DA 167-10-08

Application Details

Name of Applicant	Gary Chow
Address of Applicant	Level 1, Suite 2, 377-383 Sussex Street SYDNEY NSW 2000

Address of land to be developed	Shop 44, 1 Dixon Street SYDNEY NSW 2000
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Approved Development	Internal fit out and use as a restaurant.
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Original DA Determination Date:	27 November 2008
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Proposed Development	Modification to signage to add an 800mm diameter external circular light box
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Determination Date	2 DECEMBER 2009
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Determination	Approval
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Details of conditions	See attached schedule
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Note:

- (1) This notice should be read in conjunction with the approved plans endorsed as part of this determination.
- (2) This consent becomes effective from the endorsed determination date.
- (3) This consent to the modification application does not affect the timer period in which this consent will lapse.

Other approvals

Nil

Right of appeal

If you are dissatisfied with this decision section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Further information

If you have any queries regarding this matter, please contact Ellie Caldwell on (02) 9228-6410 or email ellie.caldwell@planning.nsw.gov.au

Signed

Under delegated authority from the Minister for Planning, and pursuant to section 96 (1A) of the *Environmental Planning and Assessment Act 1979*, I hereby modify the consent in accordance with the attached schedule.



Michael Woodland
Director, Urban Assessments
Delegate for Minister for Planning

Sydney **2 DECEMBER** /2009

SCHEDULE

ADDRESS:	Shop 44, 1 Dixon Street, SYDNEY NSW 2000
MODIFICATION NUMBER:	DA 167-10-2008 MOD 1
DA CONSENT NUMBER:	SHFA DA 167-10-08
FILE NUMBER:	09/01554
DESCRIPTION OF MODIFICATION SOUGHT:	Modification to signage to add an 800mm diameter external circular light box

The application to modify the above development consent has been approved by the Department of Planning under delegation from the Minister for Planning under the *Environmental Planning and Assessment Act 1979*, as follows:

- Condition A1 has been amended to reflect the additional plans and supplementary material.

The modified development consent conditions are attached with additional wording shown in ***bold and italics*** with deletions shown struck through.

All other conditions remain as previously approved.

NOTE:

Any reference to the Sydney Harbour Foreshore Authority, the Foreshore Authority or the Authority in this determination is to be read as the Department of Planning, its predecessors or relevant consent authority commencing 1 May 2009.

Any reference to the Planning Assessment Manager of the Sydney Harbour Foreshore Authority in this determination is to be read as the Director, Urban Assessments commencing 1 May 2009.

CONDITIONS OF CONSENT
SHFA DA 167-10-08
SHOP 44, 1 DIXON STREET, SYDNEY

2/12/09
[As amended by DA 167-1-2008 MOD 1 on ~~November 2009~~]

A APPROVED DEVELOPMENT

- A1** The development shall be generally in accordance with development application number DA 167-10-08 submitted by the applicant on 21 October 2008 and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Architectural Drawings prepared by Gerald Lau			
Drawing No.	Revision/ Issue	Name of Plan	Date
DA1	A	Site plan – Level 3, 1 Dixon Street, Sydney	3/10/08
A2	A	Proposed Floor Plan	3/10/08
A3	A	Kitchen Detail Floor Plan	3/10/08
A4	A	East elevation (Dixon Street), Section A-A	3/10/08
A5	A	Elevation 1, 2, 3 & 4	3/10/08
A6	A	Electrical layout	3/10/08
A7	A	Shopfront signage east elevation (Dixon Street) Shopfront signage west elevation (Internal)	3/10/08
A2	A	Section 96 – Modification of Signage	16/11/09
A3	A	Section 96 – Modification of Signage	16/11/09
Statement of Environmental Effects prepared by the applicant dated 3 October 2008.			
BCA Review prepared by Building Certificates NSW Pty Ltd, dated 13 October 2008 and lodged in support of the application.			
Statement of Environmental Effects prepared by the applicant dated 16 November 2009.			

2/12/09
[As amended by DA 167-1-2008 MOD 1 on ~~November 2009~~]

Except as amended by the following conditions:

- A2** All building works shall be constructed in accordance with safe work practices and complying with the relevant Australian Standards, Codes of Practice and the Building Code of Australia.
- A3** No new changes or fixtures other than those shown on the stamped plans are to be installed without prior approval from the Sydney Harbour Foreshore Authority.

A4 Hours of Operation

(a). The hours of operation for the restaurant are regulated as follows:
10:00 am – 2:00 am, 7 days a week

(b). Notwithstanding clause (a) above, the outdoor terrace may only operate between the hours of 11:30 am and 10:00 pm, Sunday to Wednesday and 11:30 am and 11:00 pm, Thursday, Friday and Saturday.

B CONDITIONS TO BE MET PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

B1 The stamped drawings must now be lodged with a Principal Certifying Authority (PCA) (Minister for Planning via the Department of Planning, City of Sydney Council, or a private certifier) for a Construction Certificate. The applicant must supply the Sydney Harbour Foreshore Authority with a copy of the Construction Certificate within 2 days from the date of its issue.

