

JRPP Ref No.	2010SYW017
ITEM	95 - 101 Chapel Road, Bankstown Construction of a New Part 2-/Part 3-Storey 100-Bed Aged Care Facility with Associated Basement Car Parking
FILE	DA-212/2010 - South Ward
ZONING	2(b) - Residential B
DATE OF LODGEMENT	15 March 2010
APPLICANT	Petrea Pty Limited
OWNERS	Ark Health Care (Bamfield) Pty Ltd
ESTIMATED VALUE	\$13.8million
AUTHOR	City Planning and Environment

SUMMARY REPORT

This matter is reported to the South West Regional Planning Panel due to the capital investment value of works (\$13.8million) exceeding \$10million, in accordance with Clauses 13B(1)(a) and 13F of the State Environmental Planning Policy (Major Development) 2005.

Development Application No. DA-212/2010 proposes the construction of a new part 2-/part 3-storey 100-bed Aged Care Facility with associated basement car parking, landscaping and boundary fencing. The development takes the form of a single building with an internal courtyard. The basement level presents as 3 storeys to the Hixson Rd frontage of the site, but is wholly below ground at the rear of the site, where the development presents as two storeys.

DA-212/2010 has been assessed against the provisions of the Section 79C of the *Environmental Planning and Assessment Act, 1979*, in particular State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ("Seniors Living SEPP"). The provisions of the Bankstown Local Environmental Plan 2001 and Bankstown Development Control Plan 2005 have also been considered as a guide, in relation to site specific issues and the context of surrounding development.

The application generally complies with all of the relevant provisions of the Seniors Living SEPP, apart from the failure to comply with the landscaped area requirement, being a standard that cannot be used to refuse consent if complied with. In this instance, despite the standard not being met, the proposal is considered to

incorporate appropriate landscaping and will provide sufficient open space and landscaped areas for the residents of the facility. As such, it is considered that the application should not be refused for failing to comply with this standard.

The application was advertised and notified for a period of twenty-one (21) days, between 31 March 2010 and 20 April 2010. One objection was received during this period, which raised concerns relating to a request for a dilapidation report, the need for replacement fencing along the boundaries of the subject site, and concerns relating to increased traffic and noise associated with ambulances attending the site.

It is considered appropriate for a dilapidation report to be prepared and for boundary fencing to be replaced. These matters can be appropriately addressed via conditions of consent. The level of traffic generated as a result of the development, and associated noise levels, are not considered to exceed reasonable limits in the context of a residential locality.

FINANCIAL IMPACT

The matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions (Attachment B).

ATTACHMENTS

- A - Section 79C Assessment Report
- B - Conditions of Consent
- C - Locality Plan
- D - Site Plan
- E - Basement Plan
- F - Ground Floor Plan
- G - 1st Floor Plan
- H - East, North and West Elevations
- I - West (sectional) and South Elevations
- J - Sections
- K - Roof Plan
- L - Shadow Diagrams
- M - Site Analysis Plan
- N - 3D Montage

