

<b>JRPP Ref. No.:</b>	2011SYW009
<b>DA No.:</b>	DA10/1322
<b>PROPOSED DEVELOPMENT:</b>	Proposed Erection of Three Campus Accommodation Buildings
<b>APPLICANT:</b>	University of Western Sydney
<b>REPORT BY:</b>	Deepa Randhawa, Senior Environmental Planner, Penrith City Council

## Assessment Report

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### Executive Summary

Council is in receipt of a development application which proposes the construction of campus accommodation buildings for residential accommodation for students of the University of Western Sydney (UWS) – Kingswood Campus.

The subject site is located within the UWS ground and adjacent to similar student residential accommodation buildings that were approved by Council in 2009. The site is also found within the Werrington Enterprise Living and Learning (WELL) Precinct.

The subject site is zoned 5(a) Special Uses – Tertiary Education under Penrith Local Environmental Plan 1998 (Urban Land). The proposed buildings relate to the existing university and associated facilities and are therefore a permissible form of development with consent in the 5(a) zone.

The proposed development is Crown Development, has a capital investment value in excess of \$5 million and was lodged on 23 December 2010. As such, the Sydney West Region Joint Planning Panel has the function of determining the application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979.

In accordance with Section 2.7 (Notification and Advertising) of Penrith Development Control Plan 2006, the proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. A total of 104 property owners and occupiers were notified in the surrounding area. The public exhibition period for the proposal was from 14 January 2011 to 14 February 2011. There were no public submissions received in relation to the proposal.

An assessment of the proposed development under the *Environmental Planning and Assessment Act 1979* has been undertaken and the proposal has been found to be satisfactory.

The proposed development is in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support.

This report recommends that the application be approved subject to recommended conditions of consent.

## **Background**

An application (DA08/1223) was approved for two student accommodation residential flat buildings to the immediate west of the site also on the Kingswood campus. There are seven student accommodation buildings with a maximum building height of three storeys already constructed on this site. This proposal seeks to continue the development of student accommodation on the Kingswood campus.

## **Site and Surrounds**

The site is located approximately 4km south east of Penrith city centre. The UWS Kingwood Campus comprises one allotment with a total site area of 61.78 hectares. The Kingswood campus adjoins the Werrington South campus which is found to the immediate east. The campus is of a rectangular shape bounded by Connell Street to the east and Second Avenue to the north (see location plan Appendix 1).

The development site is located in the outer internal road at the south west of the Campus, immediately adjacent to the east of existing student accommodation buildings (see aerial view Appendix 2). Primary access to the Kingswood campus is available from Second Avenue with secondary entry from O'Connell Street.

Student access around the site is generally encouraged via walking or cycling with student parking at the northern and western ends of the campus which is away from the key campus facilities. Service access is achieved through a number of service roads which come off Kearney Avenue (the main campus ring road).

The proposed development will occur adjacent to the existing student residential accommodation to the south west of the campus site. The campus adjoins residential development to the north and west.

## **Proposed Development**

The proposed development comprises of the following (see Site Plan and Elevations Appendix 3):

- Construction of three new student residential accommodation buildings on the UWS Penrith (Kingswood) campus, providing 100 beds.
- The pedestrian network and outdoor communal areas between the existing residential buildings and the proposed structures will be formalised and improved.
- An area of central open space into a number of gathering/activity areas including a seating/cafe courtyard, and tennis and volleyball courts.
- The provision of 50 car parking spaces.

There are three buildings that would have a maximum building height of 9.5metres and comprise:

## **Building 1**

Building 1 proposes 41 rooms comprising the following:

- 25 individual bedrooms with shared bathroom, kitchen and living room.
- 4 self contained accessible rooms.
- Communal laundry.
- Resident management office and Store room
- 12 self contained rooms with individual and shared kitchen, and shared living room.

## **Buildings 2 and 3**

Buildings 2 and 3 both have the same layout providing a total of 30 rooms in each building (totalling 60) over three storeys comprising the following:

- 60 individual bedrooms with shared bathrooms, kitchen and living room.

## **Landscaping Works**

The Landscape Plan seeks to create a number of outdoor communal areas in the form of a seating/cafe courtyard with tables. The new landscaped areas will include two volleyball courts, a tennis court, two new paved courtyard areas and 12 raised vegetable/flower gardens. The new landscaped areas will be enhanced and connected with new pathways and turf.

## **Crown Development**

The proposed development is a 'crown development' pursuant to Section 116B of the Environmental Planning and Assessment Act 1979 which means that prior to making a determination of a Crown Development Application, Council must furnish the applicant with a copy of the draft conditions of consent for concurrence.

The applicant has been given the opportunity to review the recommended conditions of consent and agreement has been reached between both Council and the University.

