

**ITEM 2 DEVELOPMENT APPLICATION: 80-98 FIG STREET, PYRMONT**

**FILE NO:** D/2005/1567

**SUMMARY**

**Date of Submission:** 27 September 2005. Amended proposal and plans - 8 December 2005, 18 January 2006 and 9 February 2006.

**Applicant:** Pheonix Ventures Pty Ltd

**Summary:** Demolition of existing warehouse and construction of a new building of 4-storeys plus a part lower ground floor for 63 serviced apartments and roof top communal room. The layout has been designed to accommodate students.

The building complies with the 12 metre height control except for the rooftop communal room which exceeds 12m by 2.49m. The non-complying height is recommended to be deleted.

The internal layout of each serviced apartment is not typical, ranging from studios to 7-bedrooms. The applicant intends to arrange with UTS for students to stay in the serviced apartments. Security and servicing management plans are required by recommended conditions.

66 submissions were received for the proposal as originally submitted on 13 October 2005. Amended proposal was renotified 24 January 2006 as serviced apartments with 23 submissions received. Development was again renotified on 15 February 2006 due to errors in the elevation drawings provided, a further 29 submissions were received. A total of 118 objections were received over the 3 notifications. Many of the issues raised have been addressed with amendments to the proposal.

As serviced apartments the controls allow an FSR of 2.5:1. The current FSR of 2.48:1 complies.

The proposal will be compliant with the planning controls subject to deferred commencement conditions.

**Summary Recommendation:** The development application is recommended for deferred commencement consent.

**Section 94 & Affordable Housing Contributions**

Section 94:	\$365,603.82
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Affordable Housing:	\$124,702.23
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**Attachments:**

- A - Location Plan
- B - Selected Drawings
- C - Student Accommodation Letter from UTS

## **RECOMMENDATION**

It is resolved that:

- (A) a SEPP 1 Objection for non-compliance with SREP 26 height standard by 2.49m not be supported for the following reasons:
  - (i) There is not sufficient justification to exceed the height standard; and
  - (ii) Use of the communal rooms on the rooftop level may cause disturbance to the surrounding residential properties.
- (B) A deferred commencement consent be granted subject to the following conditions being satisfied:

This consent does not operate until such time as the requirements listed below are complied with, to the satisfaction of the Director City Planning. The information is to be submitted to Council within **6 months** of the date of this determination. The consent will then operate upon the Director City Planning's written approval of the details complying with the requirements below.

### **(1) DELETION OF ROOFTOP ROOMS**

The rooftop communal recreation room and common laundry, which exceed the maximum permitted height, and the access to the roof level, must be deleted.

### **(2) JONES LANE STREET WALL DESIGN MODIFICATION**

With the exception of the southern purple brick section (as depicted on the photomontage) on the corner of Jones Lane and Fig Street, to the south of the white vertical blade wall, the height of the Jones Lane street wall must be reduced to comply with Section 3.1 of the Urban Development Plan for Ultimo Pyrmont 1999. This requires the street wall to be lowered by approximately 3.5 metres and, to comply with the 45 degree inclined plane, a setback above this height of approximately 3.1 metres is required. Any reductions in floor space to achieve compliance with this condition must not be added to other parts of the building. The setback area shall not be used as balconies, unless they are small areas which do not cause view lines to the rear of the terraces across Jones Lane.

### **(3) RESTRICTIVE COVENANT**

The proposed building must not be subdivided in any manner whatsoever, including strata subdivision. A documentary restrictive covenant is to be registered on the title/s of the site, and is to be created appurtenant to Council and at no cost to Council. A draft of the covenant is to be provided to Council to review the wording.

**(4) PRIVACY SCREENING**

To minimise overlooking from serviced apartments to the Jones Street terraces, privacy screens or similar devices on the windows and balconies are to be incorporated into the design of the building, to a maximum height of 1.5m above finished floor level.

**(5) APARTMENT CONFIGURATION**

Dual key apartments no's 11 and 12, and 27 and 42 are to be reconfigured to ensure:

- (a) Adequate fire separation when each dual key apartment is used separately; and
- (b) That apartments 11 and 27 are redesigned to have living space and a kitchen when used separately.

**(6) EXTERIOR COLOUR SCHEME**

The exterior colour scheme is to be revised to use more earthy or stone colours.

**(7) CONTRACT FOR STUDENT HOUSING**

Due to:

- (a) the additional 0.5:1 FSR allowed for non-residential use;
- (b) the lesser amenity (size, layout and proximity to bypass) and its negative externalities;
- (c) inappropriateness for permanent residential use; and
- (d) the intention of securing student housing as put forward by the applicant;

a binding contract between the owner and a University be submitted guaranteeing its use for student housing.

**(8) WIND EFFECTS STUDY**

A Wind Effects Report is required. The report must demonstrate compliance with the pedestrian comfort and safety criteria and be undertaken by a suitably qualified individual. Wind tunnel tests will be required if the report demonstrates this to be necessary. The applicant is to demonstrate how potential problems can be overcome prior to the issue of the Construction Certificate.

The following wind speed criteria for safety and comfort are to be used in the assessment:

- 13m per second – along major pedestrian routes, parks, squares and other public places, i.e. Fig Street.
- 16m per second – in all other streets, i.e. Jones Lane and Bulwara Road.

#### **(9) INTERNAL LAUNDRY AND SERVICING PROVISION**

To differentiate the serviced apartments from a residential use, sufficient space must be set aside within the approved building to provide laundry, cleaning and other back-of-house facilities to service the apartments. Management plans required by other conditions of this consent must specify all aspects of the servicing provided by the on-site facilities.

- (C) Upon written satisfaction of the conditions detailed in Clause (B), a full consent will be issued subject to the following conditions and any additional or amended conditions reasonably related to compliance with Clause (B) above.

### **SCHEDULE 1A**

#### **APPROVED DEVELOPMENT, CONTRIBUTIONS AND COVENANTS**

**Note:** Some conditions in Schedule A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

**Note 2:** Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

#### **(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2005/1567 dated 27 September 2005 and Revised Statement of Environmental Effects prepared by Anthony Betros Consulting P/L, dated January 2006 and drawings numbered DA02 Issue C, DA02a Issue C, DA03 Issue C, DA04 Issue C, DA05 Issue C, DA06 Issue B, DA07 Issue B, DA11 Issue B, DA12 Issue B, DA13 Issue B, prepared by Architecture & Building Works received 18 January 2006 and DA08 Issue C, DA09 Issue C and DA10 Issue C, prepared by Architecture & Building Works received 9 February 2006 and as amended by the conditions of this deferred commencement consent:
- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

#### **(2) RESTRICTION ON SERVICED APARTMENTS**

The following restriction applies to buildings approved for serviced apartment use:

- (a) The accommodation portion of the building must be used as serviced apartment accommodation only and not for permanent residential purposes or any other use.
- (b) The serviced apartments may be occupied for student accommodation, however no leases are to be entered into under the *Residential Tenancy Act 1987*.
- (c) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use from serviced apartments as defined in the Sydney Local Environmental Plan 2005. The covenant is to be registered on title prior to an Occupation Certificate being issued, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.

**(3) NO STRATA SUBDIVISION**

As the site has benefited from additional floor space (0.5:1) as “business” use, as opposed to “residential”, the building must not be strata subdivided (in accordance with the Strata Schemes (Freehold Development) Act 1972) and must not be used as residential.

