



SITE COMPATIBILITY CERTIFICATE: – PART C – SITE COMPATIBILITY OF THE PROPOSED DEVELOPMENT

Proposed Seniors Living Development:

For a

Retirement Village in accordance with the *Retirement Villages
Act 1999*

at

Lot 1 in DP 1069961

No. 14 Hamilton Road Albion Park.

Job No. 209139

December 2017

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1. Location, zoning and surrounding land uses

The following information has been prepared on behalf of 14 Hamilton Pty Ltd to support an application to the Department of Planning and Environment (DoPE) for the subject site, No. 14 Hamilton Road, Albion Park, to be considered for a Site Compatibility Certificate (SCC) application.

The information is provided in response to Part C of the *SEPP (Housing for Seniors or People with a Disability) 2004* Site Compatibility Certificate application form and should be considered in conjunction with the plans, maps and other supporting documentation included with the application form.

1.1 Summary Table:

Development Proposal	Seniors Living Development (Conceptual Retirement Village) proposed under the <i>SEPP (Housing for Seniors or People with a Disability) 2004</i> – Application for Site Compatibility Certificate under Chapter 1 Clause 4 of the SEPP.
Property Description	Lot 1 in DP 1069961, Parish of Jamberoo County of Camden
Site Area	Total site area = 1.9442 hectares; Area proposed to be developed = 1.4596 hectares; Area excluded from development = 4,873m ² (Environmentally Sensitive Land).
Property Location	14 Hamilton Road, Albion Park
Owner	14 Hamilton Pty Ltd
Cadastre and Site Detail	The subject sit is unencumbered by any Easements, Covenants or Restrictions to Property Title.
Consent Authority	Shellharbour City Council
Applicable LEP	Shellharbour Local Environmental Plan 2013
Zone	RU6 Transition
Subdivision Minimum Lot Size	3 Hectares
Applicable DCP	Shellharbour Development Control Plan 2013

1.2 ELIGIBILITY FOR A SITE COMPATIBILITY CERTIFICATE APPLICATION - *SEPP (Housing for Seniors or People with a Disability) 2004*

SEPP (Housing for Seniors or People with a Disability) 2004 Chapter 1 Clause 4 Subclause (4) 'Land that adjoins land zoned primarily for urban purposes'

The zoning of the site is RU6 Transition under the *Shellharbour LEP 2013* (SLEP 2013). A minimum subdivision lot size of 3 hectares is the applicable development standard under Clause 4.1 (3) of the SLEP 2013. Land to the north is zoned RU1 Primary Production and is separated from the subject site by the intervening Macquarie Rivulet.

Lands adjacent to the east are zoned RU6 Transition with a 40m wide strip associated with the riparian corridor of the Macquarie Rivulet zoned RE1 Public Recreation. Lands adjacent to the west including Hamilton Road are zoned RU6 Transition. Lands adjacent to the south are zoned RU6 Transition, SP2 Infrastructure (Road) and R2 Low Density Residential (Tripoli Way and Hamilton Road intersection).

