

Development Consent No. 252/17

Section 4.55 Application

Applicant's Name

Castlepeake Consulting Pty Ltd

Land to which this applies

7 Shellbank Parade, Cremorne
Lot No.: 128, DP: 10291

Proposal

Section 4.55 (2) modifications to Condition C2 in the Development Consent (**D252/17**) relating to the length of the top awning above the living room on the living level.

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. **252/17** and registered in Council's records as Application No. **252/17/2** relating to the land described as **7 Shellbank Parade, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 February 2018, has been determined in the following manner:

1. To modify Conditions A1 and C2 as follows:

Development in Accordance with Plans

A1. The development being carried out in accordance with the following drawings:

Plan No.	Rev	Description	Drawn by	Date	Received
DA01	1	Site Plan	Castlepeake Consulting	8/11/17	16/11/17
DA02	1	Garage level	Castlepeake Consulting	8/11/17	16/11/17
DA03	1	Pool level	Castlepeake Consulting	8/11/17	16/11/17
DA04	1	Bedroom level	Castlepeake Consulting	8/11/17	16/11/17
DA05	1	Living level	Castlepeake Consulting	8/11/17	16/11/17
DA06	1	Roof plan	Castlepeake Consulting	8/11/17	16/11/17
DA07	1	N/E elevation	Castlepeake Consulting	8/11/17	16/11/17
DA08	1	S/W elevation	Castlepeake Consulting	8/11/17	16/11/17
DA09	1	N/W & S/E elevations	Castlepeake Consulting	8/11/17	16/11/17
DA10	1	Section A	Castlepeake Consulting	8/11/17	16/11/17
DA11	1	Section B & C	Castlepeake Consulting	8/11/17	16/11/17

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D252/17/2:

Plan No.	Rev	Description	Drawn by	Date	Received
A206	S4.55(2)	Roof Plan	Castlepeake Consulting	27/4/18	21/5/18
A401	S4.55(2)	N/W & S/E elevations	Castlepeake Consulting	27/4/18	21/5/18
A402	S4.55(2)	N/E elevation	Castlepeake Consulting	27/4/18	21/5/18
A403	S4.55(2)	S/W elevation	Castlepeake Consulting	27/4/18	21/5/18
A505	S4.55(2)	Section L	Castlepeake Consulting	27/4/18	21/5/18

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

Length of the Top Awning

- C2. The design of the awning above the deck off the living room on the Living Level must be reduced in length to provide a minimum 8.1m setback from the north-western (front) property boundary to minimise its bulk and scale.

The Certifying Authority must ensure that the revised landscape plan, building plans and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the requirement of this condition.

(Reason: To minimise bulk and scale and visual impacts on the streetscape)

2. *To insert new conditions no. A4 as follows:*

Terms of Consent (D252/17/2)

- A4. Approval is granted for modifications to the length of the awning above the deck off the living room on the Living Level to provide a minimum 8.1m setback from the north-western (front) property boundary to minimise its bulk and scale.

Plan No.	Rev	Description	Drawn by	Date	Received
A206	S4.55(2)	Roof Plan	Castlepeake Consulting	27/4/18	21/5/18
A401	S4.55(2)	N/W & S/E elevations	Castlepeake Consulting	27/4/18	21/5/18
A402	S4.55(2)	N/E elevation	Castlepeake Consulting	27/4/18	21/5/18
A403	S4.55(2)	S/W elevation	Castlepeake Consulting	27/4/18	21/5/18
A505	S4.55(2)	Section L	Castlepeake Consulting	27/4/18	21/5/18

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear.)

Reason for approval

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposed modifications would have no adverse impacts in terms of height, bulk and scale of the approved development having regard to the front setback of the nearby properties, including the new cover over the top front balcony at No.15 Shellbank Parade. The proposed modifications would not cause material impacts on the amenity of the adjoining properties.

The issues raised in the submission received have been addressed.

In summary, the proposed modifications were found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved.

How were community views taken into account in making the decision

The application was notified to adjoining properties and the Willoughby Bay Precinct Committee between 1 and 19 June 2018. The notification attracted one submission raising a number of issues which were addressed within the delegated report.

The conditions attached to the original consent for Development Application No. 252/17 by endorsed date of 6 February 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. 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
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)