B2 Structural Certification

A practising certified structural engineer is required to provide original structural certification to the Principal Certifying Authority certifying that the existing structure can adequately support the proposed new loads to comply with the Structural Provisions Part B1 including performance provisions BP1.1 and BP1.2 of the Building Code of Australia and Australian Standards, prior to the Construction Certificate being issued.

B3 Mechanical Ventilation

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for new building work.

B4 Design of Food premises

The fitout of the food premises shall be carried out in accordance with "The National Code for the Construction and Fitout of Food Premises", all relevant Australian Standards and the provisions of the BCA. Details of compliance with the relevant provisions shall be prepared by a suitably qualified person and submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B5 Accessibility

Access and facilities for people with disabilities shall be provided in accordance with AS1428 – "Design for Access and Mobility" where required by the BCA, and the City of Sydney Access Policy December 1992. Prior to the issue of a Construction Certificate for new building work, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

B6 Water Conservation

Water saving devices, shall be installed in all areas of the development to reduce water consumption and promote energy efficiency. Details are to be submitted with the application for a construction certificate.

C CONDITIONS TO BE MET DURING DEMOLITION AND/OR CONSTRUCTION WORK

C1 Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the Planning Assessment Manager. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) traffic management (including management of loading and unloading of materials associated with the fit out and management of vehicular and pedestrian movements / routes),
- (4) noise management,
- (5) waste management, and
- (6) dust control.

C2 The applicant/contractor must make payment of the levy, or the first instalment of the levy, pursuant to the Building and Construction Industry Long Service Payments Act 1986, prior to the commencement of the proposed building works.

C3 Hours of Construction

The hours of construction and work on the development shall be as follows:

(a) All work, including demolition, excavation and building work in connection with the proposed development must only be carried out between the hours of:

- 7.00 a.m. and 7.00 p.m. on Mondays to Fridays, inclusive; and
- 7.00 a.m. and 3.00 p.m. on Saturdays, inclusive; and
- no work must be carried out on Sundays or public holidays.
- No significant noise generating activities are to take place between 12noon and 2pm

(b) Work may be undertaken outside these hours only where:

- the delivery of materials is required outside these hours by the Police or other authorities, or
- works are required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm, or
- written approval is obtained from the Planning Assessment Manager of the Sydney Harbour Foreshore Authority prior to carrying out the work and residents likely to be affected are notified of the timing, nature and duration of the work at least 48 hours prior to commencement.

C4 All work, including demolition, excavation and building work must comply with "The City of Sydney Code of Practice for Construction Hours/Noise 1992" and Australian Standard 2436-1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

C5 To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant WorkCover requirements.

C6 Noise and vibration emissions from equipment and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents or businesses and the relevant provisions of the Protection of the Environment Operations Act, 1997 must be satisfied at all times.

- C7** All proposed structures and fittings are to be structurally sound and erected in accordance with manufacturer's specifications and/or advice from a suitably qualified engineer to meet relevant requirements of the BCA and applicable Australian Standards.
- C8** A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Sydney Harbour Foreshore Authority, Council or the PCA.
- C9** The public domain must not be obstructed by any materials, vehicles, refuse, skips or the like, unless approval in writing is provided by the Sydney Harbour Foreshore Authority.
- C10** Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar shall not be performed on the public foot way or any other locations which could lead to the discharge of materials into Council's stormwater drainage system.
- C11** Safe and reasonably convenient public access shall be maintained to nearby retail tenancies during trading hours throughout the works period. Adequate signposting shall be provided in the street to ensure that customers and service/delivery people are aware of the access provided. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances without the approval of the Sydney Harbour Foreshore Authority.

D CONDITIONS TO BE MET PRIOR TO THE OCCUPATION OF THE BUILDING

- D1** Prior to the commencement of occupation or use of the whole or any part of the building, an Occupation Certificate must be obtained from the Principal Certifying Authority (PCA) and a copy submitted to Council and the Sydney Harbour Foreshore Authority in accordance with the Environmental Planning and Assessment Regulation 2000.

D2 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of the Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- a) The Building Code of Australia;
- b) Australian Standard AS1668 and other relevant codes;
- c) The development consent and any relevant modifications; and,
- d) Any dispensation granted by the New South Wales Fire Brigade.

- D3** A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the Foreshore Authority and Council by the PCA.

- D4** Prior to issue of an Occupation Certificate, Council's Health & Building Compliance Unit (Health Section) shall be notified in writing that the premises will be used for the preparation, manufacture or storage of food for sale. The premises will be registered on Council's Food Premises Database.

Food Premises Registration

Prior to the commencement of food handling operations, the proprietor of the food premises shall notify and register the food premises with the NSW Health Department at www.foodnotify.nsw.gov.au prior to the opening of the premises.

