

JOINT REGIONAL PLANNING PANEL (Sydney West Region)

JRPP No	2015SYW044
DA Number	1178(3)/2010
Local Government Area	Camden
Proposed Development	Section 96(2) Modification – Modification to an approved glasshouse and construction of a new shed
Street Address	107 Cobbitty Road, Cobbitty
Applicant/Owner	Urban Ecological Systems Ltd
Number of Submissions	3 submissions (all objecting to the proposed development)
Regional Development Criteria (Schedule 4A of the Act)	Section 96(2) Modification Application
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Policy (State and Regional Development) 2011 • Deemed State Environmental Planning Policy No 20 – Hawkesbury-Nepean River • State Environmental Planning Policy No. 62 – Sustainable Aquaculture • Camden Local Environmental Plan 2010 • Camden Development Control Plan 2011
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Assessment report and conditions • Statement of environment effects • Architectural plans
Recommendation	Approve with conditions
Report by	Aisling McGrath, Town Planner

PURPOSE OF REPORT

The purpose of this report is to seek the Joint Regional Planning Panel's (the Panel) determination of a Section 96(2) Modification to DA 1178(3)/2010 which approved an Educational Establishment (Industry Based Vegetable and Aquaculture Facility) at 107 Cobbitty Road, Cobbitty. The original consent was approved on 8 February 2011 by the Panel.

The Panel is the determining authority for this Section 96 Modification as, pursuant to Clause 21 of the State Environmental Planning Policy (State and Regional Development) 2011, the Section 96(2) Modification seeks to amend a development consent determined by the Panel.

SUMMARY OF RECOMMENDATION

That the Panel determine Section 96(2) Modification Application DA 1178(3)/2010 to modify a previously approved educational establishment (industry-based aquaculture and vegetable research facility) pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979* subject to the modified conditions contained in this report.

EXECUTIVE SUMMARY

Council is in receipt of a Section 96(2) Modification application to modify a previously approved educational establishment (industry-based aquaculture and vegetable research facility) at 107 Cobbitty Road, Cobbitty. This will involve a modification to an approved glasshouse and the construction of a new shed.

The modification application has been assessed against the *Environmental Planning and Assessment Act 1979*, the Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments, Development Control Plan and policies. The outcome of this assessment is detailed further in this report.

The modification application was publicly exhibited for a period of 14 days in accordance with the Camden Development Control Plan 2011. Three submissions were received (all objecting to the proposed development).

The Panel approved DA 1178/2010 for the three stage construction of an aquaculture and vegetable research facility. Stage 1 has been constructed and is currently operating. Stages 2 and 3 are yet to be constructed. The modifications proposed relate to Stages 2 and 3 only.

The issues raised in the submissions relate to the existing Stage 1 building, the approved Stage 2 and 3 buildings and the current functioning of the site. It is considered that the proposed modifications will not have any additional adverse impacts as they result in a floor area reduction.

Council has been working with the applicant to resolve the issues raised in the submissions relating to the existing operational matters.

Based on the assessment, it is recommended that the Section 96(2) modification be approved subject to the conditions contained in this report.

AERIAL PHOTO



THE SITE

The site is commonly known as 107 Cobbitty Road, Cobbitty and is legally described as Lot 1 DP833397.

The site forms part of the Cobbitty Campus of the University of Sydney which incorporates a number of tertiary education facilities including the Planting Breeding Institute, Lansdowne Turf Farm, Animal Reproduction Unit and the Horse Units of the University. The property is owned and operated by the University of Sydney as a research campus connected to the Faculties of Agriculture, Food and Natural Resources and Veterinary Sciences.

The site measures 39.31 hectares in total. The University farms are located to the west of the site and the Stage 1 glasshouse is located to the east of the site. Access to the property is via a driveway off Cobbitty Road and the Cobbitty Rural Fire Brigade shares access with the subject site.

The majority of the site is zoned SP2 (Infrastructure) including the area where the approved educational establishment is located. The southern portion of the site is zoned RU1 Primary Production.

The site is bordered to the south and east by rural residential properties fronting Cobbitty Road.

HISTORY

The relevant development history of the site is summarised in the following table:

Date	Development
17 May 2012	Approval of Section 96 modification to DA 1178(2)/2010 for various modifications to the Stage 1 development and an increase in the stormwater detention capacity
27 January 2010	Approval of DA 1178/2010 by the Panel for an Educational Establishment (Industry Based Vegetable and Aquaculture Facility)

THE PROPOSAL

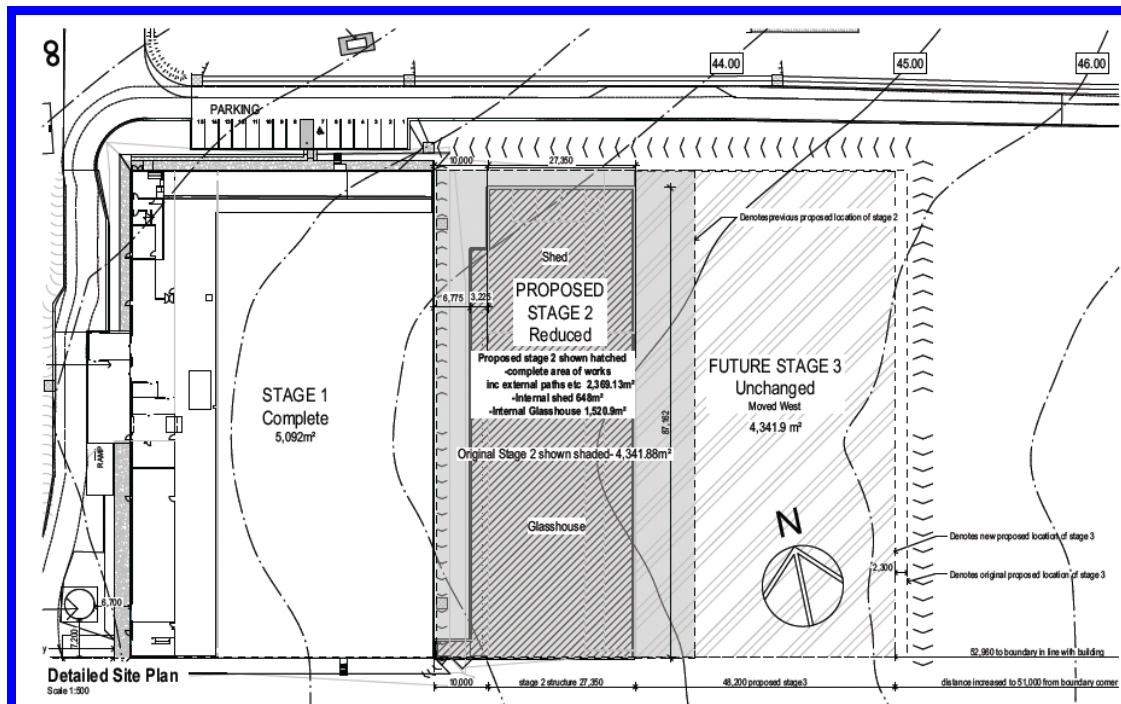
Section 96(2) Modification Application 1178(3)/2010 seeks approval to modify a previously approved Educational Establishment (Industry Based Vegetable and Aquaculture Facility).