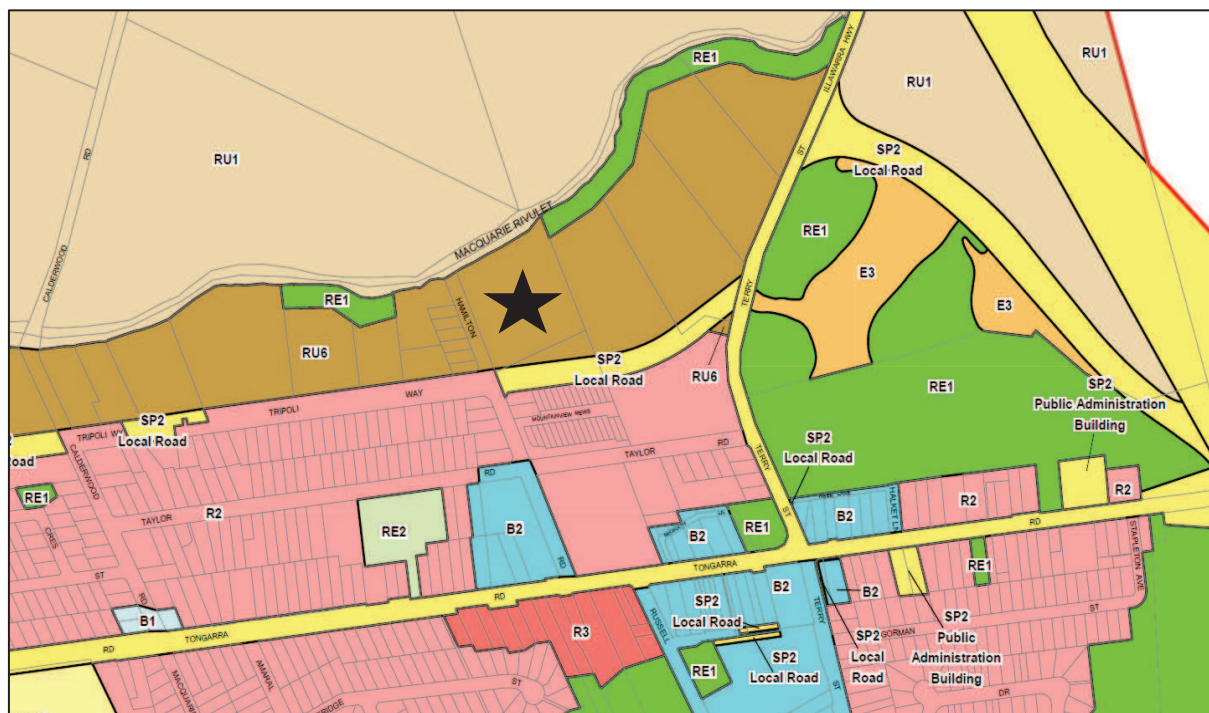


Image 1: SLEP 2013 Land Use Zoning Map extract showing the subject site zoned RU6 Transition.

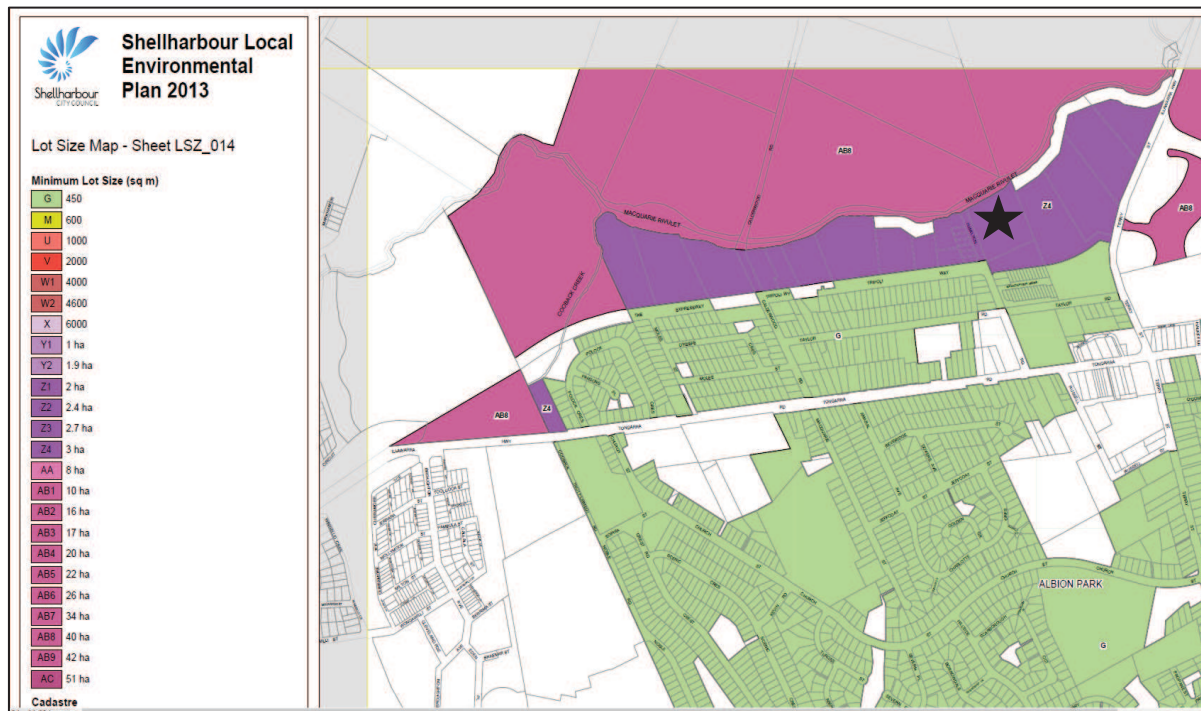


Image 2: SLEP 2013 Lot Size Map extract showing the subject site identified as Z4 with a minimum subdivision lot size of 3 hectares.

