

Development Consent No. 233/17

Section 4.55 Application

Applicant's Name

Jeff Karskens

Land to which this applies

54 Hayberry Street, Crows Nest
Lot No.: 402, DP: 574942

Proposal

Modification of DA233/17 to provide for additional demolition of eastern wall and foundations and construction of a new brick wall and associated window changes.

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. **233/17** and registered in Council's records as Application No. **233/17/2** relating to the land described as **54 Hayberry Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 16 January 2018, has been determined in the following manner:

1. To modify Condition A1 to read 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.

Drawing No.	Issue	Title	Drawn by	Dated	Received
DA 1.02	A	Floor Plans	Jeff Karskens Designer	8/12/2017	8/12/2017
DA 1.03	A	Roof/Site Plan, Stormwater Management	Jeff Karskens Designer	8/12/2017	8/12/2017
DA 1.04	A	Site Management Plan	Jeff Karskens Designer	8/12/2017	8/12/2017
DA 2.01	A	Existing Elevations	Jeff Karskens Designer	8/12/2017	8/12/2017
DA 2.02	A	Sections A & B	Jeff Karskens Designer	8/12/2017	8/12/2017
DA 2.04	A	West Elevation	Jeff Karskens Designer	16/1/2018	16/1/2018

except where modified under the provisions of Section 4.55(1A) of the Act by the following plans:

Drawing No.	Issue	Title	Drawn by	Dated	Received
DA 1.02	B	Floor Plans	Jeff Karskens Designer	17.08.2018	21.08.2018
DA 2.01	B	Existing Elevations	Jeff Karskens Designer	17.08.2018	21.08.2018

And except where amended by the following conditions of this consent

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

Reason for approval

The proposed modifications are considered to be of minimal environmental impact and are consistent with the originally approved development application and s.4.55(1A) 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 modification retains the intent of originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55(1A) & 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

In accordance with the provisions of Section 4 of NSDCP 2013, the subject application was not required to be notified. The proposed external changes are minor in nature and were not considered to result in new adverse or material impacts to adjoining properties. Accordingly, notification of the proposed modifications was not required. As a result, no submissions have been received.

The conditions attached to the original consent for Development Application No. 233/17 by endorsed date of 16 January 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.

DATE

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