

Section 82B Review (Review of Rejected Development Application)

To:	Claire Ryan , Acting Development Assessment Manager
From:	Kent Bull, Planner
Date:	27 February 2019
Application Number:	REV2019/0010
Address:	Lot 30 DP 5464 , 29 Warriewood Road WARRIEWOOD NSW 2102
Review of Application:	Review of Rejection of DA2019/0072 for construction of a dwelling house on proposed lot 10

Development Application

Development Application No. DA2019/0072 was rejected by Council on 6 February 2019 pursuant to Clause 51 of EP&A Regulation 2000 on the basis that the Application failed to provide the following:

- There is no current registered address for 11 Warriewood Road, Warriewood. The actual address would be proposed Lot 10 within 29 and 31 Warriewood Road, Warriewood. The application is required to reference proposed Lot 10 within 29 and 31 Warriewood Road, Warriewood on all documentation and plans subject until such time that the individual lots are registered.
- The Statement of Environmental Effects submitted incorrectly references the Warringah Local Environment Plan 2011 and the Warringah Development Control Plan 2011. However, 29 and 31 Warriewood Road, Warriewood is subject to the Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan. The Statement of Environmental Effects is required to reference the correct Local Environment Plan and Development Control Plans applicable.
- A Bush Fire Hazard Assessment Report as the land is situated in Bush Fire Prone Land on the Pittwater Bush Fire Prone Land Map 2013. The report is to be prepared by a suitably qualified bush fire consultant.

Reasons for Review of Application

The applicant has lodged an application under the provision of S8.2 (1) (c) seeking to overturn the rejection of the application.

SECTION 8.2 (1) (c) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Under Section 8.2 (1) (c) 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 8.2 (1) (c) review:

Section 8.2 (1) (c) Requirement	Comments	Compliance

Section 8.2 (1) (c) Requirement	Comments	Compliance
Does S8.2 (1) (c) apply to the development?	S8.2 (1) (c) applied to the development as it was the decision of Council to reject and not determine an application for development consent.	Yes
Has the S8.2 (1) (c) review application been lodged within 14 days of the date the DA was rejected? (Note: A S8.2 (1) (c) review request cannot be made after this time.)	Application was received on 22 February 2019 which is 16 days after the DA was rejected.	No
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 Review application is accompanied by a correct residential address, Bushfire Hazard Assessment Report and a Statement of Environmental Effects. The Statement of Environmental Effects does not reference the relevant standards within the Pittwater LEP 2014 or the relevant controls within the Pittwater 21 DCP. Therefore, the Statement of Environmental Effects does not resolve the outstanding matters on which the DA was rejected.	No

Conclusion

It is considered that the review is inconsistent with the provisions of section 8.2 (1) (c) of the EPA Act, 1979 and therefore it is recommended:

- Reject the application.

Recommendation

That Council as the consent authority reject the application No. DA2019/0072 for construction of a dwelling house at proposed lot 10.

Signed



Kent Bull, Planner



Claire Ryan, Acting Development Assessment Manager