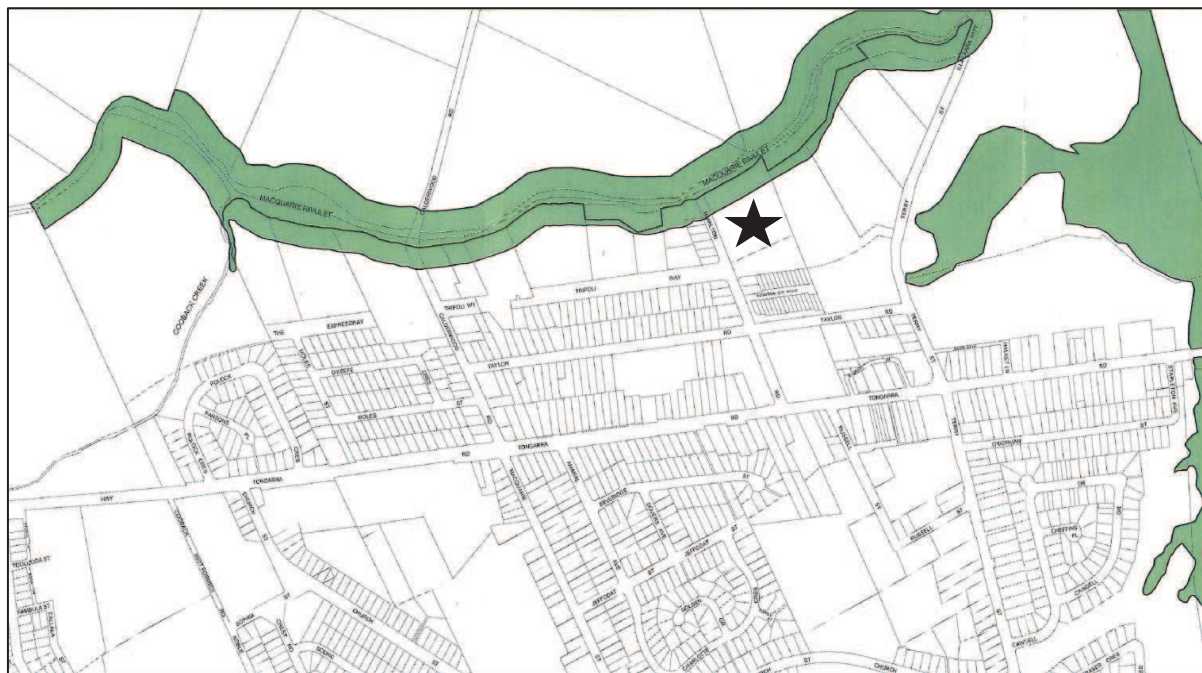


Image 3: Extract from the SLEP 2013 Terrestrial Biodiversity Map Sheet BIO_014 showing the subject lot part mapped as Environmentally Sensitive Land (green).

SEPP (Housing for Seniors or People with a Disability) 2004 Chapter 1 Clause 4 Subclause (6) 'Land to which policy does not apply'

(a) Schedule 1 of the SEPP (Housing for Seniors or People with a Disability) 2004

A portion of the subject site for the length of the northern property boundary line adjacent to the Macquarie Rivulet is identified as 'Environmentally Sensitive Land' within Sheet BIO_014 of the SLEP 2013 Terrestrial Biodiversity Map. This mapped extent correlates to the riparian zone of the watercourse and extends northwards and southwards for a width of 40m to both banks of the Macquarie Rivulet.

Schedule 1 of the SEPP (Housing for Seniors or People with a Disability) 2004 disallows under Chapter 1 Clause 4 Subclause (6) (a) the lodgement of a Site Compatibility Certificate (SCC) Application over land that is identified under Schedule 1 as Environmentally Sensitive Land. As a result development for the purposes of seniors living is excluded from that part of the site that is mapped as Environmentally Sensitive land within the SCC application. It is the applicant's contention that the proposed development is in compliance with Chapter 1 Clause 4 Subclause (4) of the SEPP SL.

