

Development Consent No. 343/15/2

Section 4.55 Application

Applicant's Name

Christopher Kelly

Land to which this applies

82 Burlington Street, Crows Nest

Proposal

To modify consent D343/15 to amend the size and type of the proposed skylights.

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. **343/15** and registered in Council's records as Application No. **343/15/2** relating to the land described as **82 Burlington Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 December 2015, has been determined in the following manner: -

1. To delete condition A1 of the consent and insert in lieu thereof the following condition:

Development in Accordance with Plans

- 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.	Issue	Title	Drawn by	Received
Sheet 1 of 5	B – Oct 2015	Ground Floor Plan & Landscaped Area at Street Front	Inner Living Pty Ltd	22.10.15
Sheet 2 of 5	B – Oct 2015	Proposed First Floor Plan	Inner Living Pty Ltd	22.10.15
Sheet 3 of 5	B – Oct 2015	Section X-X, South Elevation & North Elevation	Inner Living Pty Ltd	22.10.15
Sheet 4 of 5	B – Oct 2015	West Elevation, East Elevation and Carport Elevations	Inner Living Pty Ltd	22.10.15
Sheet 4A of 5	B – Oct 2015	Roof Plan	Inner Living Pty Ltd	22.10.15
		82 Burlington Street – Schedule of External Materials and Finishes	Inner Living Pty Ltd	22.10.15

except where amended by the following conditions and as amended by the following drawings:

Plan No.	Issue	Title	Drawn by	Received
CC 02	-	Roof and stormwater management Plan	Tsakalos + Dennis Design Partnership	6.7.2018

2. To modify the following conditions:

BASIX Certificate

- C17. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A223317_05 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)

Reason for approval

The proposed modifications are considered to be consistent with the originally approved development application and s.96 of the EP & A Act 1979. Furthermore, the modifications do not result in any new or material amenity impact to adjoining properties or the surrounding area.

The proposed modification retains the intent of originally approved development and is considered to be acceptable.

Having regard to the provisions of section 96 & 79C of the Environmental Planning and Assessment Act 1979, the proposed development as modified is satisfactory. The application is therefore recommended for approval.

How were community views taken into account in making the decision

In accordance with the provisions of Section 4 of NSDCP 2013 the application was not required to be notified. The proposed modifications are to modify the size and type of three proposed skylights that were approved in the original development application. Given their extent and location, they are deemed to be minor in nature. It is considered that they will have no material environmental impacts on the adjoining properties in the surrounding area. Accordingly, no submissions have been received in relation to the proposal.

The conditions attached to the original consent for Development Application No. 343/15 by endorsed date of 2 December 2015 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Aloma Moriarty**. 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.

DATE

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)