

# RESPONSE TO RFI

**Address:** No. 24 Coronation Road, Congarinni North

**Proposal:** Seniors Housing Development

**11 OCTOBER 2021**

No. 138 Woorarra Avenue  
ELANORA HEIGHTS  
NSW 2101 AUSTRALIA

**p:** (02) 9970 7214  
**e:** [daniel@dmpps.com.au](mailto:daniel@dmpps.com.au)  
**w:** [dmpps.com.au](http://dmpps.com.au)

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ABN: 78 176 118 998

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**w:** dmeps.com.au

Nambucca Valley Council  
PO Box 177  
MACKSVILLE NSW 2447

**Attention:** Brad Lane

**DEVELOPMENT APPLICATION 2021/056/1  
NO. 24 CORONATION ROAD, CONGARINNI NORTH**

Dear Brad,

In response to your email request for information (RFI) dated 10 September 2021, please see below our response to the concerns raised, and the attached supplementary information:

- Architectural Drawings (Issue C), prepared by Tony Owen Partners, dated 6 October 2021;
- 'Further Information Request', prepared by Meinhardt, dated 11 October 2021;
- Site Sewer Management Strategy (Issue B), prepared by Meinhardt, dated 11 October 2021;
- Traffic Impact Assessment (Revision 4), prepared by Traffix, dated October 2021; and
- Legal Advice prepared by Mills Oakley, dated 7 October 2021.

**Access (Power Lines)**

*Council notes the email from DMPS dated 2 August 2021 stating that the Transgrid issues have been resolved, however Council has not been provided with a copy of the plan referred to in the letter provided by Transgrid dated 18 August 2021. Council understands that the vertical and horizontal clearances to the Transgrid infrastructure were issues.*

**Comment:** See attached Meinhardt response dated 11 October 2021 and appendices.

The new regraded access road configuration complies with all TransGrid requirements as per their correspondence dated 18 August 2021 and general conditions.

The fire trail access to Coronation Road has consequently been relocated, with no objection raised by Building Code & Bushfire Hazard Solutions (the proponent's bushfire consultant).

The architectural plans have also as a consequence been updated to reflect same, including a reduction in the total yield for the development from 276 dwellings to 271 dwellings, resulting from the new entry to the site. Details of the proposed amended dwelling mix are provided in the Schedule of Areas (Drawing No. A800).

An updated Traffic Impact Assessment has also been prepared following review of the new access driveway location and final composition of dwellings and available car parking. This Assessment concludes that vehicular access to the site, the internal road network and car parking provided to satisfy demand by the development are all satisfactory.

The new site access location has also taken into consideration potential flooding considerations. See additional information hereafter.

### **Flood Impact on Other Properties**

*Sufficient information including flood modelling is required to satisfy Council that the proposed vehicular access to the development will not result in increased flood impact upon other properties as required by Clause 5.21 of Nambucca LEP 2010.*

*This may require consideration of a number of design options involving culverts, bridging or a combination or both. The design should also consider and make allowance for impacts created by debris.*

*In designing the access road, it is acknowledged that the development relies upon refuge in place during a major flood event and that road access will be cut to Macksville once Joffre Street is inundated. Accordingly, subject to the abovementioned flood modelling requirements, an access road level lower than the 1% AEP flood level may be considered so long as access from the site to Macksville is not less than Joffre Street.*

*The design of the access road (and related work along Coronation Road) should also demonstrate how the work will not impact upon the mapped Coastal Wetland. Note that the application plans currently provided show earthworks within the mapped wetland and would comprise designated development.*

**Comment:** See attached response by Meinhardt engineers dated 11 October 2021, and appendices, including a Flood Impact Assessment by Water Modelling Solutions.

