

19 March 2024



Statement to support a Modification  
Application:

1 Dixon Street, Haymarket: Modification  
to Continue Trading after a 5-year trial  
period



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## 1. Introduction and Overview

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This is a Statement of Environmental Effects, on behalf of the operators of CEO Karaoke, located at 1 Dixon Street, Haymarket. It accompanies a Section 4.55(1A) application to modify development consent DA 082-07-2007, which applies to Shop 2, Level 1 (Basement), 1 Dixon Street, Sydney (aka Haymarket). The tenancy currently comprises a karaoke venue, known as "CEO Karaoke".

The existing development approval permits the karaoke use, and also permits trading between 11am and 2am the following day on Sundays-Wednesdays and between 11am and 4am the following day on Thursdays to Saturdays. However, the hours of trading past midnight until close are subject to a "trial period" which was granted consent most-recently in May 2019 (MOD 5), and expires on 14 May 2024, due to the wording of Condition E1 of the consent.

The proposed modification seeks to change Condition E1 of the consent to allow continued trading of the premises, for the same hours.

The proposal does not involve any physical works or other changes to conditions.

The proposal has been assessed in accordance with Sections 4.55 and 4.15 of the Environmental Planning and Assessment Act 1979, as outlined in this Statement, and it is concluded the proposal is suitable for the site and locality.

## 2. Background

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On 11 September 2007, a development application (DA) was approved by the Sydney Harbour Foreshore Authority for the fitout and use of the basement (Shop 2) of 1 Dixon Street Haymarket as a licensed karaoke venue (DA 082-07-2007).

There have been five (5) approved modifications since the original development approval, all related to the hours of operation. However, the actual approved hours have remained constant, with trading closing at 2am the following day on Sundays-Wednesdays and 4am the following day on Thursdays to Saturdays. The modifications instead have related to granting ongoing "trial" periods of consent, with the most recent (fifth) modification ending the current trial period on 14 May 2024.

The most recent and current trial period was for 5 years, following a previous 5-year trial. During previous applications and trials, a Plan of Management (PoM) was developed and refined, in consultation with then NSW Planning and Environment and NSW Police Service. This PoM forms part of the approved documentation, referred to in Condition A1 of the consent.

### 3. Site and Locality

The site is located on the north-western corner of Dixon and Goulburn Streets, Haymarket. The karaoke occupies a basement tenancy within the premises (known as Shop 2, Level 1). It is the only tenancy within the lowest level of the building, and access occurs from within the premises, linking to Dixon Street at Level 3 of the building. Opposite the site, to the south, is the entrance to "Chinatown".



Figure 1 – Site

Source – Google Maps

### 4 Proposal

The proposed modification under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 seeks to modify Condition E1 of DA 082-07-2007 the consent to allow continued trading for the same currently approved hours.

It is requested consent be granted without further trial, given the number of trials granted and ability to gauge the suitability of the use (and other powers of regulation both under the EPA Act 1979 and Liquor Act 2007).

The proposal does not involve any physical works or other changes to conditions.

### 5 Economic, Social and Environmental Impacts

The application has been assessed against the provisions of Section 4.55 and Section 4.15C of the Environmental Planning and Assessment Act 1979 ("the Act"), including consideration of the following matters:

## **5.1 S4.55(1A) – Minimal Environmental Impact, Substantially the same development and Reasons**

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The proposal is substantially the same development as approved. The changes proposed do not change the fundamental nature of the proposal/use as approved.

The environmental impacts will be minimal, noting the hours are the same as previously approved. Both the use and hours will not intensify and minimal environmental impact can be assumed given it is merely continuing an approved use and previously approved hours. There are potential environmental impacts with the use, although these are able to be managed and mitigated by existing conditions of consent. It is noted the previous application was assessed under Section 4.55(1A) of the Act.

Other relevant matters under S4.55(1A) relate to notification and considering submissions, which are matters for NSW Planning Housing and Infrastructure in assessing the application.

A new provision of the Act in relation to Modification applications is for the consent authority to consider reasons for granting the consent sought to be modified (S4.55(3)). In this regard, no specific reasons were given with Condition E1. The previous assessment report by the then NSW Department of Planning and Environment concluded, in relation to the previous application:

The Department therefore considers the application would result in the same level of acoustic impact as approved under DA 082-07-2007 MOD 4 and the venue has demonstrated suitable management performance. The Department supports the modification application and concludes the five-year extension to the trial operating hours would enable the ongoing operation of the venue within an ongoing compliance management framework.

These reasons also support the current proposal.