Specifically the proposed modifications involve:

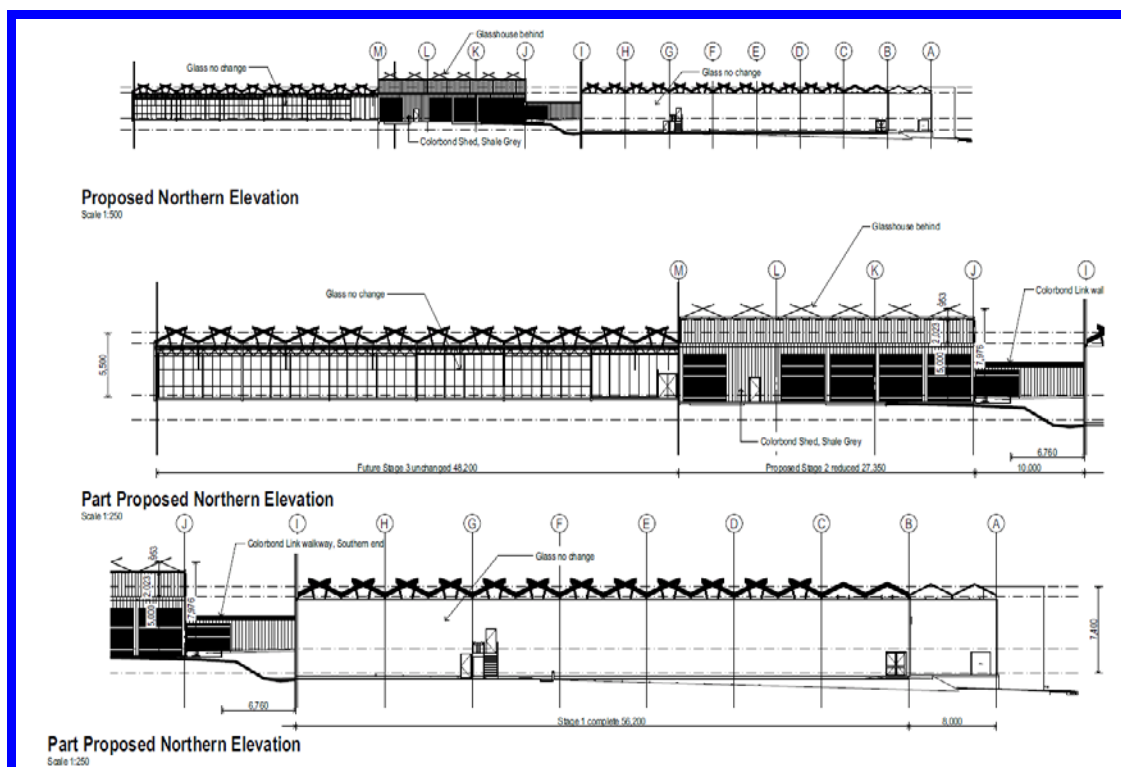
- the reduction in area of the approved Stage 2 glasshouse from 4341.88m² to 1520.9m²;
- the addition of a Colorbond shed measuring 648m² within the northern portion of the approved Stage 2 building footprint which will include a packing area, seeding area, cool room and soil storage areas;
- a 1.8m height increase to the Stage 2 glasshouse and attached Colorbond shed. The increase in height is required due to the type of crops to be grown within the glasshouse, a larger buffer of air is required in order for the cooling system to work. A total height of 8.2m, as measured from ground level, is proposed; and
- the relocation of the Stage 3 glasshouse 2.3m to the west (towards the Stage 2 development).