**(4) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 31.75 in terms of the definition for Height as contained in the Schedule 1 Definitions within the Sydney Regional Environmental Plan No 26 – City West.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the height of the building, to the satisfaction of the Principal Certifying Authority.

**(5) FREE SHUTTLE BUS**

To transport between University campuses and this accommodation, a free shuttle bus must be provided between 6.30pm and 11pm, Monday to Friday.

**(6) LOADING BAY VEHICLE FOOTWAY CROSSING**

A separate application is to be made to Council’s Civil Engineering Services, Roads and Footways unit for the construction of the Loading Bay vehicle footway crossing in Bulwara Road and the removal of any existing crossings and reinstatement of the footpath/kerb/gutter formation where such crossings are no longer required.

**(7) SECTION 94 CONTRIBUTION – ULTIMO PYRMONT**

A contribution under section 94 of the *Environmental Planning and Assessment Act 1979* must be paid in accordance with the following:

**Cash Contribution Required**

- (a) In accordance with the adopted *“Ultimo Pyrmont Contributions Plan 1994”* a cash contribution must be paid to Council in accordance with this condition.

### **Amount of Contribution**

- (b) The amount of the contribution is \$365,603.82.

**Note:** The contribution will be indexed annually, see paragraph (f) below.

### **Purposes for which Contribution Required**

- (c) The contribution is required, and must be held and applied in accordance with the Act and the *Ultimo Pymont Contributions Plan 1994*, for the purposes, and in the proportions, set out as follows:
- (i) Open Space - 64%
  - (ii) Community Facilities - 9.5%
  - (iii) Roads and Associated Infrastructure - 26.2%
  - (iv) Administration - 0.3%

### **Certification of Contribution**

- (d) Certification of the Section 94 Contribution calculation, including verification of gross floor area and resident/worker population as applicable, and indexation of the contribution in accordance with the "*Ultimo Pymont Contributions Plan 1994*" (if applicable) must be submitted for the approval of Council, prior to a Construction Certificate being issued

If the Construction Certificate is to be issued by a Principal Certifying Authority, they must seek Council's endorsement of the calculation prior to its issue.

### **Timing of Payment**

- (e) The contribution must be paid prior to issue of a Construction Certificate. Payment may be by **EFTPOS** (debit card only), **CASH** or a **BANK CHEQUE** made payable to the City of Sydney. Personal or company cheques will not be accepted.

### **Indexing**

- (f) The contribution rate in "*Ultimo Pymont Section 94 Contributions Plan 1994*" will be adjusted in accordance with clause 19 of the Plan being not less than annually.
- (g) If the contribution rate is adjusted between the date on which this consent is granted and payment of the contribution, then the figure in paragraph (b) to this condition will be indexed and calculated according to the then current contribution rate.
- (h) Please contact Council's Planning Administration staff to confirm the amount payable, prior to payment.

**(8) AFFORDABLE HOUSING CONTRIBUTION – ULTIMO PYRMONT - PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION**

The Affordable Housing Contribution is as follows:

- (a) Prior to a Construction Certificate being issued, and pursuant to *Sydney LEP 2005* and the adopted City West Affordable Housing Program, the applicant must provide evidence to Council that a monetary contribution towards the provision of affordable housing has been paid. The contribution is \$124,702.23.
- (b) Bank cheques to the value of the required contribution are to be made in favour of 'City West Housing Pty Ltd and paid to the Department of Planning. Contact the Housing Policy Team at the Department of Planning on Ph: 9228-6111, Fax: 9228 6455 or [information@dipnr.nsw.gov.au](mailto:information@dipnr.nsw.gov.au) for further information and to arrange a time to make the payment.
- (c) Certification of the Affordable Housing Contribution calculations including verification of total floor area, prepared by a Quantity Surveyor, and indexation of the contribution in accordance with the Affordable Housing Program, must be submitted for the approval of Council, prior to a Construction Certificate being issued.
- (d) If the Construction Certificate is to be issued by a Principal Certifying Authority, they must seek Council's endorsement of the calculation prior to issue of the Construction Certificate.
- (e) Prior to issue of an Occupation Certificate, the applicant must provide evidence to Council that the bank guarantee referred to in (a) above has been redeemed as payment of this contribution. If the contribution is paid after 30 June of the year in which this consent is granted, the amount of the contribution must be indexed in accordance with the adopted City West Affordable Housing Program.

**(9) SERVICE VEHICLES**

Courier spaces and loading docks must be located close to the service entrance and away from other parking areas, as detailed below:

A minimum of 1 courier space with minimum dimensions 2.6m x 5.4m and a minimum head clearance of 2.5 metres.

**(10) SECURITY MANAGEMENT PLAN/PLAN OF MANAGEMENT**

Prior to a Construction Certificate being issued, a Security Management Plan, which specifies security patrol, surveillance and other security and response methods and security management of the public and private domain within and surrounding the site must be submitted to and approved by Council. The approved plan must be implemented during operation of the use.

An amended Plan of Management is to be provided after consultation with Council. The amended Plan of Management is to be to the satisfaction of Council prior to the issue of the Occupation Certificate.

- (11) CONSTRUCTION TRAFFIC**
- (12) TRAFFIC MANAGEMENT**
- (13) ENCROACHMENT ON THE PUBLIC FOOTWAY**
- (14) AWNINGS**
- (15) SIGNS - SEPARATE DA REQUIRED**
- (16) REMOVAL OF GRAFFITI**
- (17) NO SPEAKERS OR MUSIC OUTSIDE**
- (18) CARE OF BUILDING SURROUNDS**
- (19) RECEPTACLES FOR CIGARETTE BUTTS**
- (20) NOISE - USE**
- (21) NOISE - MECHANICAL PLANT**
- (22) RESTRICTION ON SERVICED APARTMENTS**
- (23) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**
- (24) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**
- (25) BICYCLE PARKING**
- (26) EXTERNAL LIGHTING**
- (27) APPROVED DESIGN ROOF-TOP PLANT**
- (28) REFLECTIVITY**
- (29) TREATMENT OF PROPOSED EXTERNAL WALLS**
- (30) VEHICLE FOOTWAY CROSSINGS**

#### **SCHEDULE 1B**

**Conditions to be complied with prior to issue of Construction Certificate to the satisfaction of the Certifying Authority**

##### **(31) FOOTPATH DAMAGE BANK GUARANTEE**

Prior to a Construction Certificate being issued the owner of the site must provide a bank guarantee for an amount to be determined by Council equivalent to the value of the footway adjacent to the frontage of the development site, as security for rectification of any damage to the public way.

**Note:** The bank guarantee required by this condition does not need to be provided if a separate bank guarantee is lodged as part of an approval for a hoarding over the public way.

### **(32) LANDSCAPING OF THE SITE**

(a) A detailed landscape plan, drawn to scale, by a landscape architect or approved landscape consultant, must be submitted to and approved by Council prior to a Construction Certificate being issued. The plan must include:

- (i) Location of existing and proposed structures on the site and neighbouring properties including existing trees;
- (ii) Further details of the design at the development entrances and driveway;
- (iii) Further design development and details of the building entrances and planter walls to demonstrate access legibility and beneficial interface between private and public domain;
- (iv) Dimensions of planter-boxes and areas of planting on slab, to ensure sufficient root zone is provided for healthy plant development;
- (v) Details of earthworks including mounding, retaining walls and planter boxes;
- (vi) Location, numbers, sizes and type of plant species;
- (vii) Details of planting procedure and maintenance;
- (viii) Details of drainage and watering systems.