## **Planning Assessment**

The proposed development has been assessed against the relevant heads of consideration contained in Section 23G and Section 79C and Section 89 of the Environmental Planning and Assessment Act 1979, and based on this assessment; the following issues have been identified for further consideration.

The proposal has been assessed with due regard to relevant legislation and planning instruments cited as follows: -

- Section 79C and Part 5A - Development by the Crown of the Environmental Planning and Assessment Act 1979;
- Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River;
- State Environmental Planning Policy No.55 - Remediation of Land;
- State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development;
- Penrith Local Environmental Plan 1998 (Urban Land); and

- Penrith Development Control Plan 2006.

The proposal has been assessed in accordance with the above provisions and having regard to those matters, the following key issues have been identified for discussion:

### **1. Section 79C(1)(a)(i) – Any Environmental Planning Instrument**

#### ***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

Clause 164A of the Environmental Planning and Assessment Regulations 2000 provides the circumstances under which a BASIX certificate is required and the information that must be contained within the certificate. BASIX Certificates are not required for the student accommodation buildings as these buildings are Class 3 under the Building Code of Australia.

#### ***Sydney Regional Environmental Plan (SREP) No.20 – Hawkesbury/Nepean River***

SREP No. 20 applies to the subject land and stipulates that the consent authority shall not grant consent to an application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of SREP 20. The general aims and objectives of the plan are directed towards improving the amenity of the river and protecting the lands within the river valley, including scenic quality.

The proposal will have minimal impacts and is considered to not compromise the water or scenic qualities of the river environment and proposed erosion and sediment control measures to be employed during construction.

#### ***State Environmental Planning Policy No.55 – Remediation of Land***

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) provide aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55 the following must be considered:

- a. whether the land is contaminated, and
- b. if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The campus and surrounds had been previously used for the growing of crops prior to its zoning and development for the purposes of a university. Agricultural activities are identified as a potential contaminating activity.

The subject site has been used as a tertiary establishment for a number of years. Further, the campus consists of a number of lecture buildings, offices, recreational facilities and in particular, a series of existing residential accommodation buildings adjacent to the development site.

While it is anticipated that the development site would not pose an adverse risk to humans health and the environment in respect of contamination, it is considered that the applicant to undertake necessary assessment of the land to confirm that the site is suitable for the purposes of the proposal.

Accordingly, a condition of consent will be imposed for the applicant to undertake an environmental site assessment to confirm if any remediation is required (See Special Condition No. 2.3).

### ***State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development***

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65) aims to improve the design quality of residential flat development.

SEPP 65 does not contain numerical standards, but refers to “*Residential Flat Design Code*” (the code). The code provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

Under the provisions of SEPP No.65 – Design Quality of Residential Flat Development (SEPP 65), Building 1 of the proposal is defined as a Residential Flat Building as it comprises of a building of 3 storeys that includes 4 or more self-contained dwellings.

Buildings 2 and 3 within the proposed development do not qualify as Residential Flat Buildings (RFBs) as they do not include any self-contained dwellings. All rooms within Buildings 2 and 3 share communal facilities.

In accordance with Clause (1A) and (5)(a) of the Development Applications controls under Part 4 of SEPP 65, a Design Verification Statement which verifies that the design quality principles set out under Part 2 of the SEPP has been submitted by the applicant.

An assessment of the Building 1 has been undertaken in accordance with the Design Quality Principles of Part 2 of SEPP 65 and is briefly discussed as follows:

#### *(i) Design Quality Principle 1: Context*

The site is located south of the existing campus buildings in the area assigned as “residential village” in accordance with the Master Plan for the University. The immediate site maintains a gentle slope to the south and is free of significant trees within its vicinity.

The existing campus accommodation consists of a mix of the older style residential accommodation in form of two storey’s buildings with pitched roofs and the recently constructed built form of two to four storey’s in height with flat roofs and are constructed of redbrick masonry with expressed concrete structures and fenestration elements such as sunshades and louvers.

The proposed development is consistent with its surrounding built form and compliments the dominant land use being the University Campus.

The building relates to adjoining developments of similar bulk and scale. The proposed development provides for a number of outdoor communal areas in the form of a seating/cafe courtyard and sporting facilities and the landscape layout provides a strong vertical axis created by the existing campus facilities, and will contribute to the definition of the outdoor congregational areas.

*(ii) Design Quality Principle 2: Scale*

The proposed buildings would have a maximum height of three (3) storeys which are considered to be in keeping with the existing University buildings on the site. There is significant distances to adjacent residential areas and the adjoining seniors living development involves two storey building heights for the independent living unit with the Residential Aged Care Facility being more in keeping with the University buildings. Accordingly, it is considered that the proposal would be of a scale that is in keeping with the surrounding built environment and provides a gradual transition of building height to surrounding development.

*(iii) Design Quality Principle 3: Built Form*

The proposed buildings have planned along with horizontal axis created by the existing campus accommodation buildings to define a continual progression of the built form.

The proposed setbacks are sufficient to allow outlook of the internal open spaces to encourage passive surveillance and safety whilst allowing for visual privacy to the proposed buildings.

The proposed building achieves an appropriate built form for its location, use and context. The courtyards for the residents are formed between the buildings and enhance the internal amenity of the development. The building masses are articulated and massing within the proscribed envelope aiming to reduce apparent building bulk and the use of detail elements, a mix of building materials and colour.

*(iv) Design Quality Principle 4: Density*

The student accommodation seeks to cater for future demand and anticipated growth the in the University. The proposal is a response to the type of accommodation needed so that the University is able to attract and retain students.

The proposal meets density control for the zoning and is similar to adjoining buildings.

*(v) Design Quality Principle 5: Resources, Energy and Water Efficiency*

The code recommends that 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm mid winter into the living rooms and private open space. The layout of the proposed units has ensured maximum solar access with 100% of the units receiving the required solar access consistent with the code. Furthermore, 100% of the proposed units provide dual aspect to the north and south elevations ensuring maximum use of natural light.

Passive solar design principles have been incorporated through a high level of solar access and natural ventilation of units as well as effective thermal massing.

The design responds to environmental concerns by focusing on natural ventilation, and light.

*(vi) Design Quality Principle 6: Landscape*

The proposed communal open space provides adequate solar access. The landscape strategy includes seating, paved area, grassed area, deep planting and a tennis and volley ball courts which provide effective amenity both internally and to the public domain. The landscaped open space provides connectivity between the buildings and provides an adequate buffer to ensure maximum amenity is offered to the occupants of the units.

The communal open space on offer within the University ground and around the proposed buildings is far in excess of what is recommended by the code.

The landscape design strikes an effective balance between visual privacy and safety and security.

*(vii) Design Quality Principle 7: Amenity*

Main living spaces in each of the proposed units are open plan and located directly adjacent to their main private open space. This is intended to promote an extension of the living space. Secondary communal balconies are also provided.

The balconies are functional and promote indoor/outdoor living. The proposal provides a high level of amenity for all of the units including layout, natural ventilation, solar access and private open space. Room sizes are generous throughout as are ceiling heights, maximising fresh air and light. There are communal recreation facilities for the development. These facilities have a garden aspect, easily reached by all residents via landscaped area pedestrian walkways.

There is ample car parking provision on the site itself, which minimises any potential impact of the development on local traffic conditions.

The site is served by public transport in terms of UWS shuttle Bus and Kingswood Station is within walking distance.

*(viii) Design Quality Principle 8: Safety and Security Assessment*

The proposed units are oriented to allow windows for passive surveillance of the communal open spaces and the main entrance. All entrances are highly visible, are in highly trafficked areas and have good sight lines across the site. The proposal also incorporates a site manager who would reside at the building. Safety and security measures incorporate unobscured public domain spaces, all lobbies are wide and brightly lit, with units adjacent to facilitate safety and passive overlooking and all landscaped spaces and pedestrian boulevards within the site will be well lit, and designed to maximize personal security.

A closed circuit television (CCTV) system will also be in place to monitor the premises. A plans showing the proposed location of closed- circuit television (CCTV) has been submitted with the application.

*(ix) Design Quality Principle 9: Social Dimensions*

The proposed development compliments the existing housing on campus to accommodate the demand for student accommodation.

The proposal incorporates a range of 4, 5 and 6 bedrooms units thus encouraging interaction of students. There are a number of equal access units in both studio and shared option.

Students come from a range of cultural and socio-economic backgrounds and the proposal would cater for students of all ages.

*(x) Design Quality Principle 10: Aesthetics*

The architectural style is contemporary and is sympathetic to its surroundings. The individual buildings reduce building bulk and the landscaped setting will ensure they are integrated into their surroundings. The proposal uses a combination of precast concrete, perforated metal screens, vertical louvers and highlight colours and textures to achieve a modern finish and visual appeal.

The proposal is designed to appear lightweight with defined entry points. Balconies are common external areas that create active edges for the proposed buildings both functionally and aesthetically.

The external finishes of the buildings are similar to the recently approved and constructed student accommodation creating a consistent theme throughout the development which represents contemporary design responses targeted toward the end users.

In consideration of the detailed information above it is considered that the subject proposal can reasonably satisfy the design quality principles of SEPP 65 and the guidelines contained within the associated 'Residential Flat Design Code 2002.

***Penrith Local Environmental Plan 1998 Urban Land***

The subject site is zoned 5(a) Special Uses (Tertiary Education) under the provisions of the Penrith Local Environmental Plan 1998 – "Urban Land" (LEP). The proposed development is ancillary to the existing tertiary establishment on the site and accordingly is permissible within the zone, only with development consent.