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

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The proposal is consistent with the objects in Section 1.3 of the Act. Particularly, the proposal is consistent with objects relating to (c) *orderly and economic use and development of land*; and particularly (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants* (noting the changes arise from fire-safety considerations). The ongoing use as previously-approved represents orderly and economic use of land while the additional hours of operation subject to the previous trials assist in ongoing viability, in turn helping with building maintenance and use.

The proposal is also consistent with ESD principles, by continuing to activate a building, on a well-connected central city site, without encouraging unsustainable travel behaviour.

### **5.3 Environmental Planning Instruments and Draft Environmental Planning Instruments**

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

The site was formerly subject to *State Environmental Planning Policy (State and Regional Development) 2011* (nominating the site as a State Significant Site), and *Darling Harbour Development Plan 1*. These Plans have recently been superseded by *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*.

While the Minister for Planning has delegated consent powers to the City of Sydney for DAs.

The provisions relating to Darling Harbour are contained in Chapter 3 of *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*.

The proposal is consistent with the provisions in Chapter 3 of the SEPP, noting:

- The proposal is consistent with the objects of that Chapter, particularly “to encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area”.
- No works are proposed to the Corn Exchange site.
- No works are proposed and the proposal will not add any impacts to Sydney Harbour.
- The proposal is permissible under the Plan (and does not alter the approved use). The proposal is consistent with the provisions of the Plan.

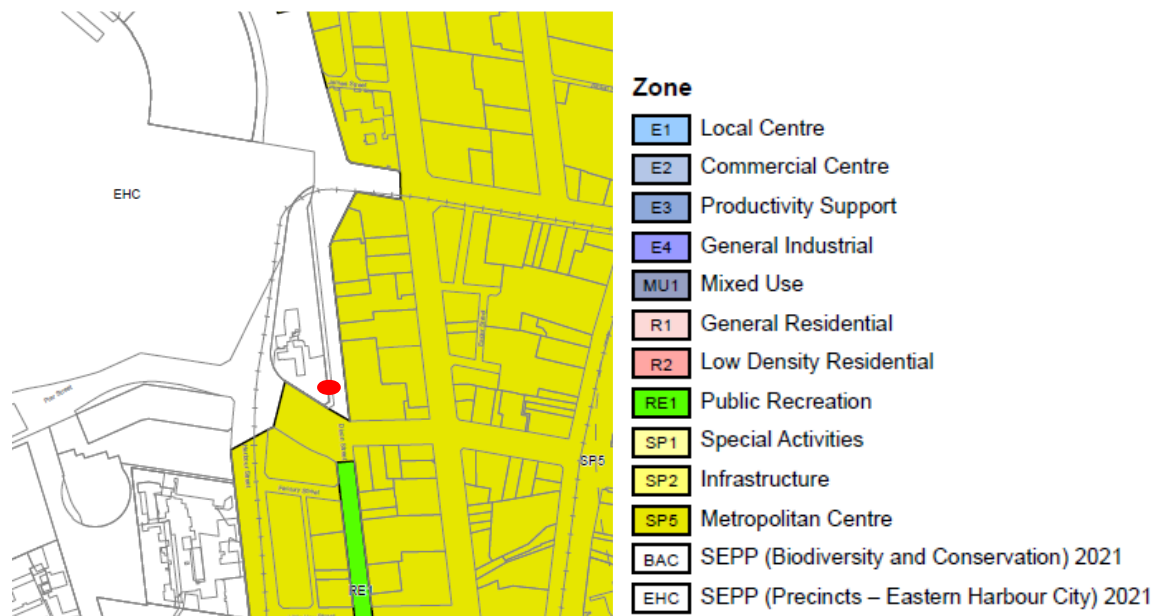
Technically, the site and proposal are subject to the provisions of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*. This recent SEPP incorporates the provisions of the former *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. However, the proposal will not be visible from the Harbour, will not affect Harbour foreshore access and will not affect water quality to the Harbour, and is consistent with the objectives and provisions of the SEPP.

The site is not known to be contaminated and, in any event, there are no earthworks proposed and no change of use proposed.

#### **(b) Sydney Local Environmental Plan 2012**

Sydney Local Environmental Plan 2012 does not apply to the site. As shown below, the site is not zoned under the LEP and not bound by its' provisions (also as shown in the Land Application Map of that Plan):





**Figure 2 – SLEP 2012 Zoning Map**

### (c) Draft Environmental Planning Instruments:

There are no known draft planning instruments of particular relevance to the proposed modification.

## 5.4 Sydney Development Control Plan 2012

It is technically unclear if any DCPs apply to the site. Whether or not the City of Sydney DCP 2012 applies to the site or not, it is nonetheless considered that the proposal would be consistent with that DCP if it applies to the site/proposal.

In particular, the DCP contains provisions related to late night trading.