All landscaping in the approved plan is to be completed prior to Occupation Certificate being issued.

(b) Prior to a Construction Certificate being issued, a maintenance plan is to be submitted for approval of the Principal Certifying Authority and complied with during occupation of the property.

### **(33) PUBLIC DOMAIN PLAN**

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be approved by Council (to be lodged with the Public Domain Section) prior to a Construction Certificate being issued. It is recommended that draft plans should be submitted for comment prior to formal submission for approval.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual.

It should be noted that none of the plans submitted for this development (architectural or landscape) are approved in relation to the Public Domain.

**(34) LANDSCAPING AREAS AT ENTRIES**

The landscaped areas at entries and in building setbacks must be amended to improve opportunities for successful planting, and provide improved access and circulation space. Details must be submitted to the City for approval prior to issue of a Construction Certificate. Additional information must also be provided for City approval clearly showing the resolution of the loading bay in relation to the landscaped zone, bike parking, garbage room and public way.

**(35) TREE MANAGEMENT**

In accordance with the Tree Report prepared by Mark Hartley on 6 December 2005:

- (a) Tree No's 17N, 20, 21, 25 B, C, 24 A and street trees 22N – 28N identified on the tree schedule are approved for removal.
- (b) Five replacement street trees are to be planted to replace the young Paperbark (*Melaleuca quinquenervia*). The trees are to be planted consistent with the Street Tree Masterplan. The selected species is Pin Oak (*Quercus palustris*) – minimum size to be planted is 100 litres.
- (c) Tree protection measures are required to be installed to protect tree No's 1 – 16, 18 and 19 as per Appendix 2 'Tree Protection Guidelines' authored by Mark Hartley, consultant for the Tree Doctor.

**(36) SITE AUDIT STATEMENT**

A Site Audit Statement prepared by a NSW EPA accredited site auditor is to be submitted to Council certifying that the site is suitable for the intended use prior to the issue of a Construction Certificate.

NOTE: Where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council these conditions should be discussed with Council before the Site Audit Statement is issued.

**(37) ROAD TRAFFIC NOISE INTRUSION REPORT**

The development must comply with the recommendations contained in the Road Traffic Noise Intrusion Report prepared by Day Design Pty Ltd dated 16 September 2005.

**(38) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**

**(39) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE**

**(40) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

**(41) EROSION AND SEDIMENT CONTROL – BETWEEN 250 AND 2,500SQM**

**(42) ROAD OPENING PERMIT**

- (43) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS**
- (44) ELECTRICITY SUBSTATION**
- (45) SYDNEY WATER CERTIFICATE (NEW DEVELOPMENT)**
- (46) UTILITY SERVICES**
- (47) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE**
- (48) BARRICADE PERMIT**
- (49) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**
- (50) STRUCTURAL CERTIFICATION FOR DESIGN – BCA CLASS 2 – 9**
- (51) CERTIFICATION OF GEOTECHNICAL INSPECTION**
- (52) GEOTECHNICAL REPORT AND CERTIFICATION**
- (53) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS (CC REQUIRED)**
- (54) GENERAL HERITAGE**
- (55) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION – MINOR WORKS**
- (56) ARCHAEOLOGICAL INVESTIGATION**
- (57) CONTAMINATION**
- (58) LETTERBOXES**
- (59) REDUCTION OF NOISE FROM EXTERNAL SOURCES (RESIDENTIAL AND SERVICED APARTMENTS)**
- (60) NOISE IMPACT ASSESSMENT - DEVELOPMENT NEAR ELEVATED ARTERIAL ROADWAYS, LIGHT AND HEAVY RAIL AND PORT FACILITIES**
- (61) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**
- (62) ENERGY EFFICIENCY OF BUILDINGS**
- (63) INSTALLATION OF DUAL-FLUSH TOILETS**
- (64) INSTALLATION OF WATER EFFICIENT TAPS**
- (65) PHYSICAL MODELS**
- (66) SUBMISSION OF ELECTRONIC MODELS PRIOR TO CONSTRUCTION CERTIFICATE AND PRIOR TO OCCUPATION CERTIFICATE**
- (67) MECHANICAL VENTILATION**

## **SCHEDULE 1C**

**Conditions to be complied with prior to commencement of demolition or work or construction to the satisfaction of the Principal Certifying Authority**

**(68) DEDICATION OF ROAD WIDENING AND SPLAY**

The owner must dedicate for road purposes, free of cost to Council, a 2m widening along the site frontage to Jones Lane together with a 2m by 2m splay at the intersection of Jones Lane and Fig Street as widened, to be detailed in a plan of subdivision. The Jones lane widening is to be unlimited in stratum and the splay widening is to be limited in height to the balcony structure above and the dedications are to be on the understanding that the affected part of the site will be available for the calculation of the floor area of the development. This plan is to be registered at the Land and Property Information office prior to an Occupation Certificate being issued.

**(69) SYDNEY WATER CERTIFICATE**

**(70) EROSION AND SEDIMENT CONTROL**

**(71) PROTECTION OF STREET TREES DURING CONSTRUCTION**

**(72) COVERING OF LOADS**

**(73) VEHICLE CLEANSING**

**(74) LOADING AND UNLOADING DURING CONSTRUCTION**

**(75) NO OBSTRUCTION OF PUBLIC WAY**

**(76) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

**(77) USE OF MOBILE CRANES**

**(78) SURVEY CERTIFICATE AT COMPLETION**

**(79) STREET NUMBERING – MAJOR DEVELOPMENT**

**(80) STREET NAME PLATE**

**(81) OCCUPATION CERTIFICATE TO BE SUBMITTED**

**(82) HOURS OF WORK AND NOISE – OUTSIDE CBD**

**(83) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**

**(84) LOT CONSOLIDATION**

## BACKGROUND

### The Site

1. The site is known as 80-98 Fig Street, Pyrmont and is adjacent the southern side of the western distributor. The site is bound by Fig Street to the south, Bulwara Road to the east, the overpass to the north and Jones Lane to the west. A location site plan is at **Attachment A**.



Aerial view of surrounding area, site perimeter is in bold with warehouse to be demolished shown.

2. The site is irregular in shape. It has a frontage of approximately 33m along Fig Street, 22.8m along Bulwara Road, 27.9m along the overpass and 51.8m along Jones Lane. The site area is 1,702m<sup>2</sup>.
3. It contains a warehouse building; partially a 19<sup>th</sup> century brick warehouse with a large addition dating from the 1980's. This structure is approximately 30m in length and 13m in width with a maximum height of approximately 10m (RL 29.7). This building runs parallel to Jones Lane with no setback from the lane.
4. The site falls approximately 2.5m from the south-west to the north-east.

