

Original signed by **David Hoy** on **21/06/2022**

Group Development Services Pty Ltd  
on behalf of Link Wentworth Housing Ltd  
Attention: Pedro Pan  
Level 10, 67 Albert Avenue  
CHATSWOOD NSW 2067

D335/20  
RB6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 335/20/2 - APPROVAL**

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**Development Consent Number:** **335/20**

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**Land to which this applies:** 287 Miller Street, Cammeray  
Lot No.: 5 DP: 4206

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**Applicant:** Group Development Services Pty Ltd  
on behalf of Link Wentworth Housing Ltd

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**Proposal:** To modify a consent under DA 335/2020 approved on 7 July 2021 to provide for relocation of plant equipment and air conditioner condenser units and amendments to conditions relating to privacy screen and other design amendments

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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. **335/20** and registered in Council's records as Application No. **335/20/2** relating to the land described as **287 Miller Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 12 July 2021, has been determined in the following manner:

**1. To delete condition A1 of the consent and insert in lieu thereof the following new condition, namely:**

Condition A1 to be amended to reflect the revised plans as follows:

**Development in Accordance with the Plans/documentation**

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.

Plan No.	Rev No.	Description	Prepared by	Dated
1001	3	Site Plan	AJ+C Architects	21.12.2021
2001	3	Lower Ground and Ground Floor	AJ+C Architects	21.12.2021

2002	2	Level 1 Level 2	AJ+C Architects	21.12.2021
3101	3	North Elevation South Elevation	AJ+C Architects	21.12.2021
3102	3	East Elevation West Elevation	AJ+C Architects	21.12.2021
3103	2	Miller Street Elevation	AJ+C Architects	21.12.2021
3200	2	Sections	AJ+C Architects	21.12.2021

**2. To delete condition C13 of the consent and insert in lieu thereof the following new condition namely:**

Condition C13 to be amended to correct misnumbering – 19 – instead of 14 as follows:

**Bicycle Storage and Parking**

C13 The bicycle storage area must accommodate a minimum of 14 bicycles. The bicycle storage shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply 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, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

**3. To delete condition C25 of the consent and insert in lieu thereof the following new condition namely:**

Condition C25 to be amended to include reference to the 'lower ground floor level.'

**Location of Plant**

C25 All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or on the lower ground floor level of the building and is not to be located on balconies or the roof. Plans and specifications complying with the 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

**4. To delete condition C33 of the consent and insert in lieu thereof the following new condition namely:**

Condition C33 to be amended to delete reference to 'privacy screen' and refer to 2 planter tubs, and the maintenance of plant screening they will contain.

**Privacy**

C33 The following privacy devices are to be provided:

Planter box tubs shall be provided on the northern end of the proposed balconies to rooms 3.1 and 3.2 on Level 2 of the proposed building. The planter tubs are to be maintained by the tenant/owner and installed in accordance with the architectural plan details Drawing No. DA20002 Issue 2.

(Reason: To ensure an adequate level of privacy is provided to adjoining properties)

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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. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the grant of development consent to the originally approved development and are considered to be acceptable.

There would be no undesirable impacts in terms of overshadowing, visual and/or acoustic privacy nor any view loss for adjoining properties arising from the proposed changes. There is no change to the building's form bulk and scale; there is a minor change to the façade with the removal of a recess detail on level 2 of the south façade and changes to internal layout of rooms 3.1 and 3.2 which will improve livability. The appearance of the building is unchanged except for the removal of the south façade recess detail, and the addition of the 2 planter boxes with plant screening at level 2 which provide an attractive embellishment to the building and increase privacy between the development and the neighbouring RFB. The location of the air conditioning condenser units and plant and equipment is at the lower ground level, with no plant and equipment on the roof. The AC units and plant and equipment will not be visible to the public domain, does not alter the streetscape, and the acoustic amenity will be maintained as required by Conditions C25, C26, and C27.

**Reasons for Approval:**

The proposed changes have been assessed under the relevant planning instruments including NSLEP 2013 and NSDPC 2013 and generally found to be acceptable.

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**.

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

Public submissions have been addressed in the report.

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The conditions attached to the original consent for Development Application No. 335/20 by endorsed date of 12 July 2021 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Ruth Bennett**. 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 and 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 and Assessment Act*.

**Endorsed for and on behalf of North Sydney Council**

**21 June 2022**

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DATE

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER - ASSESSMENTS**