

Daniel & Karina Keisler  
74 Benelong Road  
CREMORNE NSW 2090

D231/17  
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 231/17/2 – APPROVAL**

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**Development Consent Number:** 231/17/2

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**Land to which this applies:** 74 Benelong Road, Cremorne  
Lot No.: 112, DP: 739075

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**Applicant:** Daniel and Karina Keisler

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**Proposal:** Section 4.55 (1A) modifications to approved landscaping treatments

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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. **231/17** and registered in Council's records as Application No. **231/17/2** relating to the land described as **74 Benelong Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 9 January 2018, has been determined in the following manner: -

- 1. To delete Condition C1*
- 2. To modify Conditions G8, G9 and I1 to read as follows:*

**Landscaping**

G8. The landscaping works on garden beds located within the front building setback and at the rear of the main dwelling along western common property boundary, as shown on the landscape plan (Drawing No. L01 Issue C, dated 16/10/17, prepared by Kreis Grennan Architecture), must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure provision of soft landscaping)

**Compliance with certain conditions**

G9. Prior to the issue of any Occupation Certificate, Condition A4 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

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**Vegetation Management**

11. The applicant/property owner must implement the Phases 1 and 2 works as contained in Appendix A in the VMP and Bushland Restoration Recommendations, dated 29 April 2019, prepared by Australian Bushland Restoration Pty Ltd. The time frames for the implementation of the works are to be restricted to Phase 1 (1-6 Months) and Phase 2 (6 Months to 2 Years) following the issue of an Occupation Certificate for the approved development.

(Reason: To ensure vegetation management after the occupation of the development)

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**Reason for approval:**

The proposed modifications satisfy the provisions of Section 4.55 (1A) in that the proposal is considered to be a development with minor environmental impacts and substantially the same development as that which was originally approved by Council.

Consideration has been given to the application including the Vegetation Management Plan where the proposed changes were found to be acceptable because the landscape quality of the subject site and the locality would generally be maintained subject to modifications to various conditions.

The proposed modifications would have no adverse impacts on the residential amenity of the surrounding property.

In summary, the proposal was found to be acceptable and is recommended that the subject Section 4.55 (1A) application be approved subject to modifications to various conditions.

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**How community views were taken into account:**

Notification of the application was waived in accordance with Section 4.5.1 in Part A of North Sydney DCP 2013.

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The conditions attached to the original consent for Development Application No. 231/17 by endorsed date of 9 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.

- (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

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Signature on behalf of consent authority  
ROBIN TSE  
**ACTING TEAM LEADER ASSESSMENTS**