The objective of the 5(a) Special Uses (Tertiary Education) zone is as follows:

*To facilitate certain development on land which is, or is proposed to be, used by public authorities, institutions, organizations or the council to provide and protect services, utilities or transport facilities and associated activities.*

The proposed development is for the purposes of student accommodation in association with the university campus. It is considered that the associated nature of the proposal with the university is consistent with the objective of the 5(a) zone.

The following clauses within the LEP are applicable to the proposal:

*Clause 17 - Provision of community services and infrastructure*

Requires the development to provide adequate support services and utilities are or will be available to the site of the proposed development within a reasonable time.

The subject development site accommodates an existing university campus which has essential services available to support the proposed development. Suitable conditions of consent would be imposed to ensure that necessary connection to utilities would be made during the construction of the proposed development (See Condition Nos.2.23 & 2.24).

*Clause 28 - Tree preservation*

There are no existing trees in the vicinity of the proposal development site that would be impacted by the proposed development. Additional trees are provided as part of a comprehensive landscaping scheme which will enhance the site.

**2. Section 79C(1)(a)(iii) – Any Development Control Plan**

***Penrith Development Control Plan 2006***

The proposed development has been assessed in accordance with the requirements of the DCP and a summary of the key issues are demonstrated in the following table:

<b>REQUIREMENT</b>	<b>COMMENT</b>	<b>COMPLIES</b>
<b><i>Section 2.2 Crime Prevention through Environmental Design</i></b>		
<b>Lighting</b>	Lighting will be provided to all footpaths and common areas, with a focus on entry points to buildings in order to improve passive security.	Yes
<b>Entrapment spots and blind corners &amp; Landscaping</b>	Pathways are mostly linear to promote sightlines and there are very limited opportunities for concealment. The Landscape Plan provides species selection that includes native trees which a higher canopy, clear trunks and drought-tolerant low shrub species that maintain sightlines and avoid entrapment.	Yes
<b>Communal/ Public Areas</b>	Design of built form and landscaping enables effective passive surveillance from residential units over all communal outdoor areas.	Yes
<b>Entrances</b>	At ground floor level - separate entrances have been provided for each the self contained rooms and a common entrance is provided for the share accommodation with entrances facing the public domain. Upper levels have an entrance from a communal stairwell.	Yes
<b>Security</b>	Swipe card systems will be utilised for the communal facilities. Individual keys will be used for each unit and individual student rooms. Door and window locks in all dwellings will comply with Australian Standards. University campus security guards will patrol the premises.	Yes
<b><i>Section 2.6 Landscaping</i></b>		
<b>Tree Management</b>	There are a few recently planted native species near	Yes

<b>REQUIREMENT</b>	<b>COMMENT</b>	<b>COMPLIES</b>
<b>Plan</b>	the existing residential buildings, these will not be impacted by the proposed development. A Landscape Plan is provided in support of the application.	
<b>Section 2.9 Waste Planning</b>		
<b>Waste Management Plan</b>	A waste management plan has been prepared in support of the subject proposal and addresses space, access, amenity, construction and management.	Yes
<b>Controls for multi-unit dwellings</b>	Each proposed building will be provided with a garbage storage area at ground level in the form of garbage and recycling bins. The university staff service these bins three times a week, delivering the waste to large skips in the proposed communal waste storage area along the Kearney Avenue.	Yes
<b>Section 2.11 Car Parking</b>		
<b>On-site resident parking for each dwelling;</b>	50 car spaces are provided as part of the current proposal. As per the previous approval granted for student accommodation the adopted parking rate is of 1 car space is to be provided per 10 bedrooms within the facility. Therefore 11 spaces are required as a minimum.	Yes
<b>Section 4.6 - Apartment Development</b>		
<b>Clause 3.7.1 - Drainage</b>	<p>Drainage is connected to the existing drainage system. The drainage shows areas to be utilised as a water quality treatment pond, which is acceptable. A similar above ground OSD system exists upon the western side of the development.</p> <p>Roofwater from the new buildings will be collected in rainwater tanks which are to be located to the south-east of the new structures. Water stored in the tanks will be used for toilet flushing and watering of garden areas in the new development. Run off from surface areas will be collected by swales and flow directed around the new buildings. Stormwater pits and pipes will be provided where swales are not adequate to control stormwater flows.</p> <p>Overflow from the rainwater tank and surface flow will drain to two ponds located to the south-east of the buildings. The lower pond will overflow into the existing gully, maintaining existing stormwater paths, which include the pond systems near O'Connell Street. Rock lining will be provided to the upper section of the gully, to act as an energy dissipater and to prevent erosion. Stormwater from the new parking area will be collected by pits and piped to the existing stormwater drainage system.</p>	Yes
<b>Clause 5.5 - Landscaping</b>	The proposed development will have substantial open space and landscaped areas surrounding the	Yes

