

Castlepeake
7/136 Willoughby Road
CROWS NEST NSW 2065

D64/18
LK (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 64/18/2 – APPROVAL**

Development Consent Number: 64/18/2

Land to which this applies: 5 Gundimaine Avenue, Kurraba Point
Lot No.: 4, DP: 9797

Applicant: Castlepeake

Proposal: Section 4.55(2) modification to DA64/18 for alterations to the approved development including additional demolition and excavation, creation of a larger storage area at lower ground level, and various other amendments.

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. **64/18** and registered in Council's records as Application No. **64/18/2** relating to the land described as **5 Gundimaine Avenue, Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 May 2018, has been determined in the following manner: -

- To modify the development consent (DA64/18) and modify condition A1 to include the revised plans:*

Development in Accordance with Plans (S 4.55 Amendments)

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

Plan No.	Issue	Title	Drawn by	Received
DA01	DA	Site Plan	Castlepeake	March 2018
DA02	DA1	Proposed – Upper Floor Plan	Castlepeake	18/04/18
DA03	DA1	Proposed – Mid Floor Plan	Castlepeake	18/04/18

DA04	DA	Proposed – Lower Floor Plan	Castlepeake	March 2018
DA05	DA1	Proposed – Roof Plan	Castlepeake	18/04/18
DA06	DA1	North and South Elevation	Castlepeake	18/04/18
DA07	DA1	East Elevation and West Street	Castlepeake	18/04/18
DA08	DA1	Sections A & B	Castlepeake	18/04/18
DA09	DA1	Sections C & D	Castlepeake	18/04/18
DA10	DA1	Sections E & F	Castlepeake	18/04/18
DA11	DA1	Western Elevation	Castlepeake	18/04/18
L01	DA	Landscape Plan	Castlepeake	March 2018

and endorsed with Council’s approval stamp, except as modified and highlighted as such in a colour on the following drawings for DA64/18/2:

Plan No.	Issue	Title	Drawn by	Received
DA201	S4.55	Upper Floor Plan	Castlepeake	05/08/19
DA202	S4.55	Ground Floor Plan	Castlepeake	05/08/19
DA203	S4.55	Lower Floor Plan	Castlepeake	05/08/19
DA204	S4.55i	Roof Plan	Castlepeake	19/08/19
DA401	S4.55i	West and East Elevations	Castlepeake	03/09/19
DA402	S4.55	North and South Elevations	Castlepeake	05/08/19
DA501	S4.55	Sections A and B	Castlepeake	05/08/19
DA502	S4.55	Sections C and D	Castlepeake	05/08/19
DA503	S4.55	Sections E and F	Castlepeake	05/08/19
DA504	S4.55	Section G	Castlepeake	05/08/19
DA505	S4.55	Sections H and J	Castlepeake	05/08/19
DA506	S4.55	Sections K and L	Castlepeake	05/08/19
DA507	S4.55	Sections M and N	Castlepeake	05/08/19
DA508	S4.55ii	Sections P and Q	Castlepeake	11/09/19

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

2. To insert new conditions no. A4, C21, G9, and I3 as follows:

Terms of Consent (DA64/18/2)

A4. Approval is granted only for the works shown in colour and clouded red on the drawings listed in Condition A1 of this consent.

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

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

Noise Certification

- G9. A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the noise criteria contained in Condition C15 (Air Conditioners in Residential Premises) attached to DA64/18 have been satisfied, must be provided to the Certifying Authority for approval prior to the first use of the approved development.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Use of lower ground floor storage room

- I3. The lower ground floor storage room shall not be used for habitable purposes.

(Reason: The storage room has insufficient floor to ceiling height for habitable use and has not been assessed as a habitable room)

3. To modify conditions no. C1, C9 and C19 as follows:

Heritage Requirements

- C1. Prior to the issue of the construction certificate, the plans must be amended where required to address the following heritage requirements:
- a) The new windows and doors are to have aluminium or steel framing sections of a width 45mm or wider or are to be timber-framed.
 - b) The new roof tiles to both the garage and dwelling must be unglazed terracotta roof tiles in Marseilles pattern.
 - c) The front boundary fence to Gundimaine Avenue is to be steel palisade with 80% transparency and is to have a maximum height of 1.8m.
 - d) The front entry gate to Gundimaine Avenue is to be redesigned to be of minimum 50% transparency and is to have a maximum height of 1.8m.
 - e) The new garage door must be recessed 200mm.
 - f) The new balustrade in the garden area to the east of the lower floor shall be constructed of metal to match the balustrade on the proposed mid-level deck. No consent is granted for a glazed balustrade.

The Certifying Authority must also 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 be sympathetic to the character of the conservation area and the original dwelling)

Skylights

- C9. Skylight flashings and frames shall be coloured to match the roof material. All skylights are to sit no higher than 100mm above roof plane when in a closed position.

The external motorised blind relating to skylight SK1 on the north roof plane shall sit no higher than 150mm above the roof plane, and the frame of this external blind shall be coloured to match the roof material.

Plans and specifications which comply 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 fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

BASIX Certificate

- C19. 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. A288867_05 dated 5 August 2019 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)

This application which seeks various amendments to the approved development at 5 Gundimaine Avenue, Kurraba Point, satisfies the provisions of Section 4.55(2) in that the proposed development is substantially the same as what was approved under DA 64/18, and the proposed modifications will not materially alter the use or the form of the development as originally approved.

Reason for approval:

The proposed modifications would not materially change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013. Subject to conditions there would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the conservation area, and the proposal remains consistent with the objectives of the R2 (Low Density Residential) Zone, and the reasons for granting consent originally.

How community views were taken into account:

The proposal was notified and advertised in accordance with Part A, Section 4 Notification of Applications of North Sydney DCP 2013. Two (2) submissions were received, with the key issues including acoustic and visual privacy impacts, smoke and fumes, waterproofing and stormwater drainage concerns, and potential glare from a skylight. The issues raised in the submissions have been considered in the assessment of this application, and new conditions of consent have been recommended where necessary to address the concerns raised in submissions. It is also noted that a number of conditions were imposed on the original consent to preserve residential amenity.

The conditions attached to the original consent for Development Application No. 64/18 by endorsed date of 2 May 2018 still apply.

ADVISINGS

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

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS