

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0587
Description of development:	Fit Out & Use as Swim School
Classification of development:	Class 9b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 7 SP 71778
Property address:	7 / 2 - 10 Gallipoli Street, ST MARYS NSW 2760

DETAILS OF THE APPLICANT

Name & Address:	Swim Loops Pty Ltd 5E/50 Cavill Avenue SURFERS PARADISE QLD 4217
-----------------	--

DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	24 August 2016
Date the consent expires	24 August 2018
Date of this decision	23 August 2016

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Clare Aslanis
Contact telephone number:	+612 4732 8195

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by a Joint Regional Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the plans tabled below and stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan	Numbered	Drawn By	Dated
Floor Plan	077/01 (Issue A)	Yalda Soroush	13 June 2016
Elevation and Signage Plan	077/02 (Issue A)	Yalda Soroush	13 June 2016
Site Plan	077/03 (Issue A)	Yalda Soroush	13 June 2016

- 2 The development shall not be used or occupied until an Occupation Certificate has been issued.

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

- 3 The operating hours of this facility are from **8am to 7pm Monday to Sunday**.
- 4 No retail sale of goods shall be conducted from the subject premises.
- 5 All materials and goods associated with the use shall be contained within the building at all times.
- 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 7 Class sizes will be restricted to 4 students per instructor, with a maximum of 8 children on-site at any point in time.

Environmental Matters

- 8 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

- 9 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 10 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 11 Waste materials associated with the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used or recycled.

Waste is to be stored in a designated storage area prior to removal for disposal or recycling. Where possible, the waste storage area is to be located so that it is not visible to the occupiers of adjoining properties. The waste storage area is to be undercover, or is to be provided with a weatherproof cover, when it is unattended or not in use. The waste storage area is to be maintained to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties.

Receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

BCA Issues

- 12 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and
(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

•

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 13 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

- 14 Public swimming pool and spa pools (as defined in the Public Health Act 2010) are to be registered with Penrith City Council by completing the registration form for public swimming pool and spa pools. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the premises.

The occupier of any premises at which a public swimming pool or spa pool is situated must notify Council using the NSW Ministry of Health Notification Form available from www.health.nsw.gov.au prior to the pool or spa being used. The occupier of the premises must notify Council within 7 days of any change of details.

- 15 The construction and operation of the public swimming pool/s and spa pool/s and associated premises shall comply with the Public Health Act 2010, Public Health Regulation 2012 and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health

- 16 The occupier of premises at which a public swimming pool or spa pool is situated must not allow a person to use the pool unless the water in the pool is disinfected in such a way as to minimise the transmission of disease to the other users of the pool as required by the Public Health Act 2010 and Public Health Regulation 2012.

Commercial swimming pool quality oxidation-reduction potential (ORP) measuring equipment is to be installed with automated dosing equipment and data logging capability. The ORP shall be set to the equivalence of the minimum free chlorine concentration at a pH of 7.2 and shall not be less than 720 mV for chlorine or 700 mV for bromine. All equipment associated with the ORP system and chemical dosing is to be maintained and calibrated in accordance with the manufacturer's specifications and maintenance manuals. Probes should be calibrated at least every 6 months or more often if recommended by the manufacturer or service technician. Processes to reduce chloramines shall be implemented such as secondary disinfection (UV light or ozone), practicing breakpoint chlorination and superchlorination, and/or oxy shocking.

Advisory note:

- Concentration of free available chlorine in the water in a chlorine disinfected pool must be equal to or greater than 2.0 mg/L or if the pH is greater than 7.6 3.0 mg/L
- The concentration of combined chlorine in the water in a chlorine disinfected pool **must not** exceed 1.0 mg/L.
- The total chlorine level of the water in a chlorine disinfected pool must not exceed 10.0 mg/L.

- 17 The occupier of premises at which a public swimming pool or spa pool is situated must ensure that the pool surrounds, including any toilets or change rooms, are kept clean and in such condition as to minimise the transmission of disease.
- 18 Superchlorination and backwashing shall occur a minimum of once per week in accordance with NSW Health guidelines. Superchlorination, backwashing and shock dosing events shall be recorded in the pool log books along with chemical concentrations.
- 19 Minimum sampling frequency for microbiological analysis shall be monthly and shall be completed in accordance with NSW Health guidelines. Microbiological criterion shall include (1) heterotrophic plate count, (2) *E. coli*, and (3) *Pseudomonas aeruginosa*. Results from the sampling shall be kept at the pool for inspection by NSW Health or Council Environmental Health Officers.
- 20 **Prior to the issue of the Construction Certificate** the proposed ventilation system and design is to be certified as complying with the Building Code of Australia and Australian Standards by a suitably qualified ventilation professional such as a ventilation engineer and submitted to Council for approval. The design must demonstrate that the ventilation system will be capable of adequately removing volatile chemicals such as chloramines and other air impurities. Consideration in the design needs to be give ventilation requirements when shock dosing and superchlorination in addition to maintaining a healthy environment for staff and students.

Prior to the issuing of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by a suitably qualified ventilation professional such as a ventilation engineer as being installed and compliant with the above design and Building Code of Australia.

If during the operation of the pool Council or NSW Health receives complaints about poor ventilation or chloramines the business owner will be required to complete further works to address these issues.

- 21 Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water, and details are to be submitted with the application for a Construction Certificate to the satisfaction of Council or the accredited certifier and approved by the certifying authority.

22

A hand wash basin must be provided to the baby change area. The hand wash basin must be immediately adjacent to the change table and the hand wash basin is to have a supply of clean, warm, potable water provided through a single spout. The hand wash basin is also to be supplied with appropriate hand cleaning and drying equipment (i.e. pump pack antibacterial soap and disposable paper towels).

Hand wash basins in the toilets must have a supply of clean, warm, potable water provided through a single spout. The hand wash basins are also to be supplied with appropriate hand cleaning and drying equipment (i.e. pump pack antibacterial soap and disposable paper towels).

The shower must be provided with warm water. The construction of the change rooms, toilets, showers and baby change area/room is to comply with all relevant codes and standards.

Construction

23 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

24 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

25 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Swimming Pools

- 26 The swimming pool is to be surrounded at all times by a child-resistant barrier that:
- is located immediately around the swimming pool, and
 - contains within its bounds no structure apart from the swimming pool and such other structures (such as diving boards and pool filtration plants) as are wholly ancillary to the swimming pool, and
 - is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".
- 27 A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:
- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
 - bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).

Certification

- 28 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 29 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the swim school.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:	Clare Aslanis
Signature:	

For the Development Services Manager