REQUIREMENT	COMMENT	COMPLIES
	residential and communal facilities.	
<b>Clause 5.6 - Building Envelopes and Side Setback</b>	<p>The breaking up of the building length into smaller separate building units allows for the ground levels to adjust to changing topography. Whilst the cut and fill will exceed 500mm in some locations (up to 2m), this is the minimum possible for such a large development on sloping terrain.</p> <p>The proposed buildings have been articulated by breaking larger building mass into sub-buildings and re-orienting these buildings to reduce the visual scale.</p>	Yes
<b>Clause 5.8 - Solar Access</b>	The buildings have been orientated so that living areas can take advantage of the northern aspect. All units are provided with a minimum of 3 hours sunlight during the winter solstice.	Yes
<b>Clause 6.3 - Building Design</b>	<p>The proposal has minimum visual prominence from key public vantage points around the campus.</p> <p>A maximum height of three storeys has been used which is sympathetic and in accordance with other university buildings.</p> <p>The built form has been broken up into three separate building units that have been articulated to reduce its bulk and scale.</p> <p>The elevations/facades adopt both vertical and horizontal articulation using different solid and transparent materials and colours.</p>	Yes
<b>Clause 6.4 - Energy Efficiency</b>	Shade structures are proposed to the northwest façade of the building to reduce the requirement for mechanical cooling.	Yes
<b>Clause 6.12 - Storage and Services</b>	<p>Each unit and each student room will have storage space that will exceed 10m<sup>3</sup> per dwelling. Provision for letter boxes is made in Building No 1.</p> <p>The buildings will be serviced with high-speed internet access ports in all bedrooms and/or a wireless link to allow individual connections. Cable TV or Digital TV will be accessible in each living area.</p>	Yes

The proposal has satisfied the provisions of the Penrith Development Control Plan 2006.

### **3. Section 79C(1)(b) – The Likely Impacts of the Development**

#### *Building Design*

The subject site sits south of the existing residential campus in University of Western Sydney, Kingswood Campus. The campus site when viewed from the west and south is a combination of established low density residential and rural living respectively.

The immediate development site is located on an elevated portion of the campus and maintains a prominent vista when viewed from the surrounding area.

The scale and layout of the buildings is considered to be appropriate in relation to the space and massing of residential and other university facilities. The buildings have been designed such that sufficient solar access is available to the rooms, and the location of one building does not impact the solar access of another. This is due to the stepped design following the natural contours of the land.

#### *Noise*

An Acoustic Report prepared by Day design dated 22 December 2010 had been submitted in support of the subject application. The report covers the noise generated from mechanical plant associated with the proposed accommodation facility. It is anticipated that noise generation from the proposal would be minimal and would not impact to the nearest residential premises at the Aged care Facility.

A condition would be imposed for the applicant to demonstrate that any plant and equipment associated with the proposal would be in accordance with the Department of Environment and Climate Change's Industrial Noise Policy and sleep disturbance criteria (See Special Condition No.2.17).

#### *Environmental Sustainability*

The proposed development will incorporate a number of sustainability initiatives for reduced water and energy consumption. These include passive solar design and orientation of all buildings and primary living spaces to minimise heating requirements in winter and cooling requirements in summer. The proposal incorporates rainwater retention and re-use system for stormwater collection.

Overland flows will be directed around the proposed buildings using swales and rock barriers where appropriate. Two ponds are installed to collect and filter excess stormwater, reducing sedimentation, which will then continue to drain into the existing natural stormwater flows of the site.

#### **4. Section 79C(1)(c) – The Suitability of the Site for the Development**

The University of Western Sydney, Kingswood campus provides for educational facilities of inter-state and international recognition, increasing the demand placed on campus residence facilities.

The proposed development provides an opportunity for the University to provide greater opportunity for students wanting to undertake education at the Campus. The existing student residence facilities provide for the core of a residential precinct, which allows for a high level of amenity and community potential. The adjoining residential development, coupled with open areas on gently sloping land, provides for a suitable site capable of accommodating the proposed developments which will contribute and foster to a strong student residence precinct within the Kingswood campus.

The university site and subject development area are therefore considered to be capable and suitable for the development of additional student residence facilities and community sharing spaces.

## **5. Section 79C(1)(d) – Any Submissions made in relation to the Development**

### **Internal Referrals**

The application was referred to the following stakeholders and their comments have formed part of the assessment: -

- *Building Surveyor*  
No objection raised, subject to conditions
- *Development Engineering*  
No objection raised, subject to conditions
- *Environment Health Department*  
Council's Environmental Health Department raised the issue of contamination. See Section 1(c) of this report.

### **Community Consultation**

The subject application was placed on public exhibition and notified to adjoining property owners from 14 January 2011 to 14 February 2011. No submissions were received in response to the proposal.