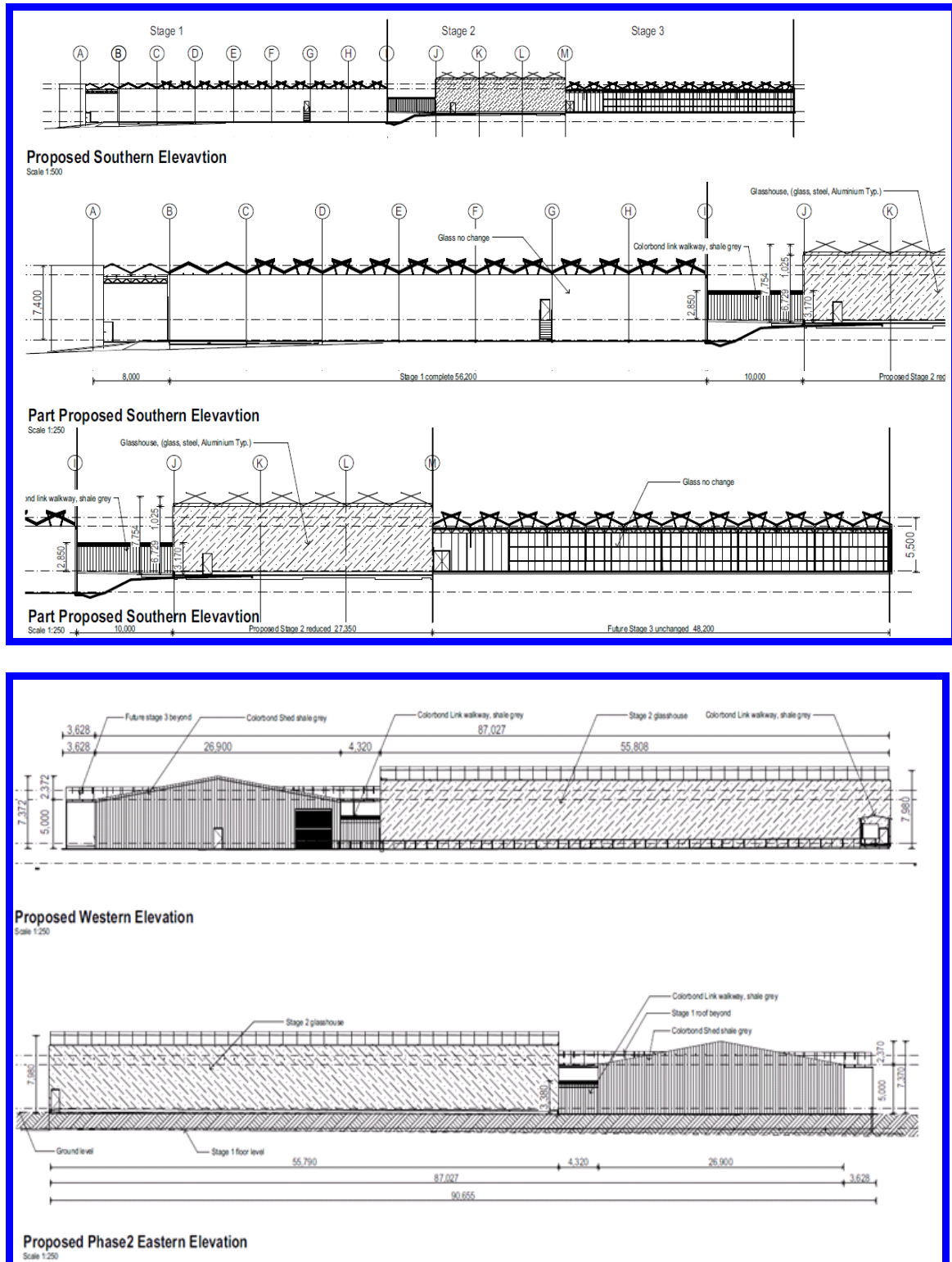
PROPOSED SITE PLAN





PROPOSED ELEVATIONS





ASSESSMENT

Pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979*, the modified development is considered to be substantially the same as the originally approved development. In addition, the modification application has been publicly exhibited and the submissions received have been considered. An assessment

against Section 79C of the *Environmental Planning and Assessment Act 1979* is provided below:

Environmental Planning and Assessment Act 1979 – Section 79(C)(1)

In determining a modification application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the modification application on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

- State Environmental Planning Policy (State and Regional Development) 2011
- Deemed State Environmental Planning Policy No 20 – Hawkesbury-Nepean River
- State Environmental Planning Policy No. 62 – Sustainable Aquaculture
- Camden Local Environmental Plan 2010

An assessment of the proposed modifications against these Environmental Planning Instruments is detailed below.

State Environmental Planning Policy (State and Regional Development) 2011

The Panel is the determining authority for this DA as, pursuant to Clause 21 of the State Environmental Planning Policy (State and Regional Development) 2011, the Section 96(2) Modification seeks to amend a development consent determined by the Panel.

Deemed State Environmental Planning Policy No 20 – Hawkesbury-Nepean River (SEPP)

The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. The proposed modifications are not considered to result in any additional adverse impacts to the Hawkesbury-Nepean River system.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

The original development was subject to the provisions of SEPP 62. The proposed modifications do not change the category of aquaculture approved or trigger reassessment under SEPP 62.

Camden Local Environmental Plan 2010 (LEP)

Permissibility

The portion of the site subject to this Section 96 modification is zoned SP2 Infrastructure “Educational Establishment” under the provisions of the LEP. The development is defined as an “Educational Establishment” by the LEP which is a permissible land use in this zone. The proposed modification remains consistent with the objectives of the SP2 zone.

Zone Objectives

The objectives of the SP2 Infrastructure zone are as follows:

- To provide for infrastructure and related uses.

Officer comment:

The proposed modifications to the development are minor in nature and do not substantially change the approved educational establishment, therefore is consistent with this objective.

- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

Officer comment:

The proposed modifications to the development are minor in nature and are compatible with the provision of the educational establishment, therefore the development is consistent with this objective.

Relevant Clauses

The DA was assessed against the following relevant clauses of the LEP.

Clause	Requirement	Provided	Compliance
4.3 Height of Buildings	There is no maximum building height specified for this area of the site	Proposed 8.2m building height	Yes

(a)(ii) The Provisions of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)).

There is no draft Environmental Planning Instrument applicable to the proposed development.

(a)(iii) The Provisions of any Development Control Plan

Camden Development Control Plan 2011 (DCP)

The proposed modifications result in a reduced building footprint and reduced floor area as compared to the approved development.

The overall height of the Stage 2 development is increased by 1.8m. However, the additional separation proposed between Stages 1, 2 and (future) Stage 3 and the reduction in floor area of Stage 2 will break up the bulk of the development. As such, the proposed modifications are not considered to give rise to significant additional bulk or loss of views.

Having regard to the above, the proposal is considered to have a reduced impact as compared to the existing approved situation and does result in any additional variations to the DCP.

