

Section 82B Review (Review of Rejected Development Application)

Officer: Tim Kearney

Date: 16 April 2012

Review of Application: Section 82B Review of Determination No.REV2012/0057 for rejected development application No.DA2012/0229 for demolition works and construction of a dwelling house and outbuilding/ studio.

Link: REV2012/0057

Address: 16 Serpentine Crescent NORTH BALGOWLAH NSW 2093

Development Application

Development Application No.DA2012/0229 was rejected by Council on 13 March 2012 pursuant to Clause 51 of EP&A Regulation 2000 on the basis that the Application failed to provide the following:

- **Elevational shadow diagrams** in accordance with Part D6 – Access to Sunlight of the Warringah Development Control Plan.

Reasons for Review of Application

The applicant has lodged an application under the provision of s 82B of the *Environmental Planning and Assessment Act* 1997 and provided elevation shadow diagrams to address the reasons for rejection of Development Application No.DA2012/0229.

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?	Development Application No.DA2012/0229 was previously rejected by Council and the application was not determined.	Yes
Has the S82B review application been lodged within 14 days of the date the DA was rejected? (Note: A S82B review request cannot be made after this time.)	As stated above, this application was lodged on the 23 March 2012, within 14 days of DA2012/0225 being rejected.	Yes
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 will be conducted by the Group Manager as the delegate of Council.	Yes

Section 82B Requirement	Comments	Compliance
Has supporting information been provided to explain the applicant's request for review of Council's decision?	Supporting information including, shadow elevation diagrams prepared by Classic Country Cottages, dated March 2012 has been provided to satisfy the applicant's request for review of Council's decision.	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.2012/0229 for demolition works and construction of a dwelling house and outbuilding/ studio.

.....
Tim Kearney
Development Assessment Officer

.....
Steven Findlay
Development Assessment Manager

.....
Peter Robinson
Group Manager Development and Compliance