## **6. Section 79C(1)(e) – The Public Interest**

The proposed development is in keeping with the existing built environment and is consistent with the relevant planning instruments and future plans applicable to the site. The proposal is therefore considered to be in the general interest of the public, and will not conflict with the character or amenity of the surrounding region.

### **Section 94 Contributions**

Section 94 development contributions are applicable to the proposed development as it is sited within the UWS Kingswood Campus sub-precinct identified in the WELL Development Contributions Plan 2008. The contributions plan indicates that development within the sub-precinct would be applicable to a number of contributions to the WELL precinct including community facilities, drainage, roadwork, open space and administration.

Circular D6 was introduced in 1993 by the former Department of Urban Affairs and Planning ('DUAP') and updated in 1995. The circular provides policy direction regarding appropriate conditions of consent, in particular, the limitations on imposition of levies on Crown Developments where an application proposes a 'public service' as opposed to a commercial development.

The circular provides a need for consent authorities to consider the public benefit gained from the provision of services by the Crown in the application of conditions of consent. The circular also provides that 'educational services' are exempt from contributions except for road and drainage works.

Council at its' Ordinary meeting on 27 June 2011 resolved to endorse an option for the cost of works within the WELL precinct which are subject to the WELL

Development Contributions Plan as a policy approach in dealing with current and future Development Applications, as follows:

- “a. development contributions up to \$30,000 will be applied, and directed to recreation, community, administration and selected road facilities in the WELL s94 Plan, and the revised District Open Space Plan and the current Cultural Facilities Plans;*
- b. conditions imposed on the development consent will require proponents to provide all required drainage works, to be delivered in accordance with DCP 2006;*
- c. conditions imposed on the development consent will require proponents to provide all roads which are 100% apportioned to the Caddens sub-precinct, to be delivered in accordance with DCP 2006.”*

The WELL Development Contributions Plan makes provision for road works which are not 100% apportioned to the Caddens sub precinct as well as intersection improvements to the east and west entrances of the Kingswood campus. Applying the Contribution Plan in relation to road works (and administration), a total contribution of \$31,667 is required.

In relation to drainage and notwithstanding the above resolution, this application proposes a stormwater management plan for this stage which provides water quality and quantity functions and has been assessed as satisfactory by Council's Engineer's. It involves two basins which overflow via an existing flow path to Werrington Creek flowing north and this does not rely upon any water management facilities identified in the WELL Precinct S94 contributions plan nor the Caddens DCP. Section 94 contributions are not therefore proposed to be levied for drainage works for this stage and the proposed drainage works will form part of the approval.

Given that University is a prescribed authority for the purposes of a Crown development and that the application of Section 94 monies is limited to those matters outlined in the Department of Planning Circular, the above amount for road works represent what Council is entitled to seek payment towards. The applicant has been informed of Council's position in respect to development contributions and has requested that the need for payment be required prior to occupation.

It is recommended that Council impose the applicable contribution fees for the purposes of road works and plan administration as consent conditions to be payable prior to occupation of the buildings.

## **Conclusion**

The proposed development is consistent with the masterplan for the University campus and provides enhanced student accommodation within the campus. The new student accommodation will provide scope for the University to attract and retain existing students and further develop the range of services on offer within the campus. This is a desirable outcome for the University and for Penrith as it will see the viability and attractiveness of the University further improved.

The application has been assessed against the relevant considerations within the Environmental Planning and Assessment Act and as outlined in the above report the application is considered to have substantial merit and is unlikely to pose any

significant impact to any adjoining lands. The University is proposing a contemporary, energy efficient development and one that will provide safe and convenient living for the students that will reside there. As has been stated in the Department of Planning Circular D6, this application does provide a public benefit in that it will offer cost effective housing for student accommodation within the University campus. The attractiveness of the University for students is important not only for its viability but for Penrith as a City, due to the role the University plays within the region.

As outlined in the report, the application is considered to be one that should be approved subject to the conditions attached.

## **Recommendation**

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1. The information contained in the report on Student Accommodation & Residential Management Centre at the UWS Kingswood Campus, 56 Second Avenue, Kingswood be received
2. The subject Development Application be approved, subject to the imposition of the following conditions:
  - 2.1 *A001 – Approved Plans*

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

<b>Drawing Title</b>	<b>Drawing No.</b>	<b>Issue</b>	<b>Prepared</b>	<b>Dated</b>
Overall Site Plan	AD_00_010		Perumal Pedavoli	21/12/10
Concept Site Plan	AD_00_011		Perumal Pedavoli	21/12/10
Concept Site Section	AD_00_012		Perumal Pedavoli	21/12/10
Building 1- Ground Floor and First Floor Plan	AC_01_004	A	Perumal Pedavoli	31/01/11
Building 1- Second Floor and Roof Plan	AC_01_005	A	Perumal Pedavoli	31/01/11
Building 1- Elevations and Sections	AD_01_011		Perumal Pedavoli	21/12/10
Building 2&3 - Ground Floor and First Floor Plan	AC_01_006	A	Perumal Pedavoli	31/01/11
Building 2&3 – Second Floor and Roof Plan	AC_01_007	A	Perumal Pedavoli	31/01/11
Building 2&3 – Elevations and Sections	AD_02_011		Perumal Pedavoli	21/12/10
Landscape Plan	3000_LND		Perumal Pedavoli	21/12/10