(a)(iia) The Provision of any Planning Agreement that has been entered into under Section 94F, or any draft Planning Agreement that a developer has offered to enter into under Section 93F

No relevant agreement exists or has been proposed as part of this DA.

(a)(iv) The Regulations

The Regulations prescribe several matters that are addressed in the conditions contained in this report.

(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposed modifications are unlikely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality.

The following table outlines the proposed modification to the conditions that were imposed on the original consent. Council staff assessment of the modification is also provided.

Condition No.	Condition Requires	Proposed Change	Officer Comment
(1) Approved Plans	That the approved development be undertaken in accordance with the approved plans	Amended plans modify the building configurations for Stages 2 and 3 and the building height for Stage 2. This condition must be updated to reflect the revised plans.	Supported. It is recommended that this condition be modified to reflect the amended plans.

(c) The suitability of the site

As demonstrated by the above assessment, the site is considered to be suitable for the modified development.

(d) Any submissions made in accordance with this Act or the Regulations

The modification application was publicly exhibited for a period of 14 days in accordance with the DCP. The exhibition period was from 6 February to 20 February 2015. Three submissions were received (all objecting to the proposed development).

The following discussion addresses the issues and concerns raised in the submissions.

1. Noise from the existing glasshouse building

Officer comment:

The proposed modifications will not exacerbate the noise generated from the site. Notwithstanding, the applicant has undertaken an acoustic assessment of the existing Stage 1 building at the request of Council's Environment Health Section. It was determined that a compressor located on the western side of the Stage 1 building was the source of the noise concerns. Subsequently, the applicant has enclosed the compressor in acoustic housing to reduce the noise levels. Council is currently consulting with the relevant submitter to confirm that the noise has been suitably attenuated.

The applicant has advised that the internal fans on the southern side of the existing building are now turned off between 6pm and 7am to reduce the noise impact.

2. Insufficient planting along the boundary adjoining residential properties. Additional planting and fencing should be provided.

Officer comment:

This issue relates to an existing approved situation and does not relate to the proposed Section 96 modifications. Additional planting is not considered necessary noting that the modifications will reduce the building footprint and floor area.

Council's Landscaping Officer has confirmed that the planting of 25 trees required as a condition of the original consent have been satisfactorily installed.

3. Request to limit construction hours from Monday to Friday due to the inconvenience caused during construction of Stage 1.

Officer comment:

The construction hours were approved as part of the original DA and imposed standard construction hours. The Section 96 modification does not seek to vary these hours.

4. Increase in traffic including large trucks will be unacceptable if the development goes ahead.

Officer comment:

The proposed modification will not give rise to increased traffic. The proposed modifications result in a reduced building footprint and reduced floor area as compared to the approved development.

5. Noise and dust from large trucks waking residents early in the morning causing stress.

Officer comment:

The proposed modification will not give rise to increased noise and dust.

Council has instructed the applicant that they must comply with the construction and operating hours as specified in the approved consent. The submitters have been

advised to notify Council immediately if there are any future breaches to the construction or operating hours approved.

6. Approved traffic management plan not been adhered to. Trucks arriving at 6am and on Sundays which is not permitted.

Officer comment:

This issue relates to an existing situation and does not relate to the proposed Section 96 modifications.

Council has instructed the applicant that they must comply with the operating hours as specified in the approved consent. The submitters have been advised to contact Council immediately if there are trucks entering or exiting the site outside the approved hours stipulated in the approved consent.

7. Loss of view with the additional buildings.

Officer comment:

Three buildings were approved to be constructed in three separate stages as part of the original consent. The proposed shed will replace the northern section of the approved Stage 2 glasshouse and will be located within the footprint of the approved Stage 2 building.

The proposed modifications result in a reduced building footprint and reduced floor area as compared to the approved development. The floor area of Stage 2 will be reduced by 2173m².

The overall height of the Stage 2 development is increased by 1.8m. However, the additional separation proposed between Stages 1, 2 and (future) Stage 3 and the reduction in floor area of Stage 2 will break up the bulk of the development. As such, the proposed modifications are not considered to give rise to significant additional bulk or loss of views. It is also noted that there is no maximum height restriction for this area of the site under the provisions of the LEP.

Overall the proposed modifications are considered to have a reduced impact as compared to the existing approved situation.

8. The loss of a rural lifestyle due to constant noise and traffic.

Officer comment:

The proposed modification will not give rise to increased noise and traffic. The proposed modifications result in a reduced building footprint and reduced floor area as compared to the approved development.

9. Concerns regarding adverse impact on property values for nearby properties.

Officer comment:

Property values are not a matter for consideration in the assessment of a Section 96 application. Notwithstanding, the proposed modifications result in a reduced building footprint and reduced floor area as compared to the approved development. As such

the proposal is considered to have a reduced impact as compared to the existing approved situation.

(e) The public interest

The public interest is served through the detailed assessment of this modification application under the *Environmental Planning and Assessment Act 1979*, the Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments, Development Control Plans and policies. Based on the above assessment, the proposed modifications are consistent with the public interest.

EXTERNAL REFERRALS

Department of Primary Industries

Pursuant to Clause 120 of the Environmental Planning and Assessment Regulation 2000, the modification application was referred to the Department of Primary Industries as the original development required approval under the Fisheries Management Act 1994 and was classed as Integrated Development.

No objection was raised from the Department of Primary Industries regarding the proposed modifications.

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The modification application has been assessed in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. Accordingly, Section 96(2) Modification Application 1178(3)/2010 is recommended for approval subject to the modified conditions contained in this report.

CONDITIONS

1.0 – General Requirements

The following conditions of consent are general conditions applying to the development.

- (1) **Approved Plans** - The development must be carried out generally in accordance with the following approved plans or other documentation:

Development Plans

Job No db1764 Drawings 02, 03, 04, 05, 06, 07 and 08 prepared by Bennett Design, dated 14.9.2010 but not where amended by plan reference DA1, DA2, DA3, DA4 and 301011-8 Rev 5.