The application is accompanied by a legal opinion supplied by RMB Lawyers dated 20 April 2017 to confirm eligibility in meeting the test of '*land that adjoins land zoned primarily for urban purposes*' (Refer to **Attachment A**). To provide clarity that a SCC application may then qualify over that remaining part of the site that is not mapped as Environmentally Sensitive Land, the application is accompanied by a further legal opinion supplied by RMB Lawyers dated 22 June 2017 (Refer to **Attachment B**). To demonstrate compliance with the definition of serviced self-care housing under Chapter 3, Part 1, Clause 17 (1) (c) of the SEPP SL, the application for a Retirement Village as defined under Clause 17 (2) (c) of the SEPP SL is accompanied by an Agreement for the provision of services between South Coast Home Health Care and 14 Hamilton Pty Ltd (Refer to **Attachment C**).

1.3 The Locality and surrounding land uses

The subject site is located on the northern periphery of the current developed extent of the residential precinct of Albion Park and is under the Local Government Area administration of Shellharbour City Council. The north of the subject site is bounded by the adjacent Macquarie Rivulet, which in the location flows from a westerly to an easterly direction, commencing above the Illawarra Escarpment and ultimately draining to Lake Illawarra. Lands located to the north of the Macquarie Rivulet are used for rural agricultural purposes. These rural land use activities adjoin the Illawarra Regional Airport, which is located to the northeast of the subject site and at a distance of approximately 1km. The western shore of Lake Illawarra is found at approximately 2.7kms to the north east of the subject site.

The Albion Park Retail and Commercial Core Area is found at a distance of approximately 400m to the south of the subject site in Tongarra Road. At the intersection of Hamilton Road

with Tongarra Road the Albion Park Primary School is found and the Albion Park RSL and Bowling Club is located directly opposite and to the west of the school on Hamilton Road. The Albion Park residential precinct extends generally in a south easterly direction from the subject site, with the developed extent of Albion Park terminating at Jamberoo Road at approximately 3.8kms to the south of the subject site.



Image 4: Aerial overview of Albion Park - subject site highlighted. (Source Six Maps).



Image 5: Cadastral overview with the subject site highlighted in yellow. The flood plain of the Macquarie Rivulet is highlighted in blue and extends to the north and northeast of the subject site. (Source: Six Maps).



Image 6: Aerial image of the subject site (highlighted in yellow) showing the nearby land use pattern. (Source: Six Maps).

Image 6 (above) presents an aerial image of the subject site within the surrounding land development context. Adjacent and to the east of the site is located the industrial business Albion Park Landscaping Supplies. To the west and fronting Hamilton Road opposite the site are found detached single storey dwellings on lot sizes of approximately 560m² with frontages to Hamilton Road. Further west of the site, single storey detached dwellings are located on larger lot sizes within a semi-rural context. This low density residential land use characterises the current northern periphery of the residential extent of Albion Park.

A Seniors Living development identified as 'Mountain View Mews' is located close by and to the south at approximately 33m distant at the intersection of Hamilton Road with Taylor Road. This nearby development has access to Hamilton Road via a private road that is located centrally within the Mountain View Mews estate. Between the subject site and this nearby seniors living development is an irregular, approximately triangular parcel of land. This land is undeveloped and contains a quantity of native trees and shrubs. Lot 1 in DP 1119325 is part zoned RU6 Transition and part zoned SP2 Special Uses 'Local Road' (southern portion of lot) and is reflective of Council's strategic objective for Tripoli Way to ultimately connect with Terry Street / The Illawarra Highway.



Image 7: Aerial image of the central and southern part of the site in relation to adjoining lands. *Mountain View Mews seniors living development is visible to the south of the site* (Source: SCC IntraMaps).



Image 8: Aerial image of the subject site No. 14 Hamilton Road, Albion Park (Source: Six Maps).

1.4 The subject site

The subject property is legally identified as Lot 1 in DP 1069961, Parish of Jamberoo and County of Camden. The site has the street address of No. 14 Hamilton Road, Albion Park and an overall site area of 1.9442 hectares. The area proposed to be developed for the purposes of seniors living is an approximately 1.4596 hectare portion of the site, with this area excluding a 4,846m² area in the north identified under the *SLEP 2013* Terrestrial Biodiversity Mapping as 'Environmentally Sensitive Land'.

