

## Development Consent No. 389/17

### Section 4.55 Application

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#### Applicant's Name

Linda Mather

#### Land to which this applies

10 Bogota Avenue, Kurraba Point  
SP 12667

#### Proposal

S.4.55 application – To remove the storage area within the roof space, the deletion of windows (6,10,14), the skylights & to reinstate the original roof design

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Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **389/17** and registered in Council's records as Application No. **389/17/2** relating to the land described as **10 Bogota Avenue, Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 14 February 2018, has been determined in the following manner: -

*1. Condition A1 is modified as follows:*

#### Development in Accordance with Plans/documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Title	Drawn by	Received
001/C	Alterations & additions	Ben Gerstel Architecture Pty Ltd	16/3/18

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

2. ***Modification to Condition C12. concerned with the previously nominated BASIX Certificate***

**BASIX Certificate**

C12. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all commitments listed in BASIX Certificate No. 296199\_03 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

3. ***Condition C5 concerned with the previously approved skylights to be DELETED***

**Reason for approval**

The section 4.55 application has been assessed against all applicable environmental planning instruments and Council policies especially NSLEP and NSDCP 2013 and was found to be generally satisfactory, subject to appropriate amendments to the previous conditions of consent.

The section 4.55 application would promote the orderly and economic use and development of land and would also promote good design and amenity of the built environment.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979, the application is considered to be satisfactory, subject to appropriate amendments to the conditions of consent, as detailed in the assessment report.

**How were public submissions taken into account**

It was considered unnecessary to re-notify the subject application because there would be no impacts for adjoining properties and/or the streetscape given that the site is land locked and not visible from Bogota Avenue.

The conditions attached to the original consent for Development Application No. 389/17 by endorsed date of 14 February 2018 still apply.

## ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act 1979 (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
  - (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
  - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of the Environmental Planning & Assessment Act, 1979 (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
TEAM LEADER (ASSESSMENTS)