ATTACHMENT A - SECTION 79C ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

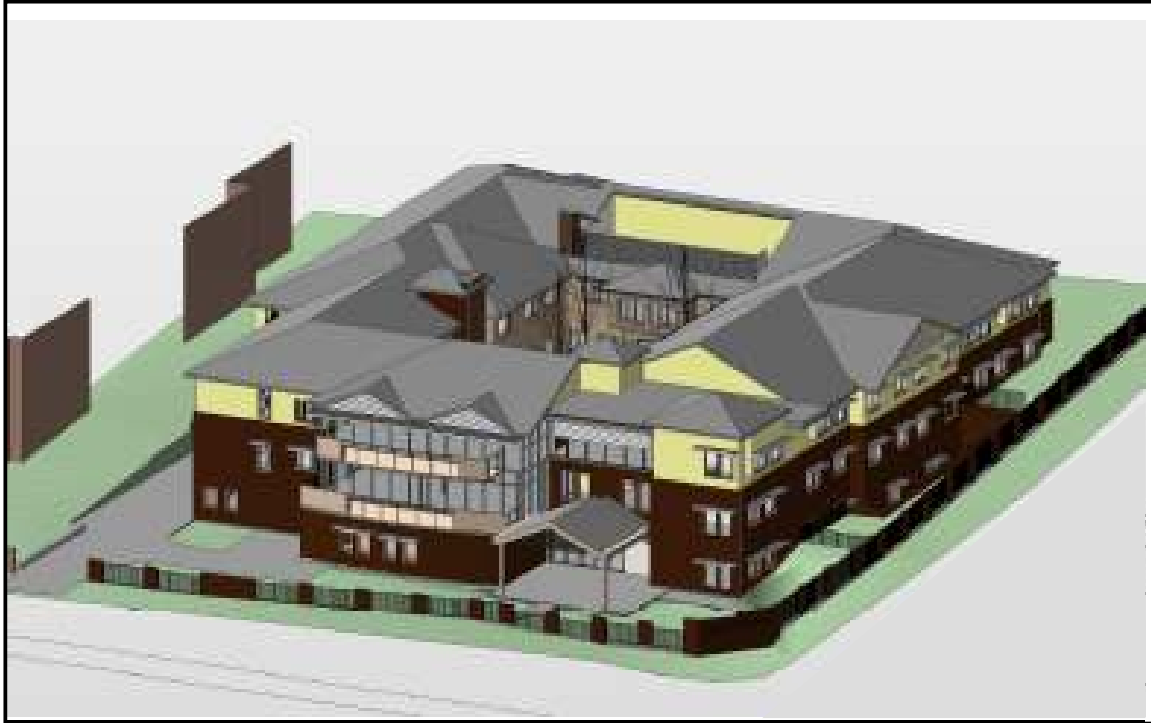
The subject site is known as 95 - 101 Chapel Road, Bankstown. The site is a regular allotment, located on the corner of Hixson Street and Chapel Road, with a frontage of 52.6m to Hixson Street and a frontage of 70.4m to Chapel Road, and an overall site area of 3886m². The site is currently zoned 2(b) - Residential B, which permits residential flat building development. The site is currently vacant. The surrounding development consists of three-storey residential flat buildings adjoining to the east and south. To the north, across Hixson Street, and to the west, across Chapel Road, older style one- and two-storey single dwellings predominate.



PROPOSED DEVELOPMENT

The Development Application proposes the construction of a new part 2-/part 3-storey 100-bed Aged Care Facility with associated basement car parking, landscaping and boundary fencing. The development takes the form of a single building with an internal courtyard. The basement level present as 3 storeys to the

Hixson Rd frontage of the site, but is wholly below ground at the rear of the site, where the development presents as two storeys.



3-D Montage of Proposed Development at 95-101 Chapel Rd

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 79C(1)(a)(i)]

State Environmental Planning Policy (Major Development) 2005

Part 3 (Regional Development) of the Major Development SEPP applies to this development as the capital investment value of \$13.8million exceeds \$10 million, specified under clause 13B. The development application is therefore to be determined by the Joint Regional Planning Panel.

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors Living SEPP)

The proposed development meets the definition of a residential care facility under Clause 11 of the Seniors Living SEPP, being "*residential accommodation for seniors or people with a disability that includes:*

- (a) meals and cleaning services, and*
 - (b) personal care or nursing care, or both, and*
 - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*
- not being a dwelling, hostel, hospital or psychiatric facility."*

As such, the following clauses of the Seniors Living SEPP are applicable to the proposed development:

Clause 16 Development consent required

Development consent is required for residential care facilities.