- D5** Prior to the commencement of food handling operations, the proprietor of the food premises shall notify the NSW Health Department of the following information:
- Contact details of the food business including the name of the food business and the name and address of the proprietor;
 - The nature of the food business; and
 - The location of all food premises of the food business within the jurisdiction of NSW Health.
- D6** Prior to commencement of the use the applicant must ensure that there is a contract either with City of Sydney Council or a licensed contractor for the removal of trade waste. No garbage is to be placed on the public way eg. Footpaths, roadways, plazas, and reserves at any time.
- D7** The cost of repairing any damage caused to any Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant/developer to the satisfaction of the Foreshore Authority prior to reinstatement of the site.
- D8** The area surrounding the building work being reinstated to the Authority's satisfaction upon completion of the work.
- D9** Signage must be placed on all menus, exit doors from the restaurant and exit doors from 1 Dixon Street. The wording of the signage shall read "IF YOU WISH TO SMOKE PLEASE DO NOT DO SO WITHIN 15 METRES OF THE MAIN ENTRANCES/EXITS OF THIS BUILDING" or words to that effect.

E CONDITIONS TO BE MET DURING THE OPERATION OF THE CONSENT

- E1** The chairs and tables should be able to be stacked and removed for storage when not in use with a furniture storage area being provided within the premises, within 30 minutes of close period as stated in A4 (a) above. No storage shall occur on the footway, the colonnade, or other public areas.
- E2** All furniture on the licensed area shall be maintained in a physically sound condition and stored in an aesthetically acceptable condition to the satisfaction of the Sydney Harbour Foreshore Authority at all times.
- E3** The outdoor seating area is approved for a maximum seating for 16 people.
- E4** The use of the premises shall not cause a nuisance, or an offensive noise as defined in the Protection of the *Environment Operations Act 1997*, to adjoining properties or the public.
- E5** The use of the premises must not give rise to any one or more of the following:
- a. Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
 - b. An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level in any octave band from 31.5Hz to 8,000 Hz centre frequencies inclusive between the hours of 8.00am and

10.00pm daily and 0dB above the L90 background between 10.00pm and 8.00am the following morning. However, when the L90 background levels in frequencies below 63Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this sub-clause does not apply to any such frequencies.

- c. A sound level at any point on the boundary of the site greater than the background levels specified in Australian Standard 1055. "Acoustics – Description and Measurement of Environmental Noise".
- d. An 'offensive noise' as defined in the Protection of the Environment (Operations) Act 1997.
- e. The emission into the surrounding environment of gases, vapours, dust, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health

The method of measurement of vibration in (a) and sound levels in (b), (c) and (d) must be carried out in accordance with AS 2973 for vibration measurements. AS 1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

E6 Waste management

Waste management measures shall be implemented to ensure that waste is minimised and effectively managed. Such measures shall include:

- (a) Waste storage area/s are to be identified and all waste is to be confined to that area/s;

Waste is to be regularly removed to prevent unsightly, unhealthy or unsafe conditions;

- E7** The storage and handling of garbage associated with the premises must comply with the requirements of the "Code for Waste Handling in Buildings, adopted 17 October 1994". All refuse collection or loading operations, including the movement of garbage receptacles must take place on a level surface remote from gradients, ramps and steps. No waste shall be placed for collection in a public place e.g. footpaths, roadways, reserves, under any circumstances.

E8 Cigarette Receptacles

Provision must be made on the site, adjoining to the entrances of the premises, for an adequate number of receptacles for the disposal of cigarette butts. The receptacles must be entirely located on public property and not obstruct any means of egress or path of travel for any persons. The emptying and maintenance of the receptacles is the responsibility of the building owner or operator of the premises, and should be carried out on a daily basis.

- E9** No amplified music or entertainment shall be provided in the restaurant at any time.

- E10** Unauthorised portable signs, A-frame signs, and the like shall not be placed in the licensed area, adjoining balustrade, on the surrounding footways or other public areas.

- E11** No external signage is permitted in the outdoor eating area

E12 Annual Fire Safety Certification

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is

adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

PRESCRIBED CONDITIONS

P1 Compliance with Building Code of Australia and insurance requirements under the *Home Building Act 1989*

- a) the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
- b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, a contract of insurance is required to be in force before any building work authorised to be carried out by the consent commences.

P2 Erection of signs

1. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
2. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Note. Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained in accordance with clause 227A of the Environmental Planning and Assessment Regulations 2000. A maximum penalty of \$1,100 applies for failing to comply with this condition.

The reasons for the imposition of the above conditions are:

- To confirm the details of the application and plans submitted by the applicant, and to ensure that the structure is not altered without approval;
- To comply with the provisions of the *Environmental Planning and Assessment Act 1979* and the Environmental Planning and Assessment Regulation 2000;
- To ensure compliance with relevant planning controls;
- To ensure that the work is carried out to an acceptable standard and in accordance with the Building Code of Australia;
- To ensure the demolition, excavation and building works are carried out within the required standards, with minimal impact to the locality;
- To protect the amenity of the local environment, residents and adjoining landowners; and
- To enable validation of maintenance of fire safety measures.