

Original signed by Kim Rothe on 16/11/2020

Castlepeake Consulting Pty Ltd
7/136 Willoughby Road
CROWS NEST NSW 2065

D112/19
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 112/19/3 – APPROVAL**

Development Consent Number: 112/19/3

Land to which this applies: 8 Woolcott Street, Waverton
Lot No.: 12, DP: 5874

Applicant: Castlepeake Consulting Ptd Ltd

Proposal: Section 4.55(2) to alter the roof form and minor elevation and materials alterations.

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. **112/19** and registered in Council's records as Application No. **112/19/3** relating to the land described as **8 Woolcott Street, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 October 2019, has been determined in the following manner: -

1. To amend Condition A1 and C29 as follows:

Development in Accordance with Plans (Section 4.55 Amendments)

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.

DA112/2019 Approved Plan list (Deferred Commencement Completed List)

| Plan No. | Dated | Issue | Title | Drawn by | Received |
|-----------------|---------------|--------------|----------------------------|-----------------|-----------------|
| DA01 | 02 May 2019 | DA3 | Site Plan | Castlepeake | 8 May 2019 |
| DA02 | 02 May 2019 | DA3 | Proposed Garage Level Plan | Castlepeake | 8 May 2019 |
| DA03 | November 2019 | DC | Ground Level Plan | Castlepeake | 5 November 2019 |
| DA04 | November 2019 | DC | Rear Garden and Pool Plan | Castlepeake | 5 November 2019 |
| DA05 | November 2019 | DC | Upper Level Plan | Castlepeake | 5 November 2019 |

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|------|---------------|-------|-------------------------------|-------------|-----------------|
| DA06 | November 2019 | DC | Roof Plan | Castlepeake | 5 November 2019 |
| DA07 | November 2019 | DC | North and South Elevations | Castlepeake | 5 November 2019 |
| DA08 | November 2019 | DC | East and West Elevations | Castlepeake | 5 November 2019 |
| DA09 | November 2019 | S4.55 | Long Section A | Castlepeake | 5 November 2019 |
| DA10 | November 2019 | S4.55 | Cross Section B | Castlepeake | 5 November 2019 |
| DA11 | 02 May 2019 | DA3 | Pool Details | Castlepeake | 8 May 2019 |
| L01 | November 2019 | DC | Proposed Landscape Plan | Castlepeake | 5 November 2019 |
| EF01 | November 2019 | DC | Schedule of External Finishes | Castlepeake | 5 November 2019 |

DA112/2019/3 Approved Plan list

| Plan No. | Dated | Issue | Title | Drawn by | Received |
|-----------------|----------------|--------------|-------------------------------|-----------------|------------------|
| DA00 | September 2020 | S4.55(3) | Cover Sheet | Castlepeake | 9 September 2020 |
| DA03 | September 2020 | S4.55(3) | Living Level Plan | Castlepeake | 9 September 2020 |
| DA05 | September 2020 | S4.55(3) | Bedroom Level Plan | Castlepeake | 9 September 2020 |
| DA06 | June 2020 | S4.55(2) | Roof Plan | Castlepeake | |
| DA08 | September 2020 | S4.55(3) | East Elevation | Castlepeake | 9 September 2020 |
| DA08A | September 2020 | S4.55(3) | West Elevations | Castlepeake | 9 September 2020 |
| EF01 | September 2020 | S4.55(3) | Schedule of External Finishes | Castlepeake | 9 September 2020 |

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

BASIX Certificate

C29. 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. 936382S_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 of no unacceptable impact and are consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. The notification of the as modified proposal resulted in one submission being received. The modifications do not result in any new 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 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 approved.

How community views were taken into account:

The owners of adjoining properties and the local community precinct committee were notified of the amended development for a 14-day period in accordance with Council's Community Engagement Protocol. The notification resulted in one submission. The submission raised solar access privacy, view, separation, and landscaping concerns.

The proposal has been amended to return the as approved footprint of the building to its as approved position. The remaining modification are not considered to result in any new material impact to adjoining properties. Accordingly, the modifications can be supported.

The modifications are consistent with the reasons for granting development consent to the originally approved development. The application is recommended for approval subject to amendment to the as approved conditions.

The conditions attached to the original consent for Development Application No. 112/19 by endorsed date of 2 October 2019 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Kim Rothe**. 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
DAVID HOY
TEAM LEADER ASSESSMENTS