Clause 18 Restrictions on occupation of seniors housing allowed under this Chapter

A condition will be imposed on any development consent issued, requiring a restriction under Section 88E of the Conveyancing Act, 1919 to be imposed on title stating that the proposed development may provide for the accommodation of the following only:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

Clause 26 Location and access to facilities

The application must demonstrate that the following are provided to residents of the proposed facility:

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) the practice of a general medical practitioner.

These must either be located:

- (a) within a distance of 400m from the site via a suitable access pathway with an average gradient of 1:14; or
- (b) there is a public transport service available to the residents who will occupy the proposed development, that is:
 - (i) located at a distance of not more than 400 metres from the site of the proposed development; and
 - (ii) the distance is accessible by means of a suitable access pathway; and
 - (iii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services listed above; and
 - (iv) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday.

Written evidence, including a site analysis plan, has been submitted indicating that several bus stops are located within 400m of the

development site, at virtually level grade, that will allow residents to access the services listed above within 400m of the bus set-down point at compliant grade, with a frequency of service greater than the minimum stipulated in the SEPP.

Clause 28 Water and sewer

The subject development will be connected to the Sydney Water sewerage and water supply system. A condition of consent will be imposed requiring a Section 73 Certificate to be obtained.

Clause 29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

The consent authority is required to consider the impact of the proposed development on the natural environment, services and infrastructure provision, and bulk and scale. The assessment of the application, particularly with regard to Clauses 28 and 32 of the SEPP, has determined that the proposed development will have an appropriate level of impact with regard to urban design and overall bulk and scale, being a generally 2-storey development (with a 3-storey presentation to Hixson St) in an area surrounded by 3-storey residential flat buildings, with appropriate access to infrastructure and services. The development proposes the retention of 2 significant trees on site, and is generally considered to have an appropriate level of impact on the natural environment.

Clause 30 Site analysis

A site analysis plan has been submitted demonstrating compliance with all of the relevant matters for consideration under clause 30.

Clause 32 Design of residential development (incorporates Clauses 33-39)

In the case of the design principles listed under clauses 33-39 (neighbourhood amenity and streetscape; visual and acoustic privacy; solar access and design for climate; stormwater; crime prevention; accessibility; and waste management), the development is assessed as satisfying the requirements of the SEPP and overall achieves a satisfactory standard of design. It is noted however, that the development was considered by Council's Major Development Design Review Panel and Urban Designer. Both raised concerns with the design, and offered suggestions to improve the urban design presentation of the facility. In general, the applicant has demonstrated that the urban design suggestions made by the Urban Design Review Panel do not meet the operational needs of the facility. Some changes have been made to address bulk and scale issues in the northern elevation and the treatment of the corner and, on balance, the design as proposed is considered to be satisfactory and does not create any adverse amenity impact for the neighbouring properties.

Clause 40 Development standards—minimum sizes and building height

The following standards for site area and frontage must be satisfied before consent can be granted. The subject site has an area of 3886m², which exceeds the 1000m² minimum, and a primary frontage of 52.6m, which exceeds the minimum requirement of 20m. As the site is located in a 2(b) zone which permits residential flat buildings, the maximum building height of 8m does not apply.

Clause 48 Standards that cannot be used to refuse development consent for residential care facilities

STANDARD	PROPOSED	Seniors Living SEPP	
		REQUIRED	COMPLIANCE
Building Height - cl.48(a)	>8m, part 3-storey	8m and 2 storeys	Not applicable in 2(b) zone
FSR - cl.48(b)	0.99:1	1:1 max	Yes
Landscaped area - cl.48(c)	15.8m ² per bed (1580m ²)	25m ² per bed (2500m ²)	No
Parking - cl.48(d)	23 spaces (100 beds & 22 employees) + 1 ambulance space	1 space per 10 beds and 1 space per 2 employees and parking for an ambulance	Yes

Assessment of the Development Application has revealed that the proposal complies with the matters raised in each of the above, apart from Clause 48(c) in relation to landscaped area.