The site is of a regular configuration and is almost square overall, with the exception of the northern property boundary line which is irregular as an outcome of the meander of the adjacent Macquarie Rivulet. Approximate site dimensions are 135.6m (northern boundary), 135.2m (southern boundary), 138.95m (western boundary) and 148.7m (eastern boundary).

The site overall is considered to be generally level and has an existing dwelling located within the central, slightly more elevated part of the landform, away from which the site has slight fall to the north, south and east. There is a modest difference in elevation (approximately 0.5m) throughout the site, with the exception being a scarp at the southern bank of the Macquarie Rivulet within the northernmost part of the site.



Image 9: General overview of the subject site looking eastwards from a vantage point adjacent to and to the south of the existing dwelling.

Vegetation associated with the riparian zone of the Macquarie Rivulet is not proposed to be disturbed by the proposed development and this part of the site is excluded for the purposes

of a Site Compatibility Certificate application, as required under Chapter 1 Clause 4 (6) (a) 'Environmentally Sensitive Land' of the *SEPP (Housing for Seniors or People with a Disability) 2004*.

The subject site currently supports one (1) residential dwelling and associated ancillary sheds and outbuildings, all of which are proposed to be demolished as part of the proposed redevelopment of the site. Existing landscaping consists of a quantity of mature trees that are located within the immediate curtilage of the dwelling. The proposed development would entail the removal of all trees that are within this location.



Image 10: General overview of the subject site looking southeast towards an existing Seniors Living development that is located at the intersection of Taylor Road with Hamilton Road.

Reticulated water supply and sewer and electricity are available to the subject site. The property has a direct frontage and direct access to Hamilton Road, which is a sealed local road that terminates in a formed cul-de-sac head at its northern extent. Kerb and gutter drainage infrastructure is located to the western shoulder of the roadway. The eastern road shoulder contains no formal drainage infrastructure, with road water conveyed informally by means of a turfed berm into the road cul-de-sac head, where a culvert collects water and conveys it to a discharge point and headwall located within public land adjacent and thence into the Macquarie Rivulet waterway.



Image 11: Riparian vegetation for the length of the northern property boundary line consists of a mix of native tree canopy cover and understorey vegetation with invasive weeds at the margins.



Image 12: Existing dwelling and associated sheds, Colourbond fencing and landscape trees.



Image 13: Hamilton Road cul-de-sac head looking south. Adjacent residential developments are located within the right hand side of the image and the subject property is located to the left.



Image 14: View looking north into the Hamilton Street cul-de-sac head which terminates at the Macquarie Rivulet riparian corridor. The subject property is located to the right within the image.



Image 15: Adjacent low density residential developments located opposite and to the west of the subject site on Hamilton Road. The subject property is located to the left of this image.

1.5 Agricultural capability

The subject site has a total site area of 1.947 hectares, an area generally accepted as not being of sufficient area to be considered to represent viable agricultural land. Adjacent land uses include low density residential developments located to the west, southwest and to the south of the site. An industrial land use is located adjacent to the east (Albion Park Landscaping Supplies). No agricultural activities are carried out within any of these adjacent lands. To the north of the site and separated from the subject site by the presence of the intervening Macquarie Rivulet, the Land Use zoning changes from the RU6 Transition of the subject site to RU1 Primary Production.

Lands to the north of the subject site are actively engaged in agricultural production. The Macquarie Rivulet forms a natural interface between the residential precincts of Albion Park located to the south of the Rivulet and the agricultural lands to the north of the Rivulet. Given the physical separation imposed by the presence of the Rivulet and riparian zone the proposed development is not anticipated to have any impact upon viable agricultural land or alternatively be impacted upon by agricultural land use activities.

1.6 Significant Native Vegetation

The northern property boundary of the site is defined by the local meander of the Macquarie Rivulet. The 40m wide riparian zone of the Macquarie Rivulet within the extent of the subject

lot includes native vegetation that is identified within Council's mapping as an Endangered Ecological Community (EEC). It is not proposed that the development will disturb any vegetation within this northern part of the site. Exotic tree and shrub species that are located within the immediate curtilage area of the existing dwelling are proposed to be removed so as to facilitate the construction of the proposed seniors living development.

1.7 Open Space

The subject site is currently largely undeveloped land, with the exception of one dwelling found centrally located within the 1.9442 hectare site area. Development of the site for the purposes of seniors living will not remove or restrict public access to any public open spaces and will not negatively impact upon any lands that are zoned for special purposes, e.g. those lands proposed for dedication as a future road extension of Tripoli Way.