As amended by Job No db2240, Sheet No A1, A3, A4 A5, A6, A7, A9, A10, A11 dated 23 Jan 2015 and A2, A9, A13 dated 31 March 2015 prepared by Bennett Design

Concept Engineering Plans

Job No. 3678 Drawings C-01, C-02, C-03, C-04, C-05, C-06, C-07, C-10, C-11, C-12, C-13, C-14, C-15 but not where amended by plan reference 301011-8 Rev 5 (as amended in read) except for the provision of a perimeter access road for fire and emergency access.

Supporting Documents

- Statement of Environmental Effects prepared by JBA planning Dated October 2010 (as amended)
- Aboriginal Heritage Assessment prepared by Mary Dallas Consulting Archaeologists, dated 27.8.2010
- European Heritage Report prepared by Jill Sheppard Heritage Consultants, dated September 2010
- Traffic and Parking Assessment Report, prepared by Varga Traffic Planning, ref no 10173, dated 28 Sep 2010
- Statement on Provision of Roads, Sewage and Site Stormwater Drainage Stormwater, prepared by Warren Smith & Partners Uob no 3678)
- Acoustic Impact Statement Prepared by Wilkinson Murray Dated 15 September 2010
- Preliminary Salinity Report prepared by Whitehead and Associates dated 9 September 2010
- Terrestrial Flora and Fauna Assessment prepared by Biosis Research, project no. N11507
- Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners, Ref 8101353, dated 15.9.2010

The development must also comply with the conditions of approval imposed by Council hereunder.

Amendments or modification of the approved development require the written prior approval of Camden Council.

(This condition is proposed to be modified by Section 96 Modification 1178(3)/2010).

- (2) **Research Agreement** - That a binding Research Agreement between the University of Sydney and the operator of the Educational Establishment shall be entered into and submitted to Camden Council. This consent will become invalid if at any time, the agreement for use is not in place.
- (3) **Requirements of NSW Industry and Investment**– Development shall be consistent with the General Terms of Approval issued by the NSW Department of Industry and Investment dated 16 November 2010 and attached to this consent. The facility must be operated in accordance with an operative permit issued under the Fisheries Management Act 1994 at all times.
- (4) **Building Code of Australia**- All works must be carried out in accordance with the requirements of the *Building Code of Australia*.

- (5) **Non Habitable Use** - The development shall not be used for habitable purposes.
- (6) **Disability Discrimination Act** - This approval does not necessarily guarantee compliance with the Disability Discrimination Act 1992, and the applicant/owner is therefore advised to investigate their liability under the Act.

2.0 - Construction Certificate Requirements

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

- (7) **Sewage Management** - That an application under Section 68 of the Local Government Act 1993 shall be approval to Council for the installation of the sewage management system. This shall be approved prior to the issue of the Construction Certificate.

Note: This system shall be a system that is NSW Department of Health Accredited, Compliant with Council Sewage Management strategy and the Australian/New Zealand Standards

- (8) **Design and Construction Standards** - All proposed road, civil and structural engineering work associated with the development must be designed and constructed strictly in accordance with:
 - (i) Camden Council's current Engineering Design Specifications, and (ii) the recommendations of the Salinity Management Plan

It should be noted that designs for linemarking and regulatory signage associated with any proposed public road within this subdivision MUST be submitted to and approved by the Roads Authority, Camden Council prior to the issue of any Construction Certificate.

- (9) **Parking Spaces** - A minimum of 15 car parking spaces must be provided on site. These spaces, and associated access driveways and manoeuvring areas must conform with Camden Council's Development Control Plan 2006, and must be designed in accordance with a pavement design prepared by a Geotechnical Engineer and the Consent Authority's (ie Camden Council) standard. Documentary evidence of compliance from an Accredited Certifier/Suitably qualified person must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.
- (10) **Internal Road Design And Width** - With the exception of garbage and recycling collection vehicles, the developer must not permit the reversing of vehicles onto or away from the road reserve. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with Australian Standard 2890.1 Parking Facilities - Off Street Car Parking.

Any vegetation required to be removed for the installation of these roads and supporting works shall be replaced as soon as practical after road works with suitable and fast growing hedge and screening species. These species are to be shown on a detailed landscape plan

(This condition was modified by Section 96 Modification 1178/2010 on 17 May 2012).

- (11) **Vehicular Area Design Standards** - The internal driveway and car parking area must be designed in accordance with AS2890.1-1993 off-street carparking.
- (12) **Traffic Management Procedure** - Traffic management procedures and systems must be introduced during construction of the development to ensure safety and minimise the effect on adjoining pedestrian and traffic systems. Such procedures and systems must be in accordance with AS1742.3 1985 and to the requirements and approval of Council (and the Roads and Traffic Authority). Plans and proposals must be approved by Council (and the Roads and Traffic Authority) prior to the Construction Certificate being issued.
- (13) **Surface Drainage** - To prevent surface water from entering the building:
- The floor level for slab on ground construction shall be a minimum of 150 mm above finished ground level for rooms;
 - Seepage and surface water shall be collected and diverted clear of the building by a sub-surface/surface drainage system;
 - The control of surface water drainage shall in all respects comply with the Building Code of Australia;
 - Where a rainwater tank is required on the site, all surface water drainage lines shall be connected to the outlet overflow drainage line from the rainwater tank.
- (14) **Drainage Design** - A stormwater management plan is to be prepared prior to the issue of a Construction Certificate to ensure that the final stormwater flow rate off the site is no greater than the maximum flow rate currently leaving the development site for all storm events. This plan must be submitted and approved by the Principal Certifying Authority. Such designs must cater for future developments of land adjoining the site and overland flow from adjoining properties.
- (15) **Stormwater Disposal** - Stormwater run-off from the whole development must be properly collected and discharged to the Council drainage system. Surface discharge across the footpath to the road gutter is not permitted. Provision must be made to cater for existing stormwater overland flow from adjoining properties.
- (16) **Stormwater Detention** - The capacity of the existing stormwater drainage system must be checked to ensure its capability of accepting the additional run-off from this development. If necessary an on site detention system must be provided to restrict stormwater discharges from the site to pre-development flows. The system is to provide for all storms up to and including the 1% AEP event. Engineering details and supporting calculations must be prepared by a qualified Hydrology Engineer and submitted to the PCA for approval with the Construction Certificate.