As you would be aware, the SES was consulted by Council in its preparation of the Planning Proposal, with the following extracts reproduced from the agenda of the Ordinary Meeting of Council on 27 October 2016 for reference:

3 February 2014

A second letter of advice was received from the SES in response to Meinhardt's flooding evacuation investigations. This advice summarised the most recent findings with regard to isolation and voiced that any increase in flood risk results in an increased demand on the SES and other emergency services. The SES is opposed to the use of private evacuation plans as a condition of development consent. The Service does not have statutory authority to endorse private evacuation plans nor does it have the resources to review and comment on private evacuation plans. The advice directs considerations to the NSW Floodplain Development Manual (April 2005) (FDM) where, under Appendix N, it explains the limitations of Private Evacuation Plans and also why the NSW SES is against these Plans as a developmental consent condition.

Council officers responded as follows:

*The proposed Evacuation Plan is considered the most thorough and safe resolution to the flooding constraints of the land to enable a development for aged accommodation on the site.*

*It is acknowledged that the NSW SES do not support any development on flood prone land, nor development that will not enable safe evacuation from flood waters, due to the potential increased risk, and as such, increased demands upon the Service. It is also acknowledged that the NSW FDM does not support private evacuation plans being approved as a condition of development consent.*

*Additional information was forwarded to the SES in Oct 2015 and no response has been received. It therefore assumed their previous concerns with the development are maintained.*

And in conclusion, Council officers noted:

*... staff are satisfied that the proposed facilities on site are unlikely to be at risk from the most extreme event modelled and the frequency and period of isolation is relatively low – Approximately 16hrs for a 1% AEP event.*

*The applicant has demonstrated that simple construction of an access through the floodway on the site with the minimum engineering considerations given to the accommodating the floodwaters will result in unacceptable impacts to surrounding land.*

*Should a development application be lodged on the site in the near future the Nambucca LEP 2010 does not include provisions for development that is proposed outside the flood planning level. In this regard Clause 7.3 of the Nambucca LEP 2010 would only apply to development on land at or below the flood planning level which would include development of the access road and among other things it indicates that development consent must not be granted unless Council is satisfied that the development:*

*(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,*

Following recent discussion with Council officers, a Flood Impact Assessment was completed by Water Modelling Solutions with inputs from Meinhardt engineering consultants. Models developed as part of the Nambucca River and Warrell Creek Flood Study (WMAwater, 2013) were adopted to undertake the Assessment. A further hydraulic model was developed to size the culverts under the new access road to minimise any positive afflux on neighbouring properties.

The hydraulic modelling results ultimately demonstrate that the proposed development does not result in any major impacts on neighbouring properties, and that a flood compatible access solution to the proposed development is achievable, subject to the imposition of appropriate culvert banks (three set of culverts with 40 x 3.6w x 2.4h reinforced concrete box culverts).

In response to further Council concerns, Meinhardt subsequently reviewed the potential for blockage of the culverts and have suggested this is 'very low', and that any such blockage would only have a minimal effect within the floodplains immediately adjacent to the site. The instillation of additional measures such as debris deflectors could be conditioned if this was warranted as appropriate.

## Sewer and Water

*Sufficient information has not been provided to satisfy Council that water and sewerage services are available. As you would be aware in addition to Clause 7.4 of Nambucca LEP 2010, Clause 28 of SEPP (Housing for Seniors or People with a Disability) 2004 apply to the proposal.*

*Clause 28 of the Policy is in the following terms:*

### *28 Water and sewer*

- 1. A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*
- 2. If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.*

*Council understands that the water supply to the site is subject to capacity constraints, which may be addressed by extending the undersized Council water main to an on-site privately owned reservoir, booster pump and reticulation within the site. The location of the reservoir has not been provided.*

*Council has previously advised that there are capacity constraints associated with connecting the proposed development to the reticulated sewerage network. The constraints with sewer reticulation would most likely require the construction of a dedicated rising main that would pass through existing urban areas, require crossing of two water ways, the north coast railway, two classified roads and a low lying area. There are also capacity constraints associated with the inlet works at the Macksville Sewerage Treatment Plant and there are treatment capacity limits that apply at the Macksville Sewerage Treatment Plant.*

**Comment:** The land has been rezoned to accommodate seniors housing since 2017 and Council has taken no action to accommodate additional capacity necessary to facilitate development of the site. As a result, a Water Strategy (see Meinhardt's Infrastructure Service Assessment and Concept Design Report dated 31 May 2021) and the attached Site Sewer Management Strategy (Issue B) have been developed to provide appropriate services for the intended development.

