

Original signed by: **Robyn Pearson** Dated: **22/5/2020**

Karina Keisler  
PO Box 4512  
CENTRAL PARK VIC 3145

D231/17  
RT(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 231/17/3 – APPROVAL**

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**Development Consent Number:** 231/17/3

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

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**Applicant:** Karina Keisler

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**Proposal:** Section 4.55 (1A) modifications to amend Conditions C12 and G2.

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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. **231/17/3** 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 modify **Conditions C12 and G2** to read as follows:*

**Stormwater Management and Disposal Design Plan – Construction Issue**

C12 Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

- (a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
- (b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity via existing stormwater lines and then dispersed onto the rear garden within the subject site via a level spreader.

Details demonstrating compliance are to be submitted with all other drainage details to Council prior to issue of any Construction Certificate.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance.)

### **Certification- Civil Works**

- G2. a) A suitably qualified person must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

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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.

The proposed modifications to **Condition C12**, would facilitate the installation of a level spreader for controlled discharge of stormwater at the rear of subject property. The proposal is consistent with the intent of the original stormwater management condition to ensure controlled stormwater management and disposal without nuisance. The deletion for the requirement of a rainwater tank is also acceptable because this is not a requirement identified in the BASIX Certificate of the approved development.

### **Reason for approval:**

The proposed changes to **Condition G2** requiring certification of the stormwater system by a suitably qualified person is also considered to be acceptable because of the simplified nature of the stormwater disposal system and no change to the requirement for certification of the stormwater drainage system.

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 subject application was waived in accordance with Section 3.4.2 of Council's Community Engagement Protocol because the proposal relates to modifications to conditions that would have achieved the same intended outcome of the original stormwater management condition and no material impacts on the surrounding properties.

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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 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**

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
**TEAM LEADER(ASSESSMENTS)**