

Christopher John Dibley
4 Benelong Road
CREMORNE NSW 2090

D339/15
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 339/15/2 – APPROVAL**

Development Consent Number: 339/15/2

Land to which this applies: 4 Benelong Road, Cremorne
Lot No.: B, DP: 925026

Applicant: Christopher John Dibley

Proposal: Section 4.55(1A) modifications to D339/15 for a revised front porch and highlight windows to the main bedroom and the ensuite bathroom.

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. **339/15** and registered in Council's records as Application No. **339/15/2** relating to the land described as **4 Benelong Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 December 2015, has been determined in the following manner:

- 1. To modify the development consent (D339/15) and modify conditions A1 and C11 to read as follows:**

Development in Accordance with Plans (S4.55 Amendments)

- A1. The development being carried out in accordance with drawings numbered 001, 003, 004, dated 20 September 2015, drawn by Fiona Mitchell Architect, and received by Council on 21 September 2015 and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D339/15/2:

Plan Nos	Description	Prepared by	Dated
DAMod 02	Floor Plan and Section	Peter M Head	July 2021
DAMod 03	Elevations	Peter M Head	July 2021

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

BASIX Certificate

C11. 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. A443324 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)

2. To insert a new condition A4 to read as follows:

Terms of Consent (D339/15/2)

A4. Approval is granted for the following modifications only:

- (a) A revised front porch with an 800mm extension to the eastern (front) and southern (side) elevations; and
- (b) Installation of highlight windows on the northern elevation of the main bedroom (bedroom 1) and the ensuite bathroom.

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

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

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979.

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

Reason for approval:

The proposed modifications would not result in changes in terms of the overall height, bulk/scale and the overall form of the approved development;

The non-compliance with DCP site coverage requirement is considered to be acceptable because the proposed modifications would not change site density nor the overall built form of the approved development.

The proposed modifications would maintain the character of the subject dwelling and would not change the landscape quality of the site and the locality. There would be no change to the provision of private open space at the rear of the subject site.

The proposed modifications would not cause material impacts on the amenity of the adjoining properties.

Having regard to the provisions of section 4.55 & 4.15(1) 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 recommended for **approval**.

How community views were taken into account:

The subject application was notified to adjoining properties and the Brightmore Precinct between 13 and 27 August 2021. The notification has attracted no submissions.

The conditions attached to the original consent for Development Application No. 339/15 by endorsed date of 7 December 2015 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

10 December 2021

DATE

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