Landscaped Area

Clause 48(c) of the Seniors Living SEPP states that the consent authority must not refuse consent for a residential care facility if a minimum of 25m² of landscaped area per residential care facility bed is provided. In this case, this would require a minimum of 2500m² of landscaping to be provided on site. A total of 1580m² of landscaped area is provided on site, a ratio of 15.8m² per residential care facility bed, or 40.6% of the total site area of 3886m².

The applicant has acknowledged that the standard has not been met. The required area of 2500m² is equivalent to 64.3% of the site area, and it has been suggested that providing this amount of landscaped area would result in a significantly smaller residential care facility development that would not meet the operational needs of the facility. It has been suggested that large external areas are not required by these types of facilities, and rather the quality and quantity of interior space is more important, due to the nature of the residents (ie bedridden, frail, suffering from dementia). The demand for landscaped areas or open space is limited and access to these spaces needs to be restricted so

as to prevent residents leaving without the knowledge of staff, with high-level security of the premises to be provided. On this basis, the level of open space is considered acceptable.

As the standards in Clause 48 are referred to as development standards that cannot be used to refuse development consent for residential care facilities, the consent authority can, if it deems it appropriate (and the variation has merit), support the development without compliance with the standard. In this instance, it is considered that the amount of landscaped area provided to the proposed development is appropriate, and that compliance with the standard is unnecessary in this instance.

Bankstown Local Environmental Plan 2001

Where the Seniors Living SEPP does not prevail over these provisions, the following clauses of the Bankstown Local Environmental Plan 2001 were taken into consideration:

- Clause 2 Objectives of this plan
- Clause 11 Development which is allowed or prohibited within a zone
- Clause 17 General environmental considerations
- Clause 19 Ecologically Sustainable Development
- Clause 20 Trees
- Clause 44 Objectives of the residential zones

The assessment of the Development Application has revealed that the proposal complies with the matters raised in each of the above clauses of the Bankstown Local Environmental Plan 2001.

Draft environmental planning instruments [section 79C(1)(a)(ii)]

No draft environmental planning instruments are applicable to the proposed development.

Development control plans [section 79C(1)(a)(iii)]

The provisions of Part D2 of the Bankstown Development Control Plan 2005 (BDCP 2005) have been considered as a guide in the assessment of the subject application, where the Seniors Living SEPP does not include specific requirements for elements otherwise raised in the BDCP 2005, particularly for residential flat buildings.

Of particular relevance are the setback controls contained in Part D2 of the BDCP 2005 for residential flat building development.

The development achieves a primary setback to Hixson St of between 13.6-15.6m, with a minor intrusion of a porte-cochere on a setback of 8.8m. The primary setback control in Part D2 of the BDCP 2005 would apply only to building walls, and not the porte-cochere, meaning a setback of between 13.6-15.6m would more than comply with Council's minimum 7.5m setback provided an average of 9m is achieved. The

requirement for an average secondary setback to Chapel Road of 5.5m has also been achieved.

For side boundary setbacks, Council requires a minimum of 0.6 x the wall height. Where wall height is 8.7m towards the Hixson St frontage end of the site, the setback to the eastern side boundary of 7.0m greatly exceeds the DCP minimum of 5.22m. However, this setback reduces to 3.4-3.8m where a setback of between 3.42 and 4.5m would be required under the DCP. A setback of at least 10.922m is achieved between the proposed 2-storey building, and the existing 3-storey building to the east. Similarly, the setback of 6.5m to the southern boundary of the site more than meets the 3.6m setback required.

In the context of the requirements of the Seniors Living SEPP, which stipulates that minimum setbacks between buildings should comply with the requirements of the Residential Flat Design Code, which in turn states that for buildings above 3 storeys in height a minimum separation distance of 12m should be achieved between habitable rooms and balconies, this 10.922m separation between 2- and 3-storey buildings is considered to be acceptable.

Planning agreements [section 79C(1)(a)(iia)]

No planning agreements are applicable to the proposed development.