On completion of the on-site detention system, Works-as-Executed plans are to be prepared by a registered surveyor or the design engineer and submitted to the Principal Certifying Authority. If Camden Council is not the Principal Certifying Authority, a copy is to be submitted to the Council prior to the issue

of the Occupation Certificate. The plans are to be certified by the designer and are to clearly make reference to:

- the works having been constructed in accordance with the approved plans,
- actual storage volume and orifice provided,
- The anticipated performance of the system with regard to the design intent.

The developer must prepare a Section 88B Instrument for approval by the Principal Certifying Authority which incorporates the following easements and restrictions to user:

Restriction as to user indicating that the on-site detention basin must be maintained at all times to a level sufficient to ensure efficient operation of the basin, and that the Consent Authority (ie Camden Council) must have the right to enter upon the burdened lot with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time and without notice in the case of an emergency) to:

- a) view the state of repair of the basin;
- b) to execute any work required to remedy a breach of the terms of this covenant if the proprietor has not within fourteen (14) days of the date of receipt by the proprietor of written notice from the Council, requiring remedy of a breach of the terms of this covenant, taken steps to remedy the breach and without prejudice to the Council's other remedies the Council may recover as a liquidated debt the cost of such remedial work from the proprietor forthwith upon demand.
- c) restriction as to user indicating that the on-site detention basin must not be altered, or removed in part, or structures erected thereon without the prior consent of Council.

- (17) **Public Risk Insurance Policy** - Prior to the issue of the Construction Certificate, the owner or contractor is to take out Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve. The Policy is to note Council as an interested party and a certificate of currency from the insurer of such policy must be submitted to the Council as evidence of such policy. Where the coverage of such policy expires during the period of construction of the works, the policy must be renewed prior to the expiration of the policy and a Certificate of Currency from the insurer.

Failure to keep the works insured shall be reason for Council to make the works safe and all costs associated with making the works safe shall be a cost to the owner of the land.

- (18) **Soil Erosion and Sediment Control Plans** - Soil erosion and sediment control plans must be designed and installed in accordance with the Consent Authority's (ie Camden Council) "Soil Erosion and Sediment Control Policy".

Control measures must be maintained during the entire development procedure and can only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised.

Plans containing a minimum of four (4) sets of the undermentioned information must be prepared and submitted to the Principal Certifying Authority for approval prior to a Construction Certificate being issued:

(a) existing and final contours

- (19) **Salinity** - Due to the inherent characteristics of the Camden Local Government Area landscape, buildings erected in the area may be susceptible to soil salinity levels that will have a cumulative damaging effect on the building over time.

For these reasons, the Structural Engineer may have to incorporate in the design of the structural elements of the building, measures to reduce/prevent any detrimental effect to the building from accumulative salt deposits. A Structural Engineer's Certificate is to be submitted to the certifying authority prior to the issue of a Construction Certificate, stating that the soil salinity was considered when designing the structural elements of the building.

That all buildings and roads should be constructed in accordance with the "Preliminary Salinity Report" prepared by Whitehead and Associates section 5 Conclusion and Recommendations, along with the Councils Policy "Building in a Saline Environment".

- (20) **Trade Waste Bins** - Provision must be made for the storage of the trade waste bin within the building/external to the building which does not compromise the allocated number of off street parking spaces. Trade waste bins must be emptied on a regular basis to prevent odour and fire hazard occurring.

The location of the trade waste bin must be clearly indicated on building plans and submitted to the Principal Certifying Authority for approval prior to a Construction Certificate being issued.

- (21) **Sydney Water Clearance** - Prior to the issue of a Construction Certificate a section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water and submitted to the Principal Certifying Authority.

- (22) **Tree Removal Works that will require a Public Road Activity Approval** - Any proposed tree or vegetation removal or clearing that:

- a) Will involve the use of a crane or;
- b) utilises any such equipment;

that will impact upon a Public Road in such a manner that the normal vehicle movement, peak hour and school zone traffic, immediate residents, area amenity or pedestrian thoroughfares are affected, must be approved by the Public Roads Authority (i.e. Camden Council).

That approval, in the form of a Public Road Activity approval, must be obtained prior to the commencement of the subject tree work.

Accordingly, an application for approval for a Public Road Activity must be submitted to the Public Roads Authority (i.e. Camden Council).

Public Road Activity (PRA) application forms are available from Council's Customer Service Counter or from Council's internet site www.camden.nsw.gov.au.

The PRA application shall include:

- (i) Supporting information that details all proposed activities.
- (ii) A Certificate of Currency for an appropriate Public Liability Policy.
- (iii) A Traffic Control Plan (TCP). A Roads & Traffic Authority (RTA) accredited person or organisation must prepare the TCP.
- (iv) Details of the notification process to be applied, for affected street residents.

- (23) **Conditional Approval for tree removal** -Consent is granted for removal of Pines trees located within the proposed development envelope as shown on survey plan prepared by UES, drawing no. C-09 dated August 2010.

Tree work should only be carried out by a fully insured and qualified Arborist. Suitable qualifications for an Arborist are to be a minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

Where possible all green waste generated from the approved tree work is to be recycled into mulch or composted at a designated facility. All reasonable measures must be taken to protect the remaining vegetation on the site from damage during the approved tree works.

The issuing of this Consent is conditioned upon the planting and maintenance of twenty five (25) replacement trees (tree species consistent with Alluvial Woodland) as a means to achieve a "No Nett Loss" approach to vegetation management. The plantings shall consist of minimum 25 litre container stock and are to be installed on that portion of the property on the eastern side of the proposed development and the rear of properties fronting Cobbitty Road. Replanting shall occur within six (6) months of the authorised removals.

