

RELEVANT INFORMATION FOR COUNCIL

FILE: D/2016/669 **DATE:** 8 December 2016
TO: Lord Mayor and Councillors
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 9.5 – Development Application: 35-37
Erskineville Road, Erskineville - At Council - 12 December 2016

That the Lord Mayor and Councillors note the information contained in this memo.

Background

At the meeting of the Planning and Development Committee on 5 December 2016, further information was requested regarding the following matters:

1. recommended hours of operation for the first floor and terrace area;
2. the hours of operation of other surrounding Hotels; and
3. the potential acoustic impacts of the roof top mechanical plant equipment.

1. First Floor - Hours of Operation

General DCP Background

On 2 July 1997, South Sydney DCP 1997 came into effect. This DCP did not contain any provisions relating to late night trading.

On 1 January 2008, the City of Sydney Late Night Trading Premises DCP 2007 came into effect. This DCP complemented the South Sydney DCP. This 2007 DCP acknowledged that late night trading is a privilege and will only be approved in circumstances where an ongoing commitment to good management is evident through a series of successful trial periods. This DCP categorises late night trading premises into two categories (high and low impact premises) in three different 'zones'. Within each 'zone', 'base' and 'extended' hours for indoor and outdoor spaces were nominated. The DCP also nominated the first trial period to be for 1 year, the second for 2 years, and the third and subsequent trials for 5 years.

On 14 December 2012, Sydney DCP 2012 came into effect. This DCP repealed the earlier two DCPs. The late night provisions within DCP 2007 were carried across without any fundamental change.

Subject DA

The recommended hours of operation for the first floor and terrace area are consistent with the base hours and extended hours outlined in Sydney DCP 2012.

Given that the first floor has not previously been occupied by patrons and the open terrace area is an amendment to the building envelope, it is recommended that the DCP hours of operation be applied in this instance. This includes a 5 year trial for the internal areas of the first floor to operate until midnight and the open terrace area to operate until 10pm.

The Hotel currently has consent for the basement and ground floor internal area to operate 24 hours, except between Sunday midnight and 5am Monday, with no trial hours. This was the result of a NSW LEC approval. The first floor smokers terrace also currently operates 24 hours except between Sunday midnight and 5am Monday, subject to a 1 year trial period.

Giving consideration to the current hours of operation for the internal areas of the Hotel, a 5 year trial is recommended which is the maximum trial period permitted under the DCP. This recommendation is based on comments received from NSW Police, Council's Late Night Trading Officers and the recommended conditions of consent relating to the management and operation of the premises. The use of a trial period for the new first floor areas, rather than applying base hours beyond the DCP, allows Council to continue to monitor the premises and manage any complaints/issues in consultation with the owner/operator.

The use of trial periods acknowledges the predominately residential nature of the area and its sensitive receivers.

2. *Hours of Operation for the surrounding Hotels*

For the information of Councillors, the hours of operation for the surrounding Hotels are as follows:

Erskineville Hotel – 102 Erskineville Road, Erskineville (DU/1999/932/F)

On 8 December 1999, DA approved by the former South Sydney City Council. Conditions 2 and 3 restricted the operating hours to:

- indoor – between 8.00am - midnight 7 days a week; and
- outdoor garden area - between 9am - 9pm during daylight savings and 9am - 7pm outside such periods, 7 days a week.

On 2 March 2011, the City approved a modification that allowed the outdoor garden to operate between 9am and 10pm, 7 days a week, for a trial period of 1 year. The trial period has been renewed twice, with the most recent being a 5 year trial period commencing from 19 August 2014 (DU/1999/932/F).

Rose of Australia Hotel – 1-3 Swanson Street, Erskineville (D/2011/244)

On 30 June 2011, DA consent was granted for alterations and additions to the Hotel, including creation of a new first floor top terrace. Condition 4 restricted the operating hours to:

- indoor and outdoor areas - 10am – midnight Mondays to Saturdays and 10am-10pm Sundays. No trial hours.

The Swanson Hotel - 106-108 Swanson Street, Erskineville (D/2009/2202) and (D/2012/1652)

- indoor- 10am-10pm 7 days a week. 1 year trial 10am-midnight 7 days a week.
- First floor outdoor balcony - 10am-8pm 7 days a week. 1 year trial 10am-10pm 7 days a week and till midnight on New Year's Eve.
- Gaming room - 10am-10pm Mondays to Sundays. 1 year trial period to operate between 10am-midnight Mondays to Saturdays.

On 18 June 2015, the City approved a modification that allowed the trial period for the indoor areas to be renewed, with a 2 year trial period commencing from 18 June 2015 (D/2012/1652/B).

3. Extension of Base Hours for First Floor Terrace

At the Planning and Development Committee meeting, the base hours approved for the first floor terrace at the Rose of Australia Hotel (1-3 Swanson Street, Erskineville) were raised.

It is not recommended that the base hours of the first floor terrace of the Imperial Hotel be extended to midnight, as is currently the case for the Rose of Australia Hotel. As shown in the table below, the circumstances of the approval granted to the Rose of Australia Hotel are not applicable to the Imperial Hotel.

It is recommended that consistency with Sydney DCP 2012 be applied in the consideration of D/2016/669 for the Imperial Hotel and any extended hours of operation remain the subject of a 5 year trial.

	Rose of Australia Hotel (D/2011/244)	Imperial Hotel (D/2016/669)
<i>Terrace Design and Size</i>	61sqm with a partial fixed roof.	90.25sqm with a retractable roof.
<i>Operation of Terrace Area</i>	not permitted to have any outdoor dining or seating	proposes outdoor dining, seating
<i>Capacity of Premises</i>	maximum of 400 patrons over the ground and first floor	maximum of 980 patrons over the basement, ground and first floor

4. Roof Top Mechanical Plant Equipment

The acoustic impact of the roof top plant equipment was raised as an issue. Attachment A to the Planning Report to the Planning and Development Committee meeting includes Condition (34) which addresses noise emissions associated with any mechanical plant and equipment to be in accordance with NSW EPA Industrial Noise Policy and relevant Australian Standards.

Prepared by: Rene Hayes, Senior Planner

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Approved

A handwritten signature in black ink, appearing to read 'GJahn', is positioned above the printed name.

**Graham Jahn, Director City Planning,
Development and Transport**