

Original signed by: **Robyn Pearson** on: **1/7/19**

THW Architects
Suite 101 – Level 1, 60 Old Barrenjoey Road
AVALON BEACH NSW 2107

D339/18
RT (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 339/18/2 – APPROVAL

Development Consent Number: **339/18/2**

Land to which this applies: 4 Montague Road, Cremorne
Lot No.: 1, DP: 953326

Applicant: THW Architects

Proposal: Section 4.55(2) modifications to D339/18 for alterations and additions to a dwelling house including a new two storey rear addition including changes to internal layout/fenestration and the deletion of an existing chimney

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. **339/18** and registered in Council's records as Application No. **339/18/2** relating to the land described as **4 Montague Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 17 December 2018, has been determined in the following manner: -

- 1. To modify the development consent (D339/18/2) and modify conditions A1, C14 and G7 to read as follows:***

Development in Accordance with Plans (S4.55 Amendments)

- A1. The development being carried out in accordance with the following drawings numbered A 00-B, A 02-B, A 11-B, A 12-B, A 20-B, A 21-B, all dated 5/10/18 and drawings numbered A 01-D, A 10-D, dated 7/12/18, all drawn by THW Architects, and drawing numbered A1, undated, drawn by SAS Landscape Design, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D339/18/2:

Plan No.	Date	Drawn by	Received
A00-H	28-02-19	THW Architects	17 April 2019
A01-H	28-02-19	THW Architects	17 April 2019
A02-H	28-02-19	THW Architects	17 April 2019
A10-H	28-02-19	THW Architects	17 April 2019
A11-H	28-02-19	THW Architects	17 April 2019
A12-H	28-02-19	THW Architects	17 April 2019
A20-H	28-02-19	THW Architects	17 April 2019
A21-H	28-02-19	THW Architects	17 April 2019

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

BASIX Certificate

C14. 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. A328157_03 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)

Compliance with Certain Conditions

G7. Prior to the issue of any Occupation Certificate, Conditions C12, C15 and C16 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.)

2. To insert a new Condition C16 to read as follows:

Bay Windows W12, W13, W15, W16

C16. The cladding material for the base of the modified bay windows W12(A/B/C), W13(A/B/C), W15(A/B/C) and W16(A/B/C) must be timber. No approval is granted or implied for other materials. The size and dimensions of the window panes are not to be increased.

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.)

The development application has been assessed against the North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013 and relevant State Planning Policies and found to be generally acceptable in the site circumstances.

The proposed modifications would result in a development which is substantially the same development as originally approved.

The proposed modifications comply with the LEP maximum building height control and would not result in significant changes to the height, bulk and scale of the development as originally approved.

Reason for approval:

The proposed design changes to the bay windows are considered to be an improvement in terms of heritage significance of the original dwelling and the conservation area subject to the imposition of **Condition C16**.

The proposed modifications would have no material impacts on the amenity of nearby residential properties and would not change the level of compliance with the DCP's site coverage, unbuilt upon area and landscaped area requirements

Therefore, the application is considered to be reasonable in the site circumstances and recommended for **approval** subject to the imposition of modified and additional conditions of consent.

How community views were taken into account:

The owners of adjoining properties and the Willoughby Bay Precinct were notified of the proposed modifications between 3 to 17 May 2019. The notification has attracted no submissions.

The conditions attached to the original consent for Development Application No. 339/18 by endorsed date of 17 December 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.
- (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)**