We hope this Strategy (and supplementary documentation) provides Nambucca Valley Council sufficient information to demonstrate the on-site sewer management proposed for the seniors housing development is appropriate.

Further investigation will be required to confirm if booster pumps and/or onsite storage reservoir will be required to provide adequate level of water service to the development, however, indicative locations for reservoir and booster pumps are shown in Water Reticulation Layout Plan Sheet 1 of 2 (SK7434) included in Attachment B of the Site Sewer Management Strategy (Issue B).

*An option to provide an on-site sewerage treatment plant has been provided by the applicant and it is understood that the proposal is to discharge treated water to the environment in the order of 170,000 litres per day. The receiving environment is a mapped SEPP Coastal Wetland. The environmental impacts associated with the proposed disposal of treated (potentially chlorinated) water have not been considered. Information addressing potential environmental impacts upon the receiving Coastal Wetland are required.*

**Comment:** Through application of a precautionary approach to resolution of this issue, it is intended to adopt a strategy incorporating reuse of Class A effluent for toilet flushing and laundry use throughout the development, in combination with irrigation of road verges, and vegetation buffer along the site's southern boundary, and the disposal of any excess effluent via absorption trenches.

The Site Sewer Management Strategy (Issue B) diverts effluent (Class A water) from direct discharge to the adjoining wetlands, and instead recommends the following:

- a. Reuse for toilet flushing, laundries and watering of gardens. A non-potable reticulation main will be provided throughout the development to maximise reuse of non-potable water and reduce potable water demands. Will be designed in safe and secure practice.

The non-potable demand for toilet flushing will in the order of 30 l/EP/day, this equates to 28.6m<sup>3</sup> per day.

- b. Reuse for irrigation of roads verges. Slow drip irrigation pipes along both sides of the roads will be provided. These pipes will be feed from the non-potable water reticulation main.

The non-potable demand for slow drip irrigation of grassed verges is estimated at 2mm per m<sup>2</sup>. The grassed verge is 10,125m<sup>2</sup> (3,375m road length x 3m width). Based on this the demand for irrigation of roads is 20.2m<sup>3</sup> per day.

- c. Reuse for irrigation of parks and landscape areas throughout the site. Irrigation lines will be connected to the non-potable water reticulation main for manual/automatic irrigation of landscape areas. The non-potable demand for irrigation of landscape areas is estimated at 3mm per m<sup>2</sup>. More than 11,050m<sup>2</sup> of landscape areas (this excluding road verges, and buffer areas) will be provided throughout the development. Based on this the demand for landscape irrigation is 33,1m<sup>3</sup> /day.

- d. Any excess sewer effluent will be disposed of through the implementation of absorption trenches. These absorption trenches will be dug and filled with rocks, sand and sandy soil. They should each be at least 100 m long and have at least 300mm diameter piping. Advice from Ecologist suggest that a 500m long absorption trench will be able to process between 30 to 50m<sup>3</sup>/day. The design and construction of the trenches will be done as recommended by the ecologist report. Copy of this report is included in Appendix D for reference.

Two large absorption trenches will be provided. A 700m long trench will be provided along the southern boundary. Another 425m absorption trench will be provided along the fire trail road to the west. Refer to Appendix B Schematic Sewer Reticulation Plans.

It is anticipated these absorption trenches (1,125m total length) will have sufficient capacity to treat the remaining sewer effluent of 83.1m<sup>3</sup> per day.

*The applicant has not demonstrated where the sludge generated by the treatment process can be disposed of, given that Council's Landfill Facility will not accept it.*

**Comment:** The manufacturer of our plant (Hydroflux Epco) has suggested that to address this concern, we will switch out the sludge dewatering solution with a sludge thickening solution. Sludge thickening involves increasing the thickness of the liquid sludge which ultimately reduces the liquid carting volume.