## Surrounding Development

5. Immediately across Fig Street (to the south) is Fig Lane Park which extends back to Fig Lane and runs along the entire length of the Fig Street frontage of the proposed development. The park has mature trees, children's play equipment, a number of park benches scattered over the grassed areas and a barbeque area with associated facilities.
6. The northern boundary, between the overpass and Jones Lane, backs onto an undeveloped site owned by the RTA.
7. Jones Lane separates the proposed development from a row of 11 heritage listed terrace houses.
8. The context of the site is a mix of 1, 2 and 3-storey terrace houses, smaller commercial buildings and larger warehouse buildings. The heritage terraces along Jones Street are single storey while the residences to the south of Fig Street (heritage conservation area) are typically 2 and 3-storey.
9. On the other side of the western distributor are larger warehouse buildings, up to 6 and 7 storeys (including the Goldsbrough Mort & Co building).



10. Photos of the site and surrounds are provided below.



Looking north along Jones Lane. Building to be demolished is on the right with heritage terraces to the left.



Looking south along Jones Lane with heritage terraces on the right and development site in the upper left corner.



View of heritage listed terraces looking south along Jones Street frontage (building will not be visible from this point).

### **History of Development Applications Relevant to this Site**

11. The existing warehouse at this site consists of an original structure and more recent additions. The original warehouse dates from the 1890s.
12. The original warehouse had an east-west orientation with frontage to Bulwara Road. Development application D/1986/314 dating from 1986, was for the demolition of 348.54m<sup>2</sup> of the eastern portion of the warehouse for that part of the property under resumption, necessitated by the then Department of Main Roads, for the construction of the Western Arterial Viaduct. The development application also allowed for the extension of the premises to the south. This resulted in a warehouse with a north-south orientation - the structure that exists presently.
13. Council's Heritage Specialists advise that as the existing warehouse is only a portion of its former size, is not heritage listed and that there are better intact representation from this period, that demolition in this instance is appropriate.
14. There have been subsequent development applications for signage and advertising.

### **PROPOSAL**

#### Works

15. Demolition of the existing warehouse building and construction of 4-levels of serviced apartments with no parking onsite that involves:

- (a) Construction of a 'u-shaped' building with street walls to all 3 street frontages.
  - (b) 63 serviced apartments with 153 rooms (breakdown table below).
  - (c) A communal roof top space which includes lift access to a communal room and laundry, shade structure, plantings, benches and seating.
  - (d) A communal courtyard at ground level with plantings up to the boundary with the overpass.
16. Plans do not indicate areas for servicing (cleaning, laundry etc).

### Use

17. The development was originally lodged for student housing for which there is no clear definition within SREP 26. Therefore the application has been amended to Serviced Apartments. The relevant definitions are as follows:
- (a) Residential development “*means the use of land for any form of housing, including housing leased on a short-term basis subject to the Residential Tenancies Act 1987, but does not include the use of land for a hotel, a hostel, an apartment hotel (being a building consisting of suites of rooms rented or hired out without being leased on a short-term basis), a boutique hotel, serviced apartments, backpacker accommodation, a motel or the like.*”
  - (b) Business use “*means any form of development carried out for a commercial or education purpose, but does not include residential development or public utility undertakings.*”
18. It is clear from the above that serviced apartments are not “Residential development”. Council’s legal advice is that serviced apartments fit into the definition of *business use*.
19. There is no definition of serviced apartments applying to Ultimo Pyrmont. The definition applying to Central Sydney is a useful guide. It states:
- “serviced apartment in Central Sydney is a form of tourist and visitor accommodation and means a building or part of a building that provides self-contained accommodation which is serviced or cleaned by the owner or manager of the apartments or the owner’s or manager’s agents.”*
20. The University of Technology, Sydney (UTS) has expressed interest in private sector provision of student accommodation. As such, in addition to operating as a serviced apartment building, this site may be operated as a UTS student residence. A recommended condition requires that a contract with a university be obtained for student accommodation guaranteeing use of the building as serviced apartments. A letter from UTS is at **Attachment C**.

21. A recommended condition requires a covenant on title restricting change of use from serviced apartments, as defined above. There is some conflict between self catering student housing (shown on the plans) and the provision of services to serviced apartments. It is also not certain how many of the serviced apartments would be occupied by students. To ensure servicing is provided and to distinguish this use from self catering student housing, a further condition requires a “servicing” room (laundry, cleaning etc) within the building.
22. Plans and elevations of the proposal are provided in **Attachment B**.



Photomontage showing southern corner of Fig St and Jones Lane, looking north from Fig Lane Park.

## **IMPLICATIONS OF THE PROPOSAL**

### **Section 79C Evaluation**

23. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:-

## **Section 79C(1)(a) Environmental Planning Instruments, Draft Instruments DCPS**

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

24. In accordance with the requirements of SEPP 55 (and Council's Contamination DCP) an Environmental Site Assessment provided by the applicant determined that the risks to human health and the environment associated with soil contamination at the site are low in the context of the development proposed. Council's Health Unit has reviewed and supports the findings.
25. It is recommended that a condition be imposed requiring a Site Audit Statement (prepared by a NSW EPA accredited site auditor) be provided to Council certifying that the site is suitable for the intended use as indicated in the above report.

### **State Environmental Planning Policy No. 1 – Development Standards and Draft State Environmental Planning Policy – Application of Development Standards**

26. Current SEPP 1 allows variation of planning controls in circumstances where strict compliance with standards would be "unreasonable or unnecessary".
27. Draft SEPP (Application of Development Standards) 2004 clarifies the criteria for determining appropriate use of the SEPP and requires the proposal to be consistent with the objectives of the particular standard and zone.

### **Non-compliance with height**

28. A SEPP 1 Objection has been lodged in support of the proposal to permit a building height of 14.49m where 12m is the maximum.
29. The objection submits the following justification for the non-compliance:
  - (a) The proposal is consistent with the urban design principles which form the objectives of Clause 15 of SREP 26 in that the excess height is an appropriate transition between different scaled surrounding developments.
  - (b) The proposal neither compromises amenity nor the scale of adjoining developments and therefore satisfies the rationale for varying the height standard.
  - (c) The proposal is consistent with Clause 26 of SREP 26, which relates to graduated building heights adjacent to heritage items. The site adjoins a row of heritage listed terrace house along Jones Lane. The main façade of the structure, opposite the terraces, has a maximum ceiling height of 11.86m. The communal room/laundry component is located at the centre of the roof terrace (with a ceiling height of 14.49m) is setback to the extent that it will not be visible from the street and will have no impacts of any significance on the surrounding amenity.
  - (d) The building acts as a transition between the high-rise buildings of the CBD and the low-rise buildings in the suburbs.
30. The footprint of the proposed communal room and laundry structure on the rooftop is approximately 67m<sup>2</sup> in area.



Western elevation with approximate 12m height limit represented by dashed line.



**UPPER FIG STREET**

South Elevation with approximate 12m height limit represented by dashed line.

31. Comment on SEPP 1 Objection

Having considered the objectives of the standard there is not sufficient justification to exceed the height control, therefore it is recommended that the communal rooms on the rooftop terrace be deleted by the recommended conditions of the deferred commencement.

When the tests for the acceptability of a non-compliance are applied to this proposal, the extra height is not supported because:

- (a) it is considered that the addition does not improve the development in terms of its relationship with the character of the area; and
- (b) It would not be a better building because of neighbour disturbance from use of the rooftop (also noting a nearby park).