The regulations [section 79C(1)(a)(iv)]

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 79C(1)(b)]

The likely impacts of the proposed development are considered to be appropriate in the context of existing residential development, and within acceptable limits in a residential locality.

Suitability of the site [section 79C(1)(c)]

Given the assessment of the application contained in this report, the subject site is considered to be suitable for the proposed development.

Submissions [section 79C(1)(d)]

The application was advertised and notified for a period of twenty-one (21) days, between 31 March 2010 and 20 April 2010. One objection was received during this period, which raised concerns relating to a request for a dilapidation report, the need for replacement fencing along the southern boundary of the subject site and concerns relating to increased traffic and noise associated with ambulances attending the site.

Objection: Prior to commencement of any excavation and/or construction work, a dilapidation report should be prepared.

Comment: Given the extent of works proposed in close proximity to existing residential flat buildings and associated facilities such as driveways, etc., it is considered appropriate for a dilapidation report to be prepared. This matter has been addressed via condition of consent.

Objection: Boundary fencing should be replaced at the developers cost

Comment: A condition of consent is recommended to be imposed, requiring all boundary fencing to be replaced at the developers cost.

Objection: Concern is raised over the increased level of traffic, and noise associated with ambulances, accessing the basement car parking

Comment: The level of traffic generated as a result of the development, and associated noise levels, are not considered to exceed reasonable limits in a residential locality.

The public interest [section 79C(1)(e)]

The proposed development is not considered to contravene the public interest.

CONCLUSION

The Development Application has been assessed against the provisions of the Section 79C of the *Environmental Planning and Assessment Act, 1979*, in particular State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ("Seniors Living SEPP"). The provisions of the Bankstown Local Environmental Plan 2001 and Bankstown Development Control Plan 2005 have also been considered as a guide, in relation to site specific issues and the context of surrounding development.

The application generally complies with all of the relevant provisions of the Seniors Living SEPP, apart from the failure to comply with the minimum landscaped area requirement, being a standard that cannot be used to refuse consent if complied with. In this instance, despite the standard not being met, the site is considered to be appropriately landscaped and provides sufficient open space and landscaped areas for the residents of the facility. As such, it is considered that the application should not be refused for failing to comply with this standard, and is recommended for approval.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.

ATTACHMENT B - CONDITIONS OF CONSENT

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-212/2010, submitted by Petrea Pty Ltd, accompanied by Plans: Project No: 3140, Drawing Nos. A101, A102B, A104a, A105, A106, A107, A108, A109a, A110 prepared by Graeme Light & Associates Pty Ltd, dated 27.08.10, and affixed with Council's approval stamp dated <INSERT DATE>, except where amended by the conditions contained in this approval.
- 3) The area subject of food preparation must be designed, constructed and operated in accordance with the requirements of:
 - a) The NSW Food Act 2003 and Food Regulation 2004
 - b) FSANZ Food Standards Codes 3.2.2 and 3.2.3
 - c) Australian Standard AS 4674-2004 (Construction and Fitout of Food Premises)
 - d) The Building Code of Australia
 - e) The Protection of the Environment Operations Act 1997
 - f) Australian Standard AS 1668 Part 1 and Part 2 (The use of ventilation and air-conditioning in Buildings)
 - g) Sydney Water Corporation (Trade Waste Section)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:

- 4) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 5) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 6) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the

subject allotment at full cost to the developer. Where retaining walls are proposed, the fences must be erected atop such retaining walls. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.

- 7) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove the trees so identified for removal on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000. Those trees identified for retention must be retained.
- 8) A Soil Erosion and Sedimentation Control Plan shall be prepared in accordance with Council's relevant DCP. The plan shall be prepared by a suitably qualified professional and approved by the Principal Certifying Authority, prior to the issue of the Construction Certificate.
- 9) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A Notice of Requirements must be issued prior to the release of the Construction Certificate.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision Certificate/occupation of the development.

