

## Development Consent No. 78/14

### Section 4.55 Application

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#### Applicant's Name

Peter Fitzgerald

#### Land to which this applies

99a Ernest Street, Crows Nest  
Lot No.: 2, DP: 630390

#### Proposal

To modify consent for alterations and additions to a dwelling including changes to windows and doors, extension to verandah and new pergola

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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. **78/14** and registered in Council's records as Application No. **78/14/3** relating to the land described as **99a Ernest Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 23 May 2014, has been determined in the following manner:

- To delete conditions C1 and C10 and add the following new conditions namely:*

#### Development in Accordance with Plans (S4.55 Amendments)

- A4. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

Plan No.	Issue	Title	Drawn by	Received
S4.55-0.01	A	Roof Plan	My Architect Pty Ltd	13 August 2018
S4.55-1.01	A	Ground Floor	My Architect Pty Ltd	13 August 2018
S4.55-1.02	A	First Floor	My Architect Pty Ltd	13 August 2018
S4.55-3.01	A	Elevations Sheet 1	My Architect Pty Ltd	13 August 2018
S4.55-3.02	A	Elevations Sheet 2	My Architect Pty Ltd	13 August 2018
S4.55-3.03	A	Elevations Sheet 3	My Architect Pty Ltd	13 August 2018

except as amended by the following conditions and this consent.

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

### **BASIX Certificate**

C10. 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. **A 180665\_04** 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 generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 & 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

### **How were community views taken into account in making the decision**

The owners of adjoining properties and the Holtermann Precinct were notified of the proposed modification on 24 August 2018. The notification resulted in no submissions.

The conditions attached to the original consent for Development Application No. 78/14 by endorsed date of 23 May 2014 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  
GEOFF MOSSEMENEAR  
EXECUTIVE PLANNER