**Compliance with SREP No. 26 – City West**

32. Compliance of the proposal with the REP controls is summarised below:-

**COMPLIANCE WITH SREP NO. 26 – CITY WEST**

<b>Development Controls</b>	<b>Permissible under SREP 26</b>	<b>Proposal as assessed under SREP 26</b>
<b>Zoning</b>	Residential – Business	The proposal is permitted with consent
<b>Activity Strip</b>	No activity strip	
<b>Floor Space Ratio</b> (Site area = 1,702m <sup>2</sup> )	Residential FSR 2:1 Business FSR = 2.5: 1	Business FSR = 2.48: 1 Total FSR = 2.48:1
<b>Gross Floor Area</b>	4,255m <sup>2</sup>	Business 4,222.9m <sup>2</sup>
<b>Height</b>	12m to underside of ceiling of top level.	<b>Main Structure:</b> 11.98m to top of ceiling (RL 31.75)  <b>Community Room/Laundry on Roof Deck:</b> 14.49m to top of ceiling (RL 34.34) which exceeds control by 2.49m.  Refer to discussion of SEPP 1 above.
<b>Contamination</b>	Site must be remediated if required	Site considered suitable for the proposed development (see SEPP 55 discussion above).

**Sydney Local Environmental Plan 2005**

33. The savings provisions at Clause 14 of the Sydney Local Environmental Plan 2005 apply to development applications lodged, but not finally determined, prior to the commencement of the Sydney Local Environmental Plan 2005 (SLEP 2005). The subject application was lodged on 27 September 2005 which is prior to the Sydney Local Environmental Plan gazettal date of 9 December 2005 and therefore, Sydney Regional Environmental Plan 26 applies as though the Sydney Local Environmental Plan 2005 had not been made.
34. SLEP 2005 (Draft SLEP for the purposes of assessing this DA) contains various operational amendments and merges the relevant provisions of LEP 1996, SREP No. 26 and Central Sydney Heritage LEP 2000 into one document.
35. The proposal is considered consistent with the relevant aims, provisions and objectives of the SLEP 2005, which are essentially the same as SREP 26.
36. It is considered that the subject development substantially complies with the objectives and provisions of SLEP 2005, which essentially replaces those formerly in SREP 26.

## Compliance with Urban Development Plan

37. Compliance with the Urban Development Plan (UDP) is summarised below. While the development is not residential, it is likely to serve as short to medium term accommodation, and as such some of the controls applying to residential buildings are assessed in the tables below.

### COMPLIANCE WITH UDP 1999 UPDATE

Matter to be Considered	Compliance	Comment												
Floor to ceiling height	✓	<b>Complies:</b> Floor to ceiling height minimum of 2.7m.												
Cross ventilation	✓	<b>Complies:</b> A minimum of 25% of units have natural cross ventilation.												
Street wall height	✓/✗	<b>Complies:</b> on Fig Street and Bulwara Road.  The control states: <b>H</b> (max parapet height) = <b>D</b> (street width) + <b>1.6m</b> (H = D + 1.6).  <b>Does not comply</b> on Jones Lane by 2.5m. However a recommended condition of the deferred commencement will make it comply.  Refer to the issues section below.												
Privacy separation distance to adjoining developments	✓	<b>Complies:</b> <table border="1"> <thead> <tr> <th>Controls</th> <th>Separation Required</th> <th>Approx Separation Proposed</th> </tr> </thead> <tbody> <tr> <td>b/w non-habitable rooms</td> <td>6m</td> <td>&gt;18m</td> </tr> <tr> <td>b/w habitable &amp; non-hab rooms</td> <td>9m</td> <td>&gt;18m</td> </tr> <tr> <td>b/w habitable rooms</td> <td>12m</td> <td>18m</td> </tr> </tbody> </table>	Controls	Separation Required	Approx Separation Proposed	b/w non-habitable rooms	6m	>18m	b/w habitable & non-hab rooms	9m	>18m	b/w habitable rooms	12m	18m
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b/w non-habitable rooms	6m	>18m												
b/w habitable & non-hab rooms	9m	>18m												
b/w habitable rooms	12m	18m												
Setbacks in laneways for privacy separation	✗	<b>Does not comply:</b>  Refer to the Issues section below.												
Corner articulation	✓	<b>Complies:</b> Although wide streets do not intersect in this vicinity (>20m width) the built form adequately articulates the corner.												

Matter to be Considered	Compliance	Comment
<b>Ground level activity</b>	✓	<b>Complies:</b> <ul style="list-style-type: none"> <li>▪ Has active street frontage with individual entries along Jones Lane.</li> <li>▪ Entranceways provide level access between the building and the public domain.</li> <li>▪ Not on an Activity Strip.</li> </ul>
<b>Views &amp; vistas from the public domain</b>	✓	<b>Complies:</b> The views from Fig Lane Park to water and Glebe will not be impacted by the development proposed.
<b>View sharing from within buildings</b>	✓	<b>Complies:</b> The proposal will not significantly obscure the views presently enjoyed by surrounding development.
<b>Wind impact</b>	✓/x	<b>Able to comply:</b> A wind effects study is required for buildings over 9m in height. Given that the proposal is for a low-rise structure there are not likely to be significant wind impacts. It is recommended that a wind effects study be provided to Council prior to commencement. Any issues can then be addressed by minor changes to the design.
<b>Reflectivity</b>	✓x	<b>Able to comply:</b> Subject to recommended condition specifying the use of façade building materials of less than 20% reflectivity.

Matter to be Considered	Compliance	Comment
<b>Solar access to adjoining parks</b>	✓	<p><b>Complies:</b> For new developments it is to be demonstrated that adjacent parks will not be unduly overshadowed and that no more than 50% of the park will overshadowed between 10am and 2pm between 21 April and 21 August.</p> <p>Shadow diagrams provided demonstrate that the shadow from this development, during June, passes over Fig Lane Park between 12 noon and 3pm.</p> <p>Overshadowing in the north-eastern portion of the park is approximately 13% of the park area. It decreases in area from midday through the afternoon. As this area also has a number of larger trees the additional shadow/impact in this vicinity will be diminished.</p> <p>Shadow diagrams are at <b>Attachment B</b>.</p>
<b>Solar access to private space</b>	✓	<p><b>Complies:</b> The controls do not require private open space for serviced apartments. To augment the proposed student accommodation of the serviced apartments, a communal area is located at ground level (with a northerly orientation). No more than 50% of the area proposed is overshadowed between 10am and 2pm, April through to August.</p>
<b>Noise attenuation from external sources</b>	✓	<p><b>Able to comply:</b> A Road Traffic Noise Intrusion report has been provided which identifies acoustic treatments for the walls, ceiling, roof system, external doors, windows and sliding doors in light of the proximity to the western distributor. Recommended conditions call-up this report and address Council's standard acoustic requirements.</p> <p>Conditions are also recommended in regard to construction noise and the management of noise that may emanate from any external plant and use.</p>