- 10) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 11) Prior to issue of a Construction Certificate, a Long Service Levy payment, being 0.35% of the value of the work, is required to be paid to Council on behalf of the Long Service Levy Corporation.
- 12) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$138,000 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

Note: The Section 94 Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 13) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 14) A Work Permit shall be obtained from Council for the following engineering works in front of the site, at the applicant's expense:
 - a) A heavy duty vehicular footway crossing (VFC) 5.5 metres wide at the property boundary.
 - b) Construction of new stormwater drainage pits and pipes within Hixson Street.
 - c) Drainage connection to the proposed stormwater pipe in Hixson Street.
 - d) 1.2 metre wide concrete footway paving along the sites entire frontage to Chapel Road and Hixson Street.
 - e) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - f) Repair of any damage to the public road including the footway occurring during development works.
 - g) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 15) Stormwater runoff from within the property shall be collected and controlled by means of an on site detention system in accordance with Council's Development Engineering Standards. The runoff from the detention storage shall be conveyed to the proposed pit P-12 in Hixson Street.

A final stormwater drainage and on site detention system plan, shall be prepared by a qualified professional Civil Engineer in accordance with the above requirements and the requirements contained in Council's Development Engineering Standards. The final stormwater drainage plan shall also be generally in accordance with the concept plans 25347 C01 Revision 1-0 dated 22 March 2010, 25347 C02 Revision 1-1 dated 9 April 2010, 25347 C03 Revision 1-1 dated 9 April 2010, 25347 C04 Revision 1-2 dated 5 July 2010, 25347 C05 Revision 1-1 dated 9 April 2010, 25347 C06 Revision 1-2 dated 5 July 2010 prepared by Buckton Lysenko. The final plan shall include the following:

1. The pump out tank to the basement shall avoid the existing sewer line in accordance with Sydney Water requirements.
2. The proposed 20,000 Litre rainwater tank shall be plumbed to service the following:

- a. all proposed toilets and laundry facilities
 - b. garden taps
 - c. irrigation for the site.
3. The stormwater drainage within the courtyard area shall be sized to cater for the 100 year ARI critical duration storm. The catchment area draining to the courtyard area shall include all roof area that would overflow to the courtyard if all downpipes are blocked.
 4. Construction of new pits and pipes in Hixson Street below the existing kerb and gutter. The new drainage construction shall discharge to the existing pit downstream of the site shown as pit P-14.

The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards and the relevant Australian Standards.

- 16) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 17) Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 18) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 19) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 20) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed 20% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 20 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and

shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 21) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 22) The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 23) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.

Assessment of Works Permits (a to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

For commercial or multi-unit residential developments within the designated CBD or an urban village area, footway design and construction and street tree supply, installation

and tree hole detailing shall be as per the Council master plan for that area. Full width footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Layout plan of pavement to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath ie Hoardings, Work Zones etc.

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website www.bankstown.nsw.gov.au

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

- 24) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 25) Prior to the issue of a Construction Certificate, a dilapidation report shall be prepared by suitably qualified person, and a copy provided to the owners or owners corporation or the properties immediately adjoining the development site to the east and south.
- 26) The approved buildings shall be erected to comply with Australian Standard 3671 "Acoustics-Road Traffic Noise Intrusion, Building Siting and Construction" and Australian Standard 2107 "Acoustics - Recommended Design Sound Levels and Reverberation Times for Building Interiors." Evidence of compliance with such standards shall be submitted with the Construction Certificate application with a report

prepared by a suitably qualified acoustic Consultant. The Construction Certificate plans shall include all of the attenuation measures recommended in the Acoustics Report. The development shall be constructed to include all of the recommended attenuation measures and the acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.

