



Link Wentworth Housing Ltd
C/- Creative Planning Solutions
PO Box 1074
BROADWAY NSW 2007

D335/20
RB6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 335/20/4 - APPROVAL**

Development Consent Number: 335/20

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

Applicant: Link Wentworth Housing Ltd, C/- Creative Planning Solutions

Proposal:

To modify a consent under DA 335/2020 approved on 7 July 2021 which approved: 'Demolition of existing structures and construction of a boarding house over four levels comprising 12 rooms, civil works, landscaping works including tree removal, and associated works' at 287 Miller Street, Cammeray.

'Modify the consent to enable minor design changes for BCA compliance, changes to materials, stormwater works and internal changes to the building.'

Planning Portal detailed description: 'The proposed modification is primarily a paper change to reflect the modifications within the most recent consent that are not illustrated on the approved plans, this includes the location of the air-conditioning units within the basement etc, and minor changes to material of the front fence.'

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. **335/20/4** 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
DA1001	C	Site Plan	Become	30.11.22
DA2001	C	Lower Ground and Ground Floor	Become	30.11.22
DA2002	C	Level 1 Level 2	Become	30.11.22
DA3101	D	North Elevation South Elevation	Become	30.11.22
DA3102	C	East Elevation West Elevation	Become	30.11.22
DA3200	C	Miller Street Elevation / Section	Become	30.11.22
L/01	A	Proposed Landscape Plan - Ground Floor	A Total Concept	10.08.22
L/02	A	Proposed Landscape Plan - Lower Ground Floor	A Total Concept	10.08.22
L/03	A	Proposed Landscape Plan - Level 2	A Total Concept	10.08.22
L/04	A	Landscape Details	A Total Concept	10.08.22

Condition C36 BASIX Certificate - to be deleted.

Condition G15 BASIX Completion Certificate - to be deleted.

Reasons for Approval:

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 fence, with metal material proposed, and additional landscaping within the front setback with several species added. There are minor changes to some windows, several doors, setbacks to the stair wall, change to lift shaft, inclusion of columns, the communal open space area at the Lower Ground level, and an alteration to kitchen and bathroom layouts for rooms 3.1 and 3.2, and a minor change to the terrace on Level 2.

The appearance of the building is for the most part unchanged. The location of the air conditioning condenser units and plant and equipment is at the lower ground level and in the basement. The AC units will not be visible to the public domain, does not alter the streetscape, and the acoustic amenity will be maintained.

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; there is no increase in floor space ratio or gross floor area; there is no change in building footprint or site coverage area; there is no change to the amount of the proposed landscaped area or to the amount of deep soil; there is no intensification of the use with the number of bedrooms remaining the same. The application is therefore recommended for **approval**.

How community views were taken into account:

Council notified adjoining properties and the Registry Precinct of the proposed development seeking comments between 28/10/2022 - 11/11/2022. There were no submissions received in response to notification.

Suitable conditions were imposed under the DA approval to address acoustic impacts; these are Conditions C25, C26, and C27. These are unchanged under this modification and will ensure that acoustic amenity is maintained.

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.

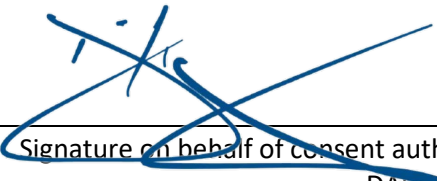
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of *the Environmental Planning and Assessment Act 1979* (the 'Act') are to be complied with:
- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (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

15 February 2023

DATE


Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)