Raw liquid sludge volume for the proposed STP is 6m<sup>3</sup>/day which, which when dewatered as originally proposed, would mean a dry cake volume of 80kg/day. Liquid sludge without any onsite thickening would mean a weekly carting volume of 42m<sup>3</sup>/week. In real terms, that's 4.2 pump trucks per week. We believe this volume to be an excessive cartage cost for the site, and though application of a sludge thickening process, the RoadTrain system will reduce the cartage to 6m<sup>3</sup>/week.

A local mobile pumping contractor will attend site once per week (or otherwise when necessary, via arrangement) to remove the thickened liquid sludge generated for disposal to the Kempsey Sewage Treatment Plant.

All Clean Septic Pty Ltd of Macksville has a 10m<sup>3</sup> capacity pump truck and regularly performs sludge carting in the region, and has confirmed it is able to cart the thickened liquid sludge to the Kempsey STP.

All Clean Septic is registered with Nambucca Council and adjacent LGAs. The company experience includes truck stops and service stations, Council sites and State government contracts such as schools and emergency service sites, including work as a licensed plumbing contractor for same.

Per load cartage cost has been requested and will be passed on when received. The activity will be a regular service arrangement between the site operator and the cartage contractor.

If Council is happy with this direction, we can update the RoadTrain Project Proposal attached to our Site Sewer Management Strategy, or the additional sludge thickening solution could simply be included as a condition of development consent.

*It is also understood that the proposed privately operated water and sewerage infrastructure within the development will require licences under the Water Industry Competition Act 2006. It appears unlikely that the proposal would be able to satisfy the requirements for obtaining such licences and Council remains concerned regarding the technical, financial and operational capacity of a private seniors housing operator to control a system of this scale.*

**Comment:** A housing operator has not been nominated for the site. Given the scale of the proposed development, it will likely be a statewide or national operator that will be able to demonstrate all of the necessary bona fides when application is made for a subsequent licence as required post issue of a development consent, and prior to commencement of construction.

The Land and Environment Court has previously determined in *Treysten Pty Limited v Hornsby Shire Council* [2011] NSWLEC 1364 that a scheme may require licensing under the Water Industry Competition Act 2006 (WICA), but that consent could be granted on a deferred commencement basis, requiring conditions to ensure this licence is granted prior to the consent becoming operative to ensure that the development as proposed can proceed. A legal advice to this effect is attached from Mills Oakley Lawyers.



## Rural Land Use Conflict

*The site is located with a rural locality. Although the Land Use Conflict Risk Assessment Report which accompanied the application discounts the suitability of the land to the south of the site for intensive agriculture, it is apparent from representations made by the adjoining land owner that the land to the south and west of the site is to be used for horticulture (blueberries). The proposed horticulture use on the adjoining property to the south and west will involve activities during the day and night including the use of equipment and workers to spray, construct and maintain netting and harvest. The use is likely to present impacts such as visual impact, light, noise, dust.*

*Additional information is required to satisfactorily address this issue and provide suitable amenity for the proposed sensitive land use.*

It is apparent from representations made by the adjoining land owner to Council, and through our own subsequent discussions with that landowner (Brarz), that the land to the south and west of the site may be used for intensive plant agriculture, or horticulture (growing blueberries), which is permissible without development consent in the RU1 Primary Production Zone. The proposed horticultural use on the adjoining property to the south and west will involve activities during the day and night, including the use of equipment such as tractors and an employment workforce to construct and maintain netting, irrigate crops and use pesticides, and to harvest the fruit.