The replacement trees must be cared for and maintained until they reach a height of three (3) metres, the point at which the trees are further protected by Council's tree preservation provisions. Should any of the trees die before they reach the required height of three (3) metres then they shall be replaced with the same type and size of tree specified above.

At the appropriate time, arrangements will be made for a Council officer to inspect the planting/s (referred to in the clause above) to ensure that Council's objectives for vegetation management are being achieved.

- (24) **Tree Pruning** - The pruning of trees must be completed in accordance with the standards, specified in the "Australian Standard of Pruning Amenity Trees- AS 4373-2007".

This work should only be carried out by a fully insured and qualified Arborist. Suitable qualifications for an Arborist are to be a minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

- (25) **The Biosis Research** report recommendations, (6.0 Recommendations, page 34) are to be implemented in full at applicable works staging.
- (26) **Street Trees** are to be protected from damage during construction works.
- (27) **Responsibility for damage for tree removal/pruning** - The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
- (28) **Detailed Landscaping Plans** - Prior to the issue of the Construction Certificate, detailed Landscaping Plans prepared by a qualified Landscape Architect or suitably qualified Landscape Consultant, must be submitted with the Construction Certificate application for approval by the Principal Certifying Authority. The detailed Landscaping Plans must include (but not limited to):
- any proposed or existing permanent water bodies and/or wetland areas must have clear detail regarding the accessibility, positioning, and size and construction details of each installed permanent work area for on going maintenance.
 - any proposed lighting for paths, parks and any other open space area.
 - universal access details for all open space areas, parks, playgrounds and any other public accessible areas or facilities.
 - all landscape amenity elements such as boardwalks, playgrounds, picnic facilities, bubblers, signage, shade structures, paths, cycle ways, dog and litter bins as well as any furniture elements.
 - clearly detail any fencing, bollarding or other means of unauthorised vehicle control and access denial into and within all proposed open space areas.
 - clearly detail how controlled accessibility to all open space areas for emergency vehicles and personal will be achieved.
 - detailed planting schedule, which includes species listed by botanical and common names, quantities of each species, pot sizes, and the estimated size of the plant at maturity.
 - that the scale of planting is in proportion to the scale of the development and be consistent with the Cultural, Ecological, Heritage and Landscape character of the area.
- (29) **Bushfire Construction Requirements** - The subject site is within a bush fire prone area and is required to comply with 'AS3959 Construction of buildings in bushfire prone areas' and Planning for Bushfire Protection 2006. Prior to

the issue of a Construction Certificate, details shall be provided showing proposed construction compliance with the above bush fire attack category.

3.0 - Prior To Works Commencing

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (30) **Construction Certificate Before Work Commences** - This development consent does not allow site works, building or demolition works to commence, nor does it imply that the plans approved as part of the development consent comply with the specific requirements of Building Code of Australia. Works must only take place after a Construction Certificate has been issued, and a Principal Certifying Authority (PCA) has been appointed.
- (31) **Notice Of Commencement Of Work** - Notice in the manner required by Section 81A of the Environmental Planning and Assessment Act, 1979 and Clause 103 of the Environmental Planning and Assessment Regulation 2000 shall be lodged with Camden Council at least two (2) days prior to commencing works. The notice shall include details relating to any Construction Certificate issued by a certifying authority, the appointed Principal Certifying Authority (PCA), and the nominated 'principal contractor' for the building works.
- (32) **Signs To Be Erected On Building And Demolition Sites** - Under Clause 98A of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) showing the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, and
 - b) (showing the name of the 'principal contractor' (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work carried out inside an existing building that does not affect the external walls of the building.

Note: The PCA and principal contractor must ensure that signs required by this condition are erected and maintained.

- (33) **Toilet Facilities** - Toilet facilities must be provided at the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

- (34) **Soil Erosion And Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site.

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

Where a soil erosion and sediment control plan (or details on a specific plan) has been approved with the development consent, these measures must be implemented in accordance with the approved plans. In situations where no plans or details have been approved with the development consent, site soil erosion and sediment controls must still be implemented where there is a risk of pollution occurring.

An Infringement Notice issued under the Environmental Planning and Assessment Act, 1979, which imposes a monetary penalty of \$600.00, may be initiated by the Principal Certifying Authority (PCA) and issued by Camden Council where the implementation or maintenance of measures is considered to be inadequate. In the event that a risk of environmental pollution occurs an Infringement Notice issued under the Protection of the Environment Operations Act 1997, which imposes a monetary penalty of \$750 for an individual or \$1500 for a corporation maybe issued by Camden Council.

- (35) **Environmental Management Plan** - An Environmental Site Management Plan must be submitted to the Certifying Authority for approval. The plan must be approved in writing prior to the commencement of works The plan must be prepared by a suitably qualified person in accordance with AS/NZ ISO 14000 - 2005 and must address, but not be limited to, the following issues:

- a) All matters associated with Council's Erosion and Sediment Control Policy.
- b) All matters associated with Occupational Health and Safety.
- c) All matters associated with Traffic Management/Control during construction, which should address issues of access of construction traffic, storage material, location of site office, and parking for workers, use of equipment and other matters which has an impact on the road network or immediate environment.
- d) All other environmental matters associated with the site works such as noise control, dust suppression, waste management and the like.
- e) Any construction work which involved access to public road shall be subject to an approval of a Public Road Activity Application to Council accompanied by a Traffic Control Plan prepared by a RTA accredited Certifier.

4.0 - During Construction

The following conditions of consent shall be complied with during the construction phase of the development.