The premises would be categorised as a “Category A” premises, generally according with higher impact licensed premises, and is located in a “Late Night management Area” in the DCP map, as shown below.

These designated Late Night Management Areas allow for the latest trading in the City, generally according with historical entertainment areas of the City (such as Chinatown, George Street and Kings Cross).

S4.55(1A) Statement of Environmental Effects, 1 Dixon Street, Haymarket



Figure 3 – Sydney DCP 2012 extract – Late Night Trading

Table 3.8: Late night trading hours

		Category A		Category B		Category C Unlicensed premises Indoor
		Indoor	Outdoor	Indoor	Outdoor	
Late Night Management Area	Base	6am to midnight	10am to 10pm	6am to 2am	7am to 10pm	24 hours
	Extended	24 hours	9am to 1am	24 hours	7am to 1am	
City Living Area	Base	7am to 11pm	10am to 8pm	7am to 1am	7am to 8pm	24 hours
	Extended	7am to 5am	9am to midnight	7am to 5am	7am to midnight	
Local Centre Area	Base	10am to 10pm	10am to 8pm	7am to 11pm	7am to 8pm	7am to 2am
	Extended	10am to midnight	9am to 10pm	7am to midnight*	7am to 10pm	
All other areas	Base	10am to 10pm	10am to 8pm	7am to 10pm	7am to 8pm	7am to midnight
	Extended	10am to midnight	10am to 10pm	7am to midnight	7am to 10pm	

Figure 4 – Sydney DCP 2012 extract (Table 3.8 of Part 3.15 of the DCP)



As shown in the table above, “base hours” are until midnight daily, with extended hours possible for 24-hour trading.

With the possibility of 24-hour trading, and a continuation of trial periods for approximately 16 years, there has been sufficient time to gauge the suitability of the premises and its management. The use has operated without any known serious incidents.

Therefore the use should not to be subject to a further trial period(s) given previous lengthy trials and provisions available to monitor and address operational issues through both the EPA Act 1979 and the Liquor Act 2007, and efforts by the State Government to encourage a night-time economy. If a trial is deemed necessary, it should not be for less than 5 years.

### **5.5 Any Planning Agreement and the EPA Regulation 2021**

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No Planning Agreement applies. Sufficient information is provided with the application to meet the requirements of the EPA Regulation 2021.

### **5.6 The likely environment impacts of the development**

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There will be no impacts of any significance arising from the proposal, environmental or otherwise.

In terms of loading of goods, the building contains a loading dock, loading facilities exist in the building and loading demand will not change to warrant additional numbers of deliveries. No parking provisions are altered by the proposal, and the site has good access to public transport.

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

In terms of management, a Plan of Management was previously revised and updated (enforced through Condition A1). It is also consistent with the guidelines within the City of Sydney DCP 2012.

No trees are affected and no environmental impacts of any significance are anticipated.

No works are proposed.

### **5.7 The suitability of the site**

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The site is suited to the proposed ongoing use, which has been previously approved. The tenancy is specifically designed for the use.

The use already has consent and the application seeks to continue hours, which is appropriate in this instance.

The site is situated within “Chinatown” and will continue to enhance the diversity, vibrancy and attractiveness of both Chinatown and Darling Harbour.

## 5.8 The Public Interest

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There will be no negative impacts from the proposal on the amenity of surrounding land, given existing development consent conditions and locations within a commercial podium/basement of a building, while a Plan of Management further regulates impacts and ensure good management of the premises.

Granting consent would be in the public interest, as it allows an approved use to continue to operate and add vitality, life and a range of services to an entertainment area. The proposal is consistent with the controls applying to the site. Granting consent would be in the public interest.

## 6 Conclusion

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There is existing development consent (modified 5 times), allowing the use of the premises as a licensed karaoke venue, and operating hours until 2am four 4 a week, and 4am, 3 nights a week. The proposal seeks to continue the approved use and the approved hours, without further trial.

The proposal has been assessed in accordance with Sections 4.55 and 4.15C 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 use and hours have previously been approved;
- (b) A long period of trial periods enables the suitability of the use and the management of the premises to be ascertained;
- (c) Conditions of consent and a Plan of Management, as well as provisions within the Liquor Act 2007, allow appropriate monitoring and regulation of the premises;
- (d) The tenancy location is suited to the use and hours;
- (e) The proposal is consistent with Council's DCP provisions relating to late trading premises;
- (f) The site is within a traditional "entertainment area";
- (g) The site is situated within "Chinatown" and will enhance the diversity, vibrancy and attractiveness of both Chinatown and Darling Harbour, consistent with objectives for a global Sydney and vibrant night-time economy; and
- (h) Granting consent would be in the public interest.



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