Council has suggested that such use is likely to present impacts such as visual impact, light, noise, dust, and has the potential for spray drift. Some of these impacts might be mitigated to a small extent by the suggestion of the land owner that any such crop areas to be netted – see **Figure 1** below being a photo of a Brarz enterprise on a nearby property. Both parties have agreed that failure to ensure adequate setbacks from dwellings to rural activities is likely to result in land use conflicts, subsequently impacting rural production, economic activity and rural residential amenity. The objective of these discussions was to ensure that adequate landuse and vegetation buffers are provided between the intended future commercial activities and the proposed dwellings. It has consequently been agreed between the land owners that a suitable buffer is to be established between the properties to mitigate these potential risks and conflict.



**FIGURE 1**

Photograph of Brarz blueberry netting on another property we visited.



Part F of the Nambucca Development Control Plan relates to development in the RU1 Primary Production Zone. Table F3 requires dwellings to be separated from SEPP 14 wetlands by 40 metres and effluent disposal systems a minimum 100 metres. All dwellings are in excess of 50 metres from mapped wetlands, and the effluent disposal system approximately 240 metres from the wetland.

Table F1 requires buffers to be established between commercial activities/rural industries and dwellings. It requires a 60 metre buffer to grazing land with a 20 metres vegetation buffer to grazing land, and an 80 metre buffer with a 40 metre vegetation buffer to horticultural land.

#### *Grazing Activity*

The Assessment of Agricultural Capability Coronation Road Macksville (Final Report), dated 2013, was submitted in support of the Planning Proposal to enable seniors housing on the site, and established that the site and adjacent and surrounding properties are being used primarily for rural lifestyle or hobby farming purposes, and were not regionally significant agricultural land:

*The area around the site is already fragmented and it is unlikely therefore that investors in commercial scale agribusinesses would be attracted to the site and surrounding area.*

The Assessment noted the site is surrounded on two sides by extensive areas of native vegetation, and that Coronation Road and Taylors Arm provide separation from neighbours on the eastern boundary.

Beef cattle grazing was being undertaken on land directly adjoining the site on the southern boundary, but given fragmentation of the adjoining land holdings, it was noted this land would not be attractive for future investment in commercial-scale agri-business, and was likely only suitable for beef cattle and dairy grazing or small scale perennial horticulture.

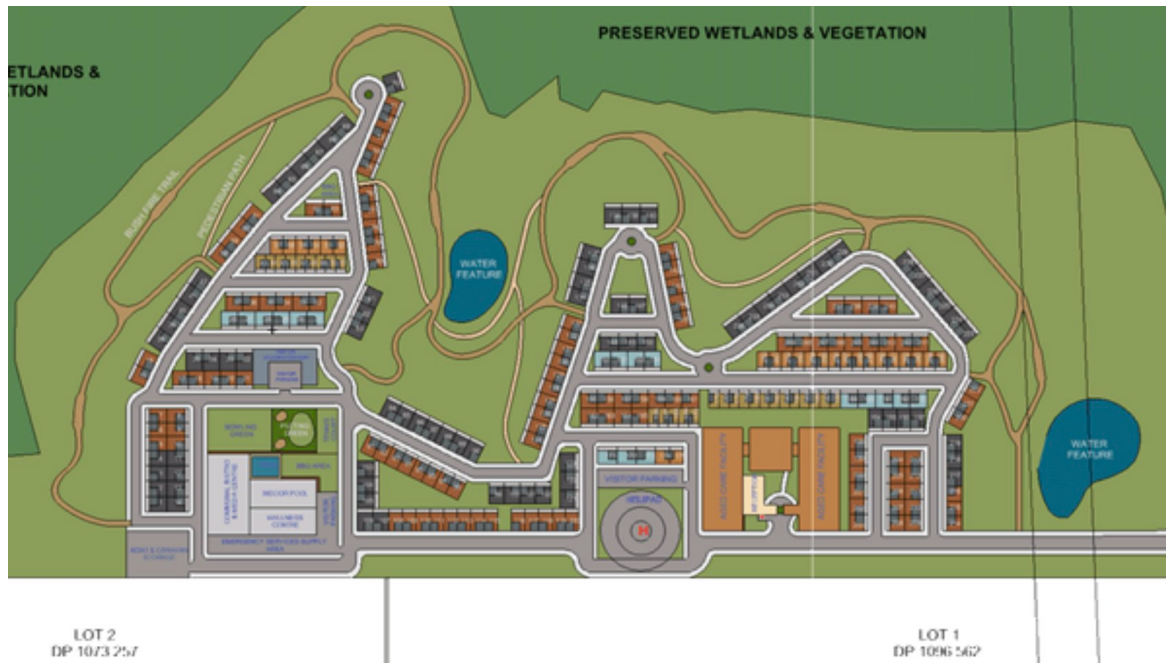
No significant agriculture or horticulture has commenced on these adjacent sites to date.