Matter to be Considered	Compliance	Comment
ESD principles	✓	<p><b>Complies:</b></p> <p><b>Energy Conservation</b></p> <ul style="list-style-type: none"> <li>▪ Building orientation is along a north/south axis.</li> <li>▪ Solar access has been optimised to habitable rooms. 24 rooms have a southerly aspect.</li> <li>▪ Recommended conditions require energy efficient appliances and AAA rated shower heads.</li> </ul> <p><b>Water</b></p> <ul style="list-style-type: none"> <li>▪ Water efficiency through recommended conditions requiring AAA rated appliances and dual flush toilets.</li> <li>▪ Applicant advises that roof water is proposed to be recycled and used for irrigation. Recommended conditions enforce this.</li> </ul> <p><b>Earth/Biodiversity</b></p> <ul style="list-style-type: none"> <li>▪ During demolition wastes will be recycled as appropriate.</li> </ul> <p><b>Air</b></p> <ul style="list-style-type: none"> <li>▪ As no onsite or offsite parking is provided, residents will need to utilise the ample alternative transport options available for this location. This will have positive benefits in regard to greenhouse gas reductions and other negative externalities associated with vehicular usage.</li> </ul> <p><b>BASIX</b></p> <ul style="list-style-type: none"> <li>▪ BASIX for Multi-Units does not apply to this development as it was lodged with Council prior to the legislation commencement date of 1 October 2005.</li> </ul>

Matter to be Considered	Compliance	Comment																												
<p><b>Access &amp; facilities for people with mobility impairment</b></p>	✓	<p><b>Able to comply:</b> Access is available to the main (level) entryways and the lift which runs to all levels.</p> <p>The City of Sydney Access DCP 2004 in Part 1, Section 1.9 – <i>Application of the DCP to Existing Development</i> requires that this development provide a continuous accessible path of travel to and within the building. It is recommended that disabled access be required by applying an appropriate condition of consent which should not require any major design changes.</p>																												
<p><b>Bike storage &amp; showers</b></p>	✓	<p><b>Able to comply:</b> Bike parking is provided at ground level, adjacent Bulwara Road.</p> <p>A condition is recommended requiring secure bicycle storage for 14 bikes (resident) plus 1 visitor space.</p>																												
<p><b>Unit Size</b></p> <p>The control in relation to residential dwelling mix calls for:</p> <p>Min. 15% 1 bedroom Min. 15% 2 bedroom Min. 15% 3+ bedroom</p>	✓	<p><b>Complies:</b></p> <table border="1" data-bbox="823 1144 1453 1646"> <thead> <tr> <th>APARTMENT SIZE</th> <th>NO.</th> <th>% OF TOTAL</th> <th>AVERAGE SIZE (M<sup>2</sup>)</th> </tr> </thead> <tbody> <tr> <td>STUDIO</td> <td>28</td> <td>44%</td> <td>20-42</td> </tr> <tr> <td>2 BEDROOM</td> <td>16</td> <td>25%</td> <td>59</td> </tr> <tr> <td>3 BEDROOM</td> <td>4</td> <td>6%</td> <td>69</td> </tr> <tr> <td>4 BEDROOM</td> <td>6</td> <td>10%</td> <td>79</td> </tr> <tr> <td>5 BEDROOM</td> <td>3</td> <td>5%</td> <td>118</td> </tr> <tr> <td>7 BEDROOM</td> <td>6</td> <td>10%</td> <td>223</td> </tr> </tbody> </table> <p>Refer to discussion of apartment size below.</p>	APARTMENT SIZE	NO.	% OF TOTAL	AVERAGE SIZE (M <sup>2</sup> )	STUDIO	28	44%	20-42	2 BEDROOM	16	25%	59	3 BEDROOM	4	6%	69	4 BEDROOM	6	10%	79	5 BEDROOM	3	5%	118	7 BEDROOM	6	10%	223
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Matter to be Considered	Compliance	Comment
<b>Parking &amp; Servicing spaces</b> (Business Development) Minimum spaces = nil Maximum spaces = 21 (1 space per 200m <sup>2</sup> GFA).  Service vehicles = 1 (1 space per 4,000m <sup>2</sup> )	<p style="text-align: center;">✓</p> <p style="text-align: center;">✓</p>	<b>Complies:</b> No parking is provided. Recommended condition of consent will state that residents are <u>not</u> entitled to participate in the residential parking scheme.  <b>Complies:</b> A loading bay is provided adjacent Bulwara Road.
<b>Public domain principles &amp; strategy</b>	<p style="text-align: center;">✓</p>	<b>Complies:</b> Development proposed complies with the principles and strategies for the Public Domain.

### Issues

38. The issues identified as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below:-

### Floor Space Ratio

39. The development has been assessed at the higher rate of FSR at 2.5:1 (business use is 2.5:1 and residential use 2:1) because the land use serviced apartments has been identified as a business use. The development has an FSR of 2.48:1.

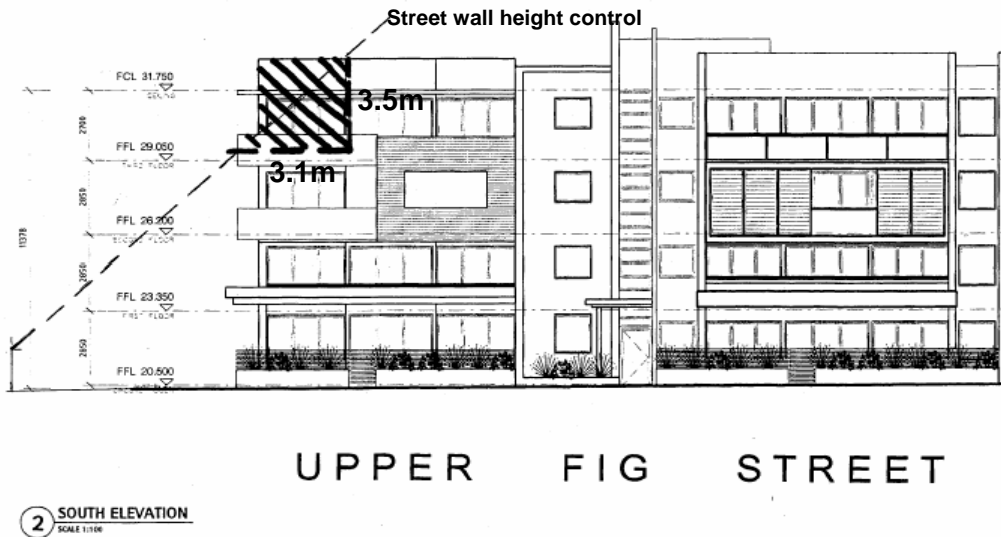
### Zoning

40. The site zoning is residential-business. The objectives for this zone include the promotion of a wide range of uses consistent with the proximity to the CBD. Additionally the zone is to provide for facilities that enable people to live and work in the same community and to encourage sustainable traffic modes. The use of serviced apartments is therefore compatible with the zoning objectives.
41. To ensure that the use as serviced apartments is adhered to, a recommended condition requires a restrictive covenant on the property. The restriction will prohibit permanent resident use and leases under the *Residential Tenancy Act 1987* thus preventing residential usage of the site. A further condition requires space in the building for the provision of on-site services.
42. Prior to consent commencing, another restriction on title is required, preventing subdivision of the building built under the recommended consent.

### Street Wall Height

43. Street wall heights comply on Bulwara Road and Fig Street, but due to the fall in the land and the narrowness of Jones Lane, the Jones Lane street wall is 2.5m above the control.

44. A recommended condition of the deferred commencement reduces the street wall height on Jones Lane to comply with the UDP. The exception is the 8m long brick section on the corner of Jones Lane and Fig Street, to the south of the white vertical blade wall which is to be retained. While this corner is non-compliant, it is appropriate as a more dominant corner element, and provides a consistent street wall height in views up and down Fig Street.