- (36) **Hours Of Work** - The hours for all construction and demolition work are restricted to between:
- a) 7am and 6pm Monday to Friday (inclusive);
 - b) 7am to 4pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8am to 4pm;
 - c) work on Sunday and Public Holidays is prohibited.
- (37) **Construction Noise Levels** - Noise levels emitted during construction works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA's Environmental Noise Control Manual. This manual recommends;

Construction period of 4 weeks and under:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

- (39) **Dust Control** - Potential dust sources on-site must be minimised through the maintenance of vegetation cover and the use of water sprays to suppress dust from exposed areas during periods of dry and/or windy weather.
- (40) **Fill Material for Development Site** - Prior to the importation and/or placement of any fill material on the subject site a validation report and sampling location plan for such material must be submitted to the Principal Certifying Authority for approval and concurrence. All filling or cutting more than 1.0m must be approved at the Development Application Stage development.

The validation of the fill material must be done prior to use of any fill material and validation report must be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

The validation report and sampling location plan must be prepared:

- a) by a practising engineer with National Professional Engineering Registration and with a Specific Area of Practice in Subdivisional Geotechnics,
- b) and in accordance with:
 - i. the Department of Land and Water Conservation publication "Site investigation for Urban Salinity", and
 - ii. The Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site Auditor Scheme (Second Edition) - Soil Investigation Levels for Urban Development Sites in NSW".

c) and confirm that the fill material:

- (i) provides no unacceptable risk to human health and the environment;
- (ii) is free of contaminants;
- (iii) has had salinity characteristics identified in the report;
- (iv) is suitable for its intended purpose and land use, and
- (v) has been lawfully obtained.

Sampling of VENM for salinity of fill volumes:

- less than 6000m³ - 3 sampling locations,
- greater than 6000m³ - 3 sampling locations with 1 extra location for each additional 2000m³ or part thereof.

A minimum of 1 sample from each sampling location must be provided for assessment.

Sampling of VENM for Contamination and Salinity should be undertaken in accordance with the following table:

Classification of Fill Material	No of Samples Per Volume	Volume of Fill (m ³)
Virgin Excavated Natural Material	1 (see Note 1)	1000 or part thereof

Note 1: Where the volume of each fill classification is less than that required above, a minimum of 2 separate samples from different locations must be taken.

- (41) **Roof Water Destination** - The roof of the subject building(s) must be provided with guttering and downpipes and all stormwater conveyed to:
- (a) an approved water storage tank; or
 - (b) the existing dam and/or natural watercourse on the subject allotment;

5.0 - Prior To Issue Of Occupation Certificate

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

- (42) **Occupation Certificate** - An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) prior to occupation or use of the development. In issuing an Occupation Certificate, the PCA must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979 have been satisfied.

The PCA must submit a copy of the Occupation Certificate to Camden Council (along with the prescribed lodgement fee) within two (2) days from the date of determination and include all relevant documents and certificates that are relied upon in issuing the certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with.

- (43) **Footpath Crossing Construction** - Prior to use or occupation of the development, a footpath crossing must be constructed in accordance with Camden Council's issued footpath crossing information.

To obtain such information a Public Road Activity application must be submitted to Camden Council with the appropriate fee. Applications forms are available from Council's: - Customer Service Centre, and/or Internet site- www.camden.nsw.gov.au

- (44) **Fire Safety Certificates** - A Fire Safety Certificate is to be submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000. The Fire Safety Certificate is to certify that each fire safety measure specified in the current fire safety schedule for the building to which it relates:

- a) has been assessed by a properly qualified person; and
- b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

As soon as practicable after the Final Fire Safety Certificate has been issued, the owner of the building to which it relates:

- a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
- b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

6.0 - Operational Conditions

The following conditions of consent are operational conditions applying to the development.

- (45) **Retailing Prohibited** - This consent does not authorise the sale or display of goods for retail to the general public from the site.
- (46) **Traffic Movements and Deliveries** - The hours of traffic movements and deliveries shall be restricted to between 7am and 10pm Monday to Saturday. No deliveries permitted on Sundays or Public Holidays.
- (47) **Trade Waste** - The applicant shall enter into a commercial contract for the collection of trade waste and recycling. A copy of this agreement shall be held on the premises at all times.

- (48) **Exhaust Fans**- That the 50" Exhaust fans shall only be used during the daylight hours of 7.00am to 6.00pm.
- (49) **Plant Noise Restriction** - The level of total continuous noise emanating from operation of all the plant or processes in all buildings (LAeq) (measured for at least 15 minutes) or in, the above premises must not exceed the background level by more than 5dB(A) when measured at any point on the boundary.
- (50) **MSDS** - That a Material Safety Data Sheet (MSDS) must be obtained for all Hazardous chemicals that are stored on the premises.
- (51) **Spill Kit** - That a spill kit must be provided for accidental chemical spills. The spill kit must contain items suitable for cleaning up spills of any liquid stored at the premises such items shall include absorbents, gloves buckets and face masks.
- (52) **General Requirement**- All activities associated with the development must be carried out in an environmentally satisfactory manner as defined under section 95 of the Protection of the Environment Operations Act 1997.
- (53) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises.
- (54) **Offensive Noise** - The use and occupation of the premises including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (55) **Disposal of water** - All water collected on site must be managed on site so that it does not pollute waters in accordance with "Section 120 - Prohibition of pollution of water" of the Protection of the Environment Operations Act 1997.
- (56) **Aquaculture**- a maximum of 250,000 fingerlings may be delivered to the facility per annum.
- (57) **Land Management** - The operation of the development will ensure that the site and land adjoining residential properties will be maintained in good order at all times.

(This condition was inserted by Section 96 Modification 1178/2010 on 17 May 2012).

- (58) **Water Tanks** - The water tank, its associated drainage, plumbing and supporting structure must be of suitable appearance, design and location, compatible with the immediate environment. Water collected therein must be used for non-potable purposes only in the interest of conservation. The entire system must be maintained in a sound and healthy state.

(This condition was inserted by Section 96 Modification 1178/2010 on 17 May 2012).

RECOMMENDED

That the Panel approve Section 96(1A) Modification Application 1178(3)/2010 for the modification of a previously approved at 107 Cobbitty Road, Cobbitty subject to the modified conditions listed above.