Stormwater Management Plan	CIV_00_SW1		Perumal Pedavoli	Dec 2010
Stormwater Management Plan	CIV_00_SW1		Perumal Pedavoli	Dec 2010

2.2 *A special 2- DD Act 1992*

The applicant is to ensure that their obligations under the Commonwealth Disability Discrimination Act 1992 have been satisfied prior to the occupation of the proposed buildings.

2.3 *A special 3- Contaminated Land Development*

A Detailed Site Investigation as described in the Penrith City Council Contaminated Land Development Control Plan 2006 is to be prepared for the site to determine the nature and extent of the contamination. If these investigations reveal that the site requires remediation, then separate approval must be obtained for remediation works and the remediation works must be completed.

The investigations referred to in this condition must be prepared in accordance with the Penrith City Council Contaminated Land Development Control Plan 2006 by an appropriately qualified person and to the satisfaction of Council. All investigation reports are to be submitted to Council for consideration. The Detailed Investigation Report is to be submitted to Penrith City Council

(Note: Penrith City Council Contaminated Land Development Control Plan defines an appropriately qualified person as a 'person' who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.

2.4 *A011- Engineering Works DCP*

All civil engineering construction works shall be carried out in accordance with Penrith City Council's Engineering Works Development Control Plan and accompanying Guidelines for Engineering Works for Subdivisions and Developments Part 2-Construction.

2.5 *A039 – Graffiti*

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

2.6 *A038 – Lighting Locations*

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in

accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

2.7 *B001- Demolition of Existing Structures*

The student resident services building on the subject site to be demolished as part of the approved work.

2.8 *B002- Demolition and Disposal of approved landfill.*

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

2.9 *B003- Asbestos*

You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

**Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

2.10 *B004- Dust suppression*

Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

2.11 *B005- Mud/Soil*

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

## ENVIRONMENTAL MATTERS

### 2.12 *D001- Implementation of sediment and erosion control measures*

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping and accessways have been completed for the development**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

### 2.13 *D002- Spraygrass*

All land that has been disturbed by earthworks is to be spraygrassed or similarly treated to establish a grass cover.

### 2.14 *D009- Covering of Waste Storage Areas*

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

### 2.15 *D06A- No Fill without prior approval*

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all

relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,

- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of certificate or written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

An EPA Accredited Site Auditor (as accredited under the Contaminated Land Management Act 1997) shall supervise the filling works. A Site Audit Statement and Site Audit Report must be submitted to Penrith City Council and any Principal Certifying Authority on completion of the filling works. The site must be suitable for its intended landuse and shall not pose any unacceptable risk to human health or the environment.

The contact details of the EPA Accredited Site Auditor engaged for the works shall be provided with the Notice of Commencement.

## 2.16 *D010- Appropriate Disposal of Excavated or Other Waste*

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with

the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation prior to works at the development site.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

#### 2.17 *D013- Approved Noise Level*

Noise levels from the premises shall not exceed the relevant noise criteria detailed in Environmental Noise Impact report prepared by Day Design Pty Ltd dated 22/12/2010. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

#### 2.18 *D Special 2- Garbage Trucks*

Garbage trucks are only permitted to collect waste from the development between the hours of 8:00am and 6:00pm Monday to Friday.

#### 2.19 *E01A – Building Code of Australia Compliance*

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
  - complies with the performance requirements, or
  - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

#### 2.20 *E002- BCA issues to be addressed*

A preliminary assessment of the plans submitted with the application has disclosed that the following design and/or construction issues need to be addressed prior construction to ensure compliance with the Building Code of Australia:

- The exit travel distances don't comply with the BCA so therefore an alternative solution is required to be provided.

#### 2.21 *E006 – Disabled Access and Facilities*

Access and sanitary facilities for persons with disabilities as well as kitchen, laundry and common room facilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility." In this regard, accessible pathways in accordance with AS1428.1 shall be provided between each of the subject buildings and to the remainder of the university.

A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council **prior to construction**. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:

- the measures that are currently implemented in the building premises,
- and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.

#### 2.22 *E009- Annual Fire Safety*

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given:
  - within 12 months after the last such statement was given, or
  - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

#### 2.23 *G002 – Section 73 Compliance Certificate*

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon, or telephone 13 20 92.