**Hatched area indicates approximate amount of building required to be removed along most of Jones to comply with control**

### Setbacks

45. Bulwara Road and Fig Street comply with the setback control and street wall heights.
46. There is an average setback of 2.25m along the Jones Lane boundary.
47. The control states that new development adjacent to narrow laneways is to provide for a widening of streets and laneways to 9m between property boundaries and the setting back of buildings so that a linear space of 12m can be created. The responsibility is to be shared between properties on both sides. Jones Lane is approximately 5.3m wide (boundary to boundary).
48. To achieve the required 9 metres between boundaries, a setback of 1.8metres is required, i.e  $\frac{1}{2} \times [9m - 5.3m]$ . The 2.25m setback complies with this.
49. To achieve the required 12m width buildings needs to be setback 3.35m each. Buildings on the opposite side of Jones Lane are setback some 10m. Therefore the required linear space of 12m between the buildings is achieved.
50. As discussed above, a condition requires the lowering of the street wall along Jones Lane to comply with the street wall height control. The additional 3.5 metre setback of the upper level further improves the proposed building's compliance with this control and ensures that there is no unreasonable overshadowing of adjacent properties. The orientation of Jones Lane ensures it will retain excellent sun access.

51. The control requires dedication of 1.85m of the setback space  $((9\text{m} - 5.3\text{m}) / 2) = 1.85\text{m}$ ). The recommended condition requires dedication of the full 2m setback proposed and the applicant agrees to this condition. The additional width to Jones Lane may enable the provision of on street parking, not currently provided. This could be investigated when considering the public domain plans required by recommended condition. Prior to dedication, the land will need to be improved, to Council's satisfaction.

### **Apartment Size**

52. Some of the apartment sizes provided in this development are smaller than might be expected. As the issue of apartment size is not specifically covered in the planning controls for the site the provisions of Section 6 of the Central Sydney DCP 1996, which are to ensure reasonable levels of amenity are achieved in residential buildings including serviced apartments, has been included for comparison.

53. Clause 6.1.34 of the Central Sydney DCP 1996 gives the following breakdown for minimum unit sizes:

Studio apartments	40m <sup>2</sup>
1 bed apartments	55m <sup>2</sup>
2 bed apartments	80m <sup>2</sup>
3+ bed apartments	100m <sup>2</sup>

54. With recommended conditions such as the restrictive covenants on tile, the business use as serviced apartments, as opposed to residential units, is maintained and reasonable levels of amenity for this use achieved.

### **Heritage**

55. Council's Heritage Specialist's advice is:

*"The existing building is a relatively small surviving fragment of a much larger building demolished to make way for the adjacent freeway in the mid 1980s. It is not heritage listed and exhibits features better represented in intact local examples of late 19<sup>th</sup> century industrial buildings."*

### **Urban Design**

56. Council's Urban Designer supports the design subject to some changes to the colour scheme (more earthy tones recommended). Recommended conditions of consent in regard to these issues forms part of the consent.

### **Section 79C(1)(b) Other Impacts of the Development**

57. There will be no significant environmental, social or economic impacts as a result of this proposal. The development is largely consistent with the planning controls but for the exception of height (discussed in detail above).

### **BCA Matters**

58. Following a review of the application, no objection was raised to the issue of the development consent on BCA grounds subject to recommended conditions. Potential fire rating issue has been identified in the lack of separation between units 11 and 12, and 27 and 42 and a condition is included to address this.

59. The BCA Classification of the building is Class 3.

#### **Section 79C(1)(c) Suitability of the site for the development**

60. Given the objectives of the Residential-Business zone which seek to provide a wide range of uses, to create a mixed-use area and to ensure sustainable transport modes for journeys – the proposed development is considered appropriate for the site. The minor non-compliance with height does not directly cause any negative impacts on surrounding uses.

#### **Section 79C(1)(e) Public Interest**

61. The proposed development achieves long term planning objectives for the site and is considered to be in the public interest.

### **FINANCIAL IMPLICATIONS/SECTION 94 CONTRIBUTIONS**

#### **Section 94 Contributions**

62. A total contribution of \$365,603.82 is required in accordance with the Ultimo Pyrmont Section 94 Contributions Plan. The contribution amount has been verified by Sydney Harbour Foreshore Authority at the following rate:-

28 x 1BR units @ \$3,690.04/unit = \$103,321.12

16 x 2BR units @ \$6,265.55/unit = \$100,248.80

19 x 3BR units @ \$8,528.10/unit = \$162,033.90

**TOTAL: \$365,603.82**

#### **Affordable Housing Contributions**

63. A total contribution of \$124,702.23 is required in accordance with Clause 59 of SREP 26. The amount has been verified by City West Housing Pty Ltd at the following rate:-

4,222.9m<sup>2</sup> of commercial TFA @ \$29.53/m<sup>2</sup> = \$124,702.23

**TOTAL: \$124,702.23**

### **PUBLIC CONSULTATION**

#### **Section 79C(1)(d)**

#### **EXTERNAL REFERRALS**

64. Adjoining and nearby owners and occupiers were notified of the proposal and invited to comment. **There were 3 notification periods:**

(a) Notification of the original proposal as student accommodation, this notification period ended **4 November 2005**.

- (b) Application was re-notified as serviced apartments with amended plans reducing development to 4 levels plus part lower ground level and with deletion of basement carparking. This is the development now before Council. The notification period ended **15 February 2006**.
  - (c) A further re-notification of the above proposal was required as the elevation plans supplied did not include additions to the roof terrace (comprising communal room and laundry). The notification period ended **9 March 2006**.
65. In addition, notices were placed at the site and the proposal was advertised in the local paper (for all 3 notification periods above), in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005.
66. A total of 118 submissions (99 objectors) were received comprising 66 in the first notification period, 23 in the second notification period and 29 in the final period of notification.
67. The grounds for objection from all 3 notification periods are discussed as follows:-

**(a) Excessive height & FSR; any new development should not exceed the existing warehouse height.**

**Comment:** This issue has been addressed by amendments. The proposal complies with FSR and height with the required deletion (by condition of deferred commencement) of the communal rooms that were to be located at the roof terrace level.

**(b) Scale and character not appropriate to locality; and insufficient setbacks. Photomontage provided exaggerates the degree of separation achieved by Jones Lane.**

**Comment:** Since this issue was raised, the proposal has been reduced from 5 to 4 levels and the setback from Jones Lane increased to 2m. A condition requires a lowering of the Jones Lane street wall by approximately 3.1 metres. The proposed scale and character is considered an appropriate intermediary between the characteristic warehouse and terrace house typologies.

**(c) Overshadowing and its impact on Fig Lane Park and the terraces to the west. Overshadowing of heritage terraces will exacerbate existing health issues arising from rising damp and mould for these economically disadvantaged households.**

**Comment:** The extent of overshadowing has been reduced with the removal of the proposed level 5 and the 2m setback to Jones Lane. The control does not distinguish between residential development and parks. The criterion is that no more than 50% of the major open space or communal private open space is impacted between 10am and 2pm in midwinter. The shadow diagrams provided show the greatest periods for impact in June to be:

- 9am - overshadowing of rear yards and the rear portion of terraces (which actually front Jones Street). Sometime during the midmorning the buildings and rear yard receive full sun.