- 27) All of the relevant and appropriate water conservation and energy efficient requirements of Bankstown DCP 2005 – Part D7 shall be complied with. Details of the proposed measures to demonstrate compliance with the above DCP shall be submitted with the Construction Certificate.
- 28) Detailed plans of the fitout, storage areas and waste storage areas of the food premises, prepared by a qualified architect, must be submitted for approval with the application for the Construction Certificate. These plans should indicate the following:
 - i) Material and finishes of all walls, floors (including approved coving and location of floor wastes), ceilings and light fittings including the means of sealing of any gaps or crevices.
 - ii) Sections and elevations of the shelving, storage units, food display counters and the like indicating the material and finishes and the height above the floor.
 - iii) Sections and elevations of all free standing refrigerators, freezers and the like indicating wheels, plinths or approved clearance from the floor.
 - iv) Sections and elevations of all stoves, grillers, deep fryers, ovens, other food preparation or cooking equipment and the like indicating wheels, plinths or approved clearances from the floor and between each item.
 - v) Sections and elevations, materials and finishes and method of construction of the counter and other non-food display or storage units.
 - vi) Details of any air conditioning or mechanical ventilation systems existing or proposed. Such details must be prepared by a qualified practising mechanical ventilation engineer and designed in accordance with Part F 4.5 of the Building Code of Australia and Australian Standard AS 1668.2 (1991).
 - vii) Details of all washing and cleaning facilities including wash hand basins and a cleaner's sink, indicating their precise location, designated use and water and drainage connections. NOTE: All hand wash basins must be free standing.
 - viii) Details of the proposed waste storage area incorporating a waste recycling bay.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 29) The erection of a building / subdivision works in accordance with this development consent must not be commenced until:
 - a) Detailed plans and specifications have been endorsed with a Construction Certificate (by the consent authority or an accredited certifier), and

- b) The person having benefit of the Development Consent has appointed a 'principal certifying authority' (PCA), and has notified the consent authority and the Council (if Council is not the consent authority) of the appointment, and
 - c) The person having benefit of the development consent has given at least 2 days notice to the Council of their intention to commence the development works the subject of this consent.
- 30) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone. The following must be adhered to:
- No fill, excavated material, building material or other items are to be placed around retained trees.
 - No excavation is to take place around the root zone or canopy of retained trees.
 - All preservation zones are to be mulched to a depth of no less than 70-100mm using a suitable organic mulch or sand around the trees to be retained, ie; around the root zone or canopy of trees.
 - Fencing around retained trees is to be in place prior to commencement of site works and is to be kept in place during all construction, until final inspection is undertaken.
 - Fences should be signposted to warn contractors of their purpose.
 - Treatment and pruning of trees may only be undertaken by qualified arborists after approval of Council.
 - Any tree removal carried out on Saturdays is permitted only between the hours of 7am and 1pm inclusive, Sunday removals **not** permitted.
 - Construction to begin only when the above procedures are in place.
 - Failure to comply with the above conditions will result in an on-the-spot fine.
- 31) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 32) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 33) Prior to commencement, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 34) Prior to the commencement of any building work a fence shall be erected along the property boundaries of the development site, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the site. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high.

All fencing is to be maintained for the duration of the construction to ensure that the site is secured and privacy of the adjoining properties is not compromised.

Where the development site is located within 3m of a public place then a Class A or Class B hoarding shall be constructed appropriate to the works proposed. A Works Permit for such hoardings shall be submitted to Council for approval prior to the issue of any Construction Certificate.

- 35) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 36) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with part 6 of that Act, such a contract of insurance must be in force before any building work authorised to be carried out by this consent commences.
- 37) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority (PCA) for the development to which the work relates (not being council) has given the Council written notice of the following information:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that act,
 - b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Note: If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under the above requirements becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates (not being the council) has given the council written notice of the updated information.

This clause does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.

- 38) For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition is being carried out:
 - a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted during and outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

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

Note: This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building, or in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.