#### 2.24 *G004 – Integral Energy Clearance*

Written clearance is to be obtained from Integral Energy stating that electrical

services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a padmounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

#### 2.25 *H041 – Hours of Construction Work*

Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

#### 2.26 *H001 – Stamped Plans and Erection of Site Notice*

Stamped plans, specifications, a copy of the development consent to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

#### 2.27 *H002 – Provision of Site Facilities*

Prior to the commencement of construction works:

- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- a standard flushing toilet connected to a public sewer, or
  - if that is not practicable, an accredited sewage management facility approved by the council, or
  - alternatively, any other sewage management facility approved by council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).
- (d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:
- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
  - the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and any such hoarding, fence or awning is to be removed when the work has been completed.

## 2.28 *K213 – Water Quality*

Stormwater runoff from parking, uncovered paved areas shall be directed to a stormwater pre-treatment system. The treatment devices shall be designed to remove expected pollutant loadings in accordance with the Department of Environment, Climate Change & Water's 'Managing Urban Stormwater – Environmental Targets/ Treatment Techniques– October 2007' publications.

Construction details shall incorporate:

- Specification & installation details of the stormwater pre-treatment system
- The approval of an operation and maintenance manual/ schedule for the proposed device

A copy of the approved operation and maintenance manual/ schedule shall be submitted to Penrith City Council.

#### 2.29 *K221 – Access, Car Parking and Manoeuvring*

**Prior to construction** the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

#### 2.30 *K301 – Erosion and Sediment Control Installation*

**Prior to the commencement of works on site**, including approved clearing of site vegetation, erosion and sediment control measures shall be installed. The erosion and sediment control measures are to be installed in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

#### 2.31 *K401 – Erosion and Sediment Control During Construction*

Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

#### 2.32 *K502 – Works-As-Executed Plans*

After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to Penrith City Council upon completion of works.

#### 2.33 *K503 – Stormwater Compliance*

The Principal Certifying Authority shall ensure that the:

- a) On-site detention system/s
- b) Stormwater pre-treatment system/s

- Have been satisfactorily completed in accordance with the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

#### 2.34 *K504 – Restriction and Positive Covenant*

A restriction as to user and positive covenant relating to the:

- a) On-site detention system/s
- b) Stormwater pre-treatment system/s

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

2.35 *K509 – Directional Signage*

A directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

2.36 *K Special 1- On Site detention*

On site detention shall be provided for the development to restrict stormwater discharges from the site to pre-developed flows. The system is to provide for all storms up to and including the 1% AEP event.

Engineering plans and supporting calculations for the on site detention and stormwater drainage system are to be prepared by a suitably qualified person.

The Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Penrith City Council's design Guidelines and Construction Specification for Civil Works.

2.37 *L001 – Approved Landscape Plans*

All landscape works are to be constructed in accordance with the stamped-approved plans and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards", F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation, which died or was removed.

2.39 *L002 – Landscape Construction*

The approved landscaping for the site must be constructed by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to construct category 3 landscape works.

2.40 *L003 – Landscape Report Requirements*

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

i. Implementation Report

- Upon completion of the landscape works associated with the development and prior to occupation, an Implementation Report must be submitted to the Penrith City Council attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

ii. Maintenance Report

- On the first anniversary of the date of the occupation of the dwelling, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.
- This report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

iii. Final Site Arborist's Report (significant tree protection) This report is to be submitted to Penrith City Council 2 years after occupation of the building. This report is to be prepared by a consulting arborist listed in Council's Approved Landscape Consultants Register. At Council's discretion this period may be reduced under circumstances where the Site Arborist is able to guarantee the health and ongoing survival of the trees.

iv. 3 Year Landscaping Report (category 3 developments) 3 years after occupation of the building, a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works shall prepare a Landscaping Report for Council's consideration and approval, certifying to one of the following:

- The landscaping on site has matured and is in accordance with:
  - i. the original landscape approval.
  - ii. The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

#### 2.41 L005 – Planting of Plant Material

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.

#### 2.42 L006 – Australian Standard Landscape Requirements

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees

#### 2.43 *L008 – Tree Preservation Order*

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

### **SECTION 94**

#### 2.44 *N001- S94 Contributions*

The development shall remain under the care and control of the University of Western Sydney for the purposes of 'public benefit' as directed by Circular D6 -'Crown Development Applications and Conditions of Consent' issued by the Department of Urban Affairs and Planning, September 1995. Should the management and operation of the development be used for commercial purposes, then a modification of consent would be required

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for the WELL precinct for Roadwork (and administration). Based on the current rates detailed in the accompanying schedule attached to this Notice, \$31,667 is to be paid to Council prior to occupation of this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for the Werrington Enterprise Living and Learning (WELL) may be inspected at Council's Civic Centre, 601 High Street, Penrith.