The Assessment however contended that land use conflict can arise when there is a mismatch in activities on adjoining properties or with surrounding uses, and suggested there may be opportunities to minimise the potential for land use conflict between the adjoining land uses by:

- *Establishing shelter belts or plantations as a buffer between the development and the adjoining farm to screen traffic, reduce risk of spray drift and dust*
- *Upgrading the boundary fencing between the development and the adjoining farm to prevent people and domestic animals entering the farm*
- *Developing strong lines of communication between facility management and the adjoining landholder to:*
  - *Enable the landholder to have one contact for notification of intentions to undertake farm management activities that have the potential to impact on residents*
  - *Enable the facility management to inform residents of when farm management activities are taking place, how long they will last and what to expect and manage any concerns they may have.*

The Assessment concluded that the potential of the development proposed for 24 Coronation Road to spark land use conflict with agricultural uses in the surrounding vicinity was low. Council

accepted this conclusion and supported rezoning of the land to allow seniors housing according with a Concept Proposal – see Attachment 1 to the Ordinary Council Meeting dated 27 October 2016 and reproduced below, illustrating dwellings setback appropriately 35 metres to the southern property boundary.



**FIGURE 2**

Concept Plan considered by Council in determination of the Planning Proposal.

In support of the subject Development Application, a Land Use Conflict Risk Assessment (LUCRA), dated 6 January 2021, was prepared by RM Consulting Group. The LUCRA confirmed land to the south continued to be used for cattle grazing (2013 – 2021), and further suggested the land immediately adjoining our southern boundary, given its moderate slope, would be the least productive areas of the adjoining properties.

The LUCRA considered typical activities associated with cattle grazing operations that may be impacted by the proposed development. It also identified activities that are likely to occur as part of the proposed development that may impact on the existing agricultural use. The Assessment also considered the expected frequency of the activities occurring e.g. daily, weekly or yearly occurrence and their consequent impacts.

Of the potential risks identified, it was concluded that risks could be minimised by attention to maintenance of the recommended screening infrastructure, and by keeping communication channels open between the facilities management team and the adjacent landholders. With the installation of screening (including a 1.8 metre fence and dense single row tree windbreak/shelter belt), the potential for conflict would be reduced. If these measures were put in place, it was concluded that a 40-50 metre setback between grazing land along the southern boundary and the proposed dwellings and amenities associated with the senior living development would be appropriate.

It has however been agreed with the owners of Nos. 68 – 94 Coronation Road (Lot 1 DP 1096562) (Ussher), that a 40 metre easement will be put in place across their northern boundary, as illustrated

on the attached architectural plans, that will provide a total 97 metre separation between the existing grazing use (or any potential future horticultural use), and any residential accommodation associated within the aged care centre.

Typical residential dwellings are to be setback a minimum 4 metres from the southern collector road, providing a minimum 84 metre separation to the existing grazing use.

### Potential for Horticulture

Council has raised concern for the potential of adjoining sites to be used for horticulture, and specifically the propagation of blueberries. This has been confirmed through discussions with the owners of Lot 2 DP 12655232, No. 160 Coronation Road (Brarz).

Blueberry plants grow slowly, and it takes 2 or 3 years before the bush is ready to produce flowers and fruit for the first time, and about 6 – 10 years to reach mature size. It is further understood that the product must be hand-picked by people who know how to spot a ripe blueberry, meaning the industry is labour intensive rather than mechanised.