- 39) The application must be submitted to the appropriate Sydney Water Officer to determine whether the development will affect Sydney Water infrastructure (ie. Sewer mains, easements, etc). If the development complies with Sydney Water's requirements, the plans will be stamped indicating that no further requirements are necessary.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 40) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 41) The building work must be carried out in accordance with the requirements of the Building Code of Australia, the provisions of the relevant Australian Standards and the approved plans.
- 42) Prior to the ground floor slab being poured, an identification report prepared by a registered surveyor shall be submitted verifying that the proposed slab's finished ground floor level and siting to the property boundary conforms with the approved plans.
- 43) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 44) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 45) If the soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 46) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) if necessary, must underpin and support the building in an approved manner, and

- b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
- c) must take all precautions to protect all of the structures from damage.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 47) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Where retaining walls are proposed, the fences must be erected atop such retaining walls. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 48) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). All stormwater pits shall be concrete benched at the base to prevent ponding of water and all pipe connections to pits shall be cut flush with the internal pit wall and siliconed/grouted to prevent seepage around the pipe.
- 49) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 50) There shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 51) The subject sites shall be consolidated. The plan for consolidation is to be registered prior to the release of the Occupation Certificate.
- 52) The developer shall register on the title of the subject property a Restriction on the Use of Land, in accordance with the appropriate provisions of the Conveyancing Act, 1919, in the following terms:

"Accommodation on the subject site may only be provided for the following persons:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,

- (c) staff employed to assist in the administration of and provision of services to housing provided under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Seniors are defined as any of the following:

- (a) people aged 55 or more years,
- (b) people who are resident at a facility at which residential care (within the meaning of the *Aged Care Act 1997* of the Commonwealth) is provided,
- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

People with a disability are defined as people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life."

Bankstown City Council shall be the only authority empowered to release, vary or modify the Restriction.

The developer shall submit to Council evidence of the final registration of the Restriction on the title of the property.

- 53) The use of a building in accordance with this Development Consent must not be commenced until Council or the PCA has issued an Occupation Certificate for the building and site works.
- 54) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate. A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- 55) Twenty-three (23) off street car spaces being provided in accordance with the submitted plans. An appropriate number of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements. One additional space shall be provided for ambulance parking.
- 56) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 57) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 58) Lighting must be provided to the entries, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting

provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.

- 59) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 60) The development shall be constructed to include all of the recommended attenuation measures contained in the acoustic report required under Condition 26. The acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.
- 61) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 62) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

USE OF THE PREMISES

- 63) The premises shall be used and operated at all times as residential care facility, in accordance with the definition of such contained in the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- 64) Accommodation on the subject site may only be provided for the following persons:
- (a) seniors or people who have a disability,
 - (b) people who live within the same household with seniors or people who have a disability,
 - (c) staff employed to assist in the administration of and provision of services to housing provided under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Seniors are defined as any of the following:

- (i) people aged 55 or more years,
- (ii) people who are resident at a facility at which residential care (within the meaning of the *Aged Care Act 1997* of the Commonwealth) is provided,
- (iii) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

People with a disability are defined as people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.

- 65) There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 66) All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.
- 67) All chemicals shall be stored, handled and disposed of in accordance with:
- a) AS1940-1993. The Storage and Handling of Flammable and Combustible Liquids.
 - b) Department of Environment and Conservation's Environment Protection Manual for Authorised Officers: Technical Section (Bunding and Spill Management)
 - c) Department of Environment and Conservation's Guidelines titled "Assessment, Classification and Management of Liquid and Non Liquid Wastes 1999" and the Protection of the Environment Operations Act 1997.
- 68) All filtration devices for odour control shall be regularly maintained to prevent odour problems.
- 69) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 70) Medical or biological wastes shall be disposed of by an authorised waste disposal contractor. Contractor details are to be submitted to the PCA before the occupation of the premises.

- 71) No external signage is approved under this development consent. External signage details must be submitted to Council for approval prior to installation.