- Midday - shadow restricted largely to the width of Jones Lane and now a portion of the north-eastern margin (approximately 13%) of Fig Lane Park.
- 3pm – shadow is concentrated on a small upper north-eastern section of Fig Lane Park and along Bulwara Road. This area of the park is currently shaded by existing vegetation. No private properties are affected.

By September the proposed building ceases to cause any shadowing of both park and property.

The additional overshadowing of the terraces is unlikely to contribute to mould or rising damp problems currently experienced. Furthermore, the recommended condition of deferred commencement requires the street wall height along Jones Lane to comply with Council's controls which will further decrease overshadowing impacts.

**(d) Air quality and proximity of development to overpass of Western Distributor; proximity to freeway and items thrown from overpass at development.**

**Comment:** Conditions are recommended to address the noise issue from the overpass based on recommendations contained within the Road Traffic Noise Intrusion Report provided. The air quality at the site, due to the level of vehicular movements in the vicinity, is considered acceptable relative to the urban densities of Ultimo-Pyrmont and its proximity to Sydney's CBD.

Units on the northern elevation of the building are no less than 5.5m from the Western Distributor. The threat of projectiles is not considered sufficient to require a design response. Furthermore, the side barrier for the overpass is approximate 3m in height which would conceal this development from road users.

The proposed building will buffer the Jones Street terraces from freeway noise.

**(e) Noise from use by students**

**Comment:** Recommended conditions require the applicant to provide a Plan of Management for the use of the building as serviced apartments including measures to minimise unreasonable noise impact on adjoining properties. Design amendments require deletion of roof top level communal rooms and prevent access to the rooftop, which will reduce disturbances to the surrounding residents.

**(f) Lack of on-site parking and the effect of additional parking demand on existing parking availability. Increased vehicular movements will impact on pedestrian movements along streets/lanes where sidewalks are inadequate. Large number of pedestrian movements from proximity of 3 childcare facilities and numerous community facilities. Development is not in close proximity to any tertiary education facilities.**

**Comment:** The original development proposal included basement parking for 36 vehicles. With the change of use to serviced apartments the basement has been removed. The surrounding streets all contain regulated parking. A recommended condition is that occupants will not be entitled to participate in the residential permit parking scheme. Consequently traffic movements will not increase.

One of the ways that Council can reduce traffic congestion and the reliance on private transport is with restrictions to the amount of on-site parking. The UDP does not require any minimum amount of parking for business uses.

As a guide, the Housing Section of the University of Technology, Sydney advise that an average of only 8% of students within residential accommodation own/use private cars.

The site is very close to: UTS, Sydney TAFE, Sydney University and numerous language schools.

**(g) Windows on the north-western elevation will overlook adjoining property which may be developed in the future.**

**Comments:** Addressed - windows on the boundary have been deleted without affecting the amenity of the proposed apartments.

**(h) The Jones Street terraces heritage values are compromised by proposed development.**

**Comment:** The proposal still enables full appreciation of the front (Jones Street) and rear (Jones Lane) of the row of terraces. As discussed, Council's Heritage Specialist does not believe the building will detract from their significance.

**(i) Height; and narrowness of Jones Lane amplifies bulk/height of proposed development. Loss of privacy along Jones Lane for adjoining terrace housing. Bulwara Road should have setbacks for sidewalk as well.**

**Comments:** These issues are addressed above in the report. Considering the separation between existing terraces and proposed building (some 18m), the street wall height is appropriate and separation allows adequate privacy. Recommended conditions address overlooking and further reductions in the Jones lane street wall height to comply with Council controls will diminish these impacts further.

The existing footpath on Bulwara Road will remain.

**(j) Overshadowing of children's playground; loss of sunlight for heritage terraces; and accuracy of shadow diagrams.**

**Comments:** This has been discussed above. Overshadowing to the terraces is gone by midmorning and the extent of overshadowing of the park is some 13% of the area and already impacted by the trees in that vicinity.

These comments are based on the shadow plans provided to Council by the applicant which are satisfactory.

**(k) Use for backpackers confirmed by new layout; looks like student housing – what's the difference?; Concern that use revert to backpackers accommodation; lack of facilities in development; and development application and Statement of Environmental Effects contains information that is contradictory;**

**Comments:** The current proposal is for Serviced Apartments. As discussed this landuse is generally distinguished from backpacker accommodation by the provision of self contained rooms, as in this proposal.

The applicant outlines an intention for students to occupy the serviced apartments. Council's legal unit have considered this and advise that there are no limitations on who uses serviced apartments and lengths of stay. However, a recommended condition requires that a restrictive covenant be placed on the title prohibiting uses of the building other than as serviced apartments.

Although a number of apartments have greater than the typical number of bedrooms, the floorplans adequately reflect a serviced apartments use, with reasonable amenity to each.

**(l) Supporting documentation is vague and Statement of Environmental Effects is unhelpful.**

**Comments:** Council has had ongoing meetings with the developer to resolve identified issues. In this regard the proposal has been considerably modified through several redrafts of the plans. Although the clarity of information could be improved, it is now sufficient to determine the application and not a reason on its own to warrant refusal.

**(m) Loss of trees at site.**

**Comments:** The proposed development will result in the removal of some 13 trees. Council's Tree Management Officer is satisfied with the tree removal and replacements proposed. Recommended conditions provide for replacement trees which comply with Council's Street Tree Masterplan.

**(n) Development does not demonstrate compliance with SEPP 65.**

**Comments:** The proposal does not need to demonstrate compliance with SEPP 65 – Design Quality of Residential Flat Development as the land use does not qualify as a *residential flat building* within the meaning of the definitions for this policy.

*Sydney Traffic Committee*

68. The original proposal with basement parking went before the Sydney Traffic Committee at its meeting of 5 October 2005 and no objections were raised on traffic grounds with recommended conditions to address traffic and pedestrian safety issues.
69. The current design amendments were forwarded to Council's Transport Management Unit who advised that the matter did not need to go before the traffic committee again, subject to amended conditions recommended for inclusion in any consent issued. The transport unit are supportive of the proposal with no on-site parking.

**Integrated Development**

70. The proposal is not Integrated Development.

**INTERNAL REFERRALS**

71. The application was referred to Council's Specialist Surveyor, Specialist Health Surveyor, Heritage Architect, Senior Urban Designer, Living City Building Services Unit, Transport Management Unit, Public Domain and Parks and Aquatic Services Unit.

72. Some concerns were raised by Public Domain regarding the lack of coordination in the onsite landscaping. It is considered that these issues can be reasonably addressed and appropriate conditions have been included in the report to reflect these requirements.

### **RELEVANT LEGISLATION**

73. The Environmental Planning and Assessment Act, 1979.

### **OPTIONS**

74. The Committee may or may not concur with the recommendation of this report.

### **CONCLUSION**

75. The development will provide serviced apartment accommodation. The applicant intends that the serviced apartments will be occupied by the nearby student population. The floor plans reflect this. Each apartment has adequate amenity and the mix and size is satisfactory.
76. There will be no strata subdivision of the development and no parking will be provided onsite nor will it be available offsite.
77. The development will comply with all core controls with the recommended condition to delete the community room and use of roof terrace and to lower the height of the Jones Lane street wall. On this basis the development is recommended for approval subject to the recommended conditions.
78. It is recommended that the period after which the development consent will lapse be two years.

**JASON PERICA**  
Director City Planning

(Peter Orr, Planner)