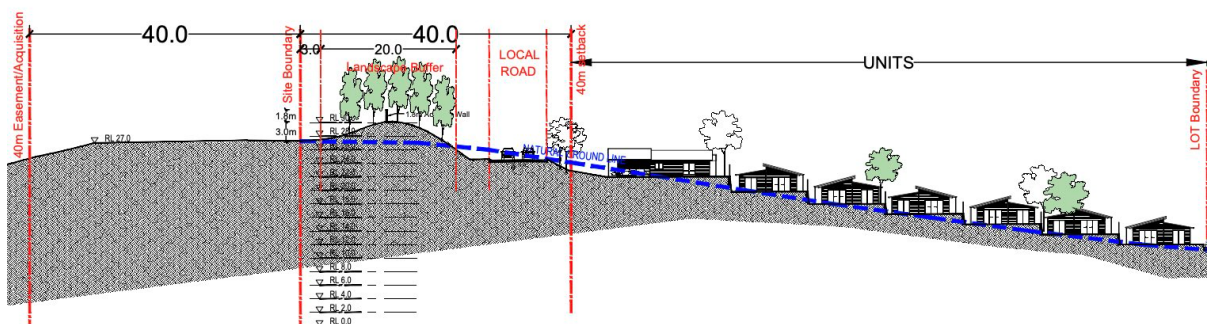
This time to establish the blueberries and for first fruit to appear would enable time for the establishment of a suitable vegetative buffer.

Following the identification by Council of this concern, we have met with both land owners to the south (Brarz and Usher) and reached in principle agreement for the establishment of a 40 metre buffer across each of these respective properties, which is to be excluded from horticultural development, including any access by farm machinery such as tractors on a frequent basis. This is to be achieved via the imposition of a restriction on title as may determined appropriate by Council.

### Proposed Buffer

A minimum 80 – 97 metre separation is thereby able to be established from proposed dwellings to 'potential horticulture', with earth mounding to a height of approximately 3 metres, a 1.8 metre acoustic barrier (capped and lapped timber fence), and a 20 metre wide landscape buffer proposed, comprised of vegetation identified in Table F2 of the DCP.

Various sections are provided in the architectural plans that illustrate the intended relationship between the seniors housing development and the adjoining properties to the south.



### FIGURE 3

Typical sections illustrating 80+ metre buffer, landscaping, berm and acoustic fencing.



intentions to undertake farm management activities that have the potential to impact on residents, and to enable facility management to inform residents of when farm management activities are taking place, how long they will last and what to expect and manage any concerns they may have. These lines of communication have already been opened.

It is also important to note that the Code of Practice for using sprays in a rural setting recommends spraying to be conducted during favourable weather conditions (e.g. minimal wind, not when rain events are forecast). Based on the size of the adjacent properties, and crop netting methodology proposed by Brarz (see **Figure 1**), aerial spraying would not be utilised, so ground based spraying only can be expected.

The proposed 20 metre vegetative buffer will therefore have no less effectiveness than if compliance with the 40 metre standard was achieved. The Land Use Conflict Risk Assessment submitted with the Development Application suggested a potentially effective screen would include:

*... the construction of a 1.8m fence and a single row windbreak treed vegetation buffer to act as a windbreak (prevailing wind is from the south west). A dense tree species should be considered. This option should assist with blocking spray drift, odour and noise, as well as assisting with bushfire protection measures*

With the submission of this additional information and detail, and imposition of appropriate conditions of development consent, it is suggested that strict compliance with the 40 metre vegetated buffer development control is therefore unreasonable in the circumstances of the case.

We would await Council's acceptance of our proposal before affirming legal arrangements with our neighbours.

## Conclusion

It is hoped this response and attached documentation satisfactorily address each of your outstanding concerns and that any outstanding matters can be made conditional upon the development consent.

Do not hesitate to contact me if you require anything further to finalise assessment and determination of this application.

Yours sincerely



Daniel McNamara  
**Director**