



general
purpose
committee

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section

environment

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

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ITEM: 39 **Home Activity for Swimming Lessons - Lot 2 DP541361 No. 22 Hall Street, Pitt Town - Modification of Development Consent under Section 96 of the Environmental Planning and Assessment Act 1979**

FILE NUMBER: DA47/91/EVD/ENJ27LAX.V14

Applicant: Mrs Lee Delaney
Applicants Rep: as above
Owner: Mr John & Mrs Lee Delaney
Stat. Provisions: HLEP 1989
Area: 4932.00m²
Zone: Environmental Protection 7(d1)
Advertising: Adjoining owners. One letter of objection.
Date Received: Application received 17 August, 1998.

Key Issues: Traffic
 Noise
 Privacy

Action: Approval

REPORT:

Introduction

On 14 May 1991, development consent was granted for the operation of a swimming pool as a home activity for the teaching of swimming lessons at 22 Hall St, Pitt Town. An application has been received to modify Condition 7 of the consent DA 47/91 to increase the hours of operation for swimming lessons.

The original condition read as:

7. *Operating Hours shall be limited to 12.00 noon to 6.00pm Mondays to Saturdays. Any alteration of these hours will require Council consent.*

The applicant wishes to increase these hours to 8.30am to 6.00pm with 5 minute intervals between lessons to reduce vehicle congestion on the site.

The subject property is a rear lot accessed via a 4.5m right of way, which in effect creates a battle-axe handle.

Justification of the Proposal

The applicant justifies the request for increase in hours of operation as follows:

“Since the opening of the Hawkesbury Oasis pool, my learn to swim business has suffered dramatically. It is evident that parents are most keen to bring toddlers out for lessons in the morning rather than the afternoon period. This is something which I can understand as I now have a three year old daughter. In the morning they are fresh and co-operative. Afternoon is sleeping time. As well as this it is very hot during summertime which is the only time we work as our pool is only open during the months of October - March generally. Young parents of toddlers frequently have a younger baby as well, thus dragging toddlers and babies out in the savage heat is not an option.

In order to compete with the Oasis, for learn to swim lessons, and to resurrect our previously successful business, this is the reason why we are seeking this modification.”

The applicant has suggested that the parents of the toddlers stay at the property for the duration of the swim lesson.

The applicant would like to keep the closing hours at 6.00pm to allow the more experienced students to receive specialised training after school hours.

Public Notification

The proposed modification was notified to the previous objector who lodged an objection to the modification.

The following is a summary of the concerns raised in this submission:

- additional traffic being generated, traffic has been a real concern in the past;
- people using the pool facility are parking on the nature strip, and when asked to move off the lawn verbally abuse the objector;
- teenage children driving to the facility and spinning car wheels to spin up rocks and dust onto adjoining property;
- cars lining up in front of the access way waiting to enter while cars egress the property;
- believes current consent conditions are not being complied with, such as hours of operation and residents being the only employees of the home activity;
- people using the facility do not abide by the 10kph speed sign;
- If an extension be approved the finish time should be 4pm to allow evenings in peace;
- also, if this development application is approved then speed humps should be placed to slow traffic and also parking and turning spaces provided on the subject property.

Planning Assessment

The zoning of the site is Environmental Protection (Scenic) 7(d1) under HLEP 1989. A home activity is permissible in this zone with development consent. The application is considered to be substantially the same development and may be considered as a modification under Section 96 of the EP&A Act 1979.

Consideration of Section 79C under the EP&A Act and assessment of the relevant matters are as follows:

Traffic

The current consent permits the swimming lessons to operate from 12.00pm to 6.00pm Mondays to Saturdays, the traffic generated between these times has been a concern for the objector in the past. The objector feels that if the hours are extended this will only encourage the generation of more traffic.

It is proposed that there will be 3 (three), 45 minutes lessons in the morning schedule, at the maximum capacity there will be an additional 10 students and 20 vehicle movements per lesson due to parents of the toddlers most likely remaining on the property for the duration of the lesson. The additional students and vehicle movements shall have minimal impact on adjoining properties as the proposed morning schedule is within business hours. The amount of traffic at any one lesson will not increase as a result of the modification.

Amenity

The objector feels that privacy and the peace and quite experienced from 'rural' living has been taken away because of the vehicle movements on the access way. The subject property is a battle-axe allotment and access is via a handle on the site, the nature of the site increases the impacts on adjoining residents.

The objector has requested that if the extension is approved the finish time be restricted to 4.00pm. When the applicant was approached by a Council officer to consider this request, the reply was that the finish time is to remain to accommodate the experienced swimmers after school hours.

This application is to extend the hours in the morning, unless the applicant agrees to reduce the hours in the afternoon, it is considered that Council can not legally reduce the hours already approved.

The applicant suggested 5 minute intervals between lessons to allow vehicles to enter and leave the property without conflict, also to reduce the impact of the noise generated from the additional vehicles on the adjoining property. It would be more appropriate to have a 15 (fifteen) minute break in between lessons as 5 (five) minutes is not a suitable length of time to reduce vehicle conflict on the site. This would allow for 45 minute lessons. Also, the occupiers of the adjoining property are at work Mondays to Fridays during the day, so the extended morning hours should not affect them.

Parking

There is parking allocated for 6 (six) vehicles on the property but due to the nature of the site the property is capable of accommodating more vehicles, therefore reducing the need to park on the nature strips.

The extension of hours would not increase the demand for parking on the site as the number of pupils per lesson would not change.

Noise

The noise generated from the actual home activity is not a concern as the swimming pool is enclosed. The problem arises at the ingress and egress point of the access way. Speed signs indicating 10kph are located on the access way to reduce the impact.

Noise levels experienced by adjoining residents as a result of traffic should not increase above those currently experienced as traffic volumes entering and leaving the site will not increase. The only change will be that the duration of traffic entering and leaving the site will be extended, and due to the adjoining resident working during the week the proposed morning schedule will have minimal impact on them.

Conclusion

Council made an assessment of the original proposal and considered the environmental impacts from the proposal on adjoining residents to be acceptable. The current request to extend the hours of operation to 8.30am will not increase the level of impacts on adjoining residents but extend the duration of the impacts.

Considering the extension of hours is during business, it is considered the proposal is acceptable and it is recommended that the proposed modification be approved and Condition 7 be modified to permit hours of operation from 8.30am to 6.00pm for a period of six months.

As there have been allegations of non-compliance with conditions in the past, it is recommended that the extension of hours be approved on the basis of a 6 (six) month trial period at which time the matter will be reported back to Council for review.

RECOMMENDATION:

That:

1. The application under Section 96 of the Environmental Planning and Assessment Act 1979 to permit extension of operating hours be approved by the amendment of Condition 7 as follows:

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7. Operating hours shall be limited to 8.30am to 6.00pm Mondays to Saturdays for a period of 6 (six) months from 17 November 1998. Within these hours of operation a 15 (fifteen) minute interval shall be imposed between each swimming lessons to reduce conflict of vehicle movements. At the conclusion of this period hours of operation are restricted to 12.00pm to 6.00pm, Mondays to Saturdays, unless otherwise advised in writing by Council. Any alterations to these hours will require Council Consent.
2. Council monitor the impact of extended hours over the next 6 (six) months and the matter be reported back to Council at the conclusion of this period.

ATTACHMENTS:

AT-1 Locality Plan

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