

## Section 82B Review (Review of Rejected Development Application)

<b>To:</b>	Rodney Piggott , Development Assessment Manager
<b>From:</b>	Adam Mitchell, Planner
<b>Date:</b>	20 November 2018
<b>Application Number:</b>	REV2018/0030
<b>Address:</b>	Lot 2 DP 412869 , 1749 Pittwater Road MONA VALE NSW 2103
<b>Review of Application:</b>	Alterations and additions to an existing commercial premises, including the installation of a swimming pool

### Development Application

Development Application No. 2018/1775 was rejected by Council on 9 November 2018 pursuant to Clause 51 of EP&A Regulation 2000 on the basis that the Application failed to provide the following:

*The application does not provide an adequate description of works, and the Statement of Environmental Effects makes inconsistent reference to the site and the nature of the proposal, such that Council cannot determine what is sought from the application.*

*Despite repeated reference to a dwelling and living space, It appears that the proposal seeks consent for a swimming pool and classroom in association with a commercial tenancy on the site. The application will be required to define that use in accordance with the definitions of PLEP 2014, and address the additional floor space associated with that use, and any demand for parking in association with the intensified use.*

### Reasons for Review of Application

The applicant has lodged an application under the provision of 82B to overturn the rejection of DA2018/1775.

### SECTION 82B OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Under Section 82B of the EPA Act, an applicant may request Council to review the decision to reject and not determine the application. The following table provides an assessment against the criteria of Section 82B review:

Section 82B Requirement	Comments	Compliance
Does S82B apply to the development?	The development application was rejected and therefore S82B applies.	Yes
Has the S82B review application been lodged within 14 days of the date the DA was rejected?  (Note: A S82B review request	Application was received on 12 November 2018 which is within 14 days that the application was rejected.	Yes

Section 82B Requirement	Comments	Compliance
cannot be made after this time.)		
Persons who may conduct review  The review must be conducted:  (a) if the decision was made by the council-by the council, or  (b) If the decision was made by a delegate of the council-by the council or another delegate of the council who is not subordinate to the delegate who made the determination.	The review has been conducted by a delegate of the council who is not subordinate to the delegate who made the decision.	Yes
Has supporting information been provided to explain the applicant's request for review of Council's decision?	The applicant has provided a revised Statement of Environmental Effects which includes references to the matters listed in the reason for rejection.	Yes

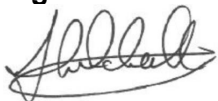
**Conclusion**

It is considered that the review is consistent with the provisions of section 82(B) of the EPA Act, 1979 and therefore it is recommended that Council proceed with the assessment and determination of the Application.

**Recommendation**

That Council as the consent authority proceed with the assessment and determination of Development Application No. 2018/1775 for a "swimming pool"

**Signed**



**Adam Mitchell, Principal Planner**



**Rodney Piggott, Development Assessment Manager**