1.8 Bulk and Scale

The development of the site for the purposes of seniors living is proposed to be in all respects compliant with the controls for serviced self-care housing as detailed under Chapter 3 Part 7 Division 4 Clause 50 of the SEPP SL. These controls include a maximum FSR of 0.5:1 and the proposed site density falls below this maximum site ratio. Conceptually all dwellings within the site are proposed be detached and of single storey design and orientated to maximise amenity and solar access. Should the conceptual proposal for Seniors Living be successful in obtaining support through the Site Compatibility Certificate application process, full detailed design drawings will be prepared to accompany a future DA for lodgement with Council.

1.9 Flood affectation

A minor portion of the northern part of the subject property is identified within Council's Flood Mapping as being affected by the PMF for Flood from the adjacent Macquarie Rivulet. The 1.4596 hectare area proposed to be developed for the purposes of seniors living lies outside of the extent of that part of the site that is considered as having a High Hazard flood risk affectation. Reference should be made to the Flood Report prepared by LandTeam dated 9th August 2017 that is an accompaniment to the SCC supporting documentation.

1.10 Access to services and facilities

The subject site is located at the northern periphery of the current extent of residentially developed lands within Albion Park. The local commercial and retail sector is located to the south of the site at Tongarra Road and extends both eastwards beyond the intersection of Tongarra Road with Terry Street and southwards along Terry Street to Russell Lane. A wide range of goods and services are available within this retail and commercial area and are readily accessible via bus or taxi from the locale of the subject site.



Image 17: Active commercial and retail street front zone within Tongarra Road – Highlighted is a 210m section between Russell Street to the east and Terry Street to the west (Source: Six Maps).

The following business premises have been identified within a 210m section of Tongarra Road between the Albion Park Primary School and Terry Street when travelling from west to east:

Northern street frontage – 210m from Albion Park Primary School to Terry Street intersection:

Dental clinic, take-away food premises, Accountancy Firm, Pizza Shop, Laundromat, Restaurant, Real Estate Agency, Pathology Clinic, Hairdresser, ANZ Bank - Albion Park Branch and Johnson Park community land, corner of Tongarra Road and Terry Street.

Southern street frontage – 210m from Russell Street to Terry Street intersection:

Pizza Hut Restaurant, Salvation Army, Chemist, Liquor Shop, Hairdresser, Bakery, Newsagency, Butcher Shop, Optometrist, Auto Accessories Shop, Commonwealth Bank – Albion Park Branch, Accountancy Firm, Travel Centre, Fish and Chip Take-away food premises, Delicatessen, Café, KFC Restaurant and the Albion Park Hotel, corner of Tongarra Road and Terry Street.

Pedestrian crossing locations – Tongarra road active commercial and retail street frontage:

An existing pedestrian footpath is located from Tripoli Way for the length of Hamilton Road to Tongarra Road and extends along the northern and southern sides of Tongarra Road. Pedestrian crossing points are located to the frontage of the Commonwealth Bank in Tongarra Road (crossover with centre pedestrian refuge) and at the Russell Street / Tongarra Road

intersection to the frontage of the Albion Park Primary School (traffic lights with pedestrian signals).

Bus Services connecting with Tongarra road active commercial and retail areas

Premier Buses runs a regular 7 day per week service between Albion Park shops (bus stop located on Tongarra Road) and Shellharbour as detailed within their bus line timetable available on-line at http://www.premierillawarra.com.au/pdf/timetables/71-76-77_Timetable.pdf.

The Albion Park RSL Memorial Club located at 160 Tongarra Road runs a courtesy bus for members and guests 7 days per week and the main entrance is located at approximately 260m pedestrian distance from the subject site (utilizing safe pedestrian crossing of Hamilton Road at the Hamilton Road Public School crossing).

The Albion Park Bowling and Recreation Club at 32 -52 Taylor Road also runs a courtesy bus for members and guests 4 days per week (Wed, Fri, Sat and Sun) and the main entrance is located at a distance of approximately 380m pedestrian distance from the subject site.

Access to community facilities

Community facilities located within a radius of 800m of the subject site include the Albion Park Community Health Centre (700m), Albion Park Public Library (615m), Albion Park Community Centre (535m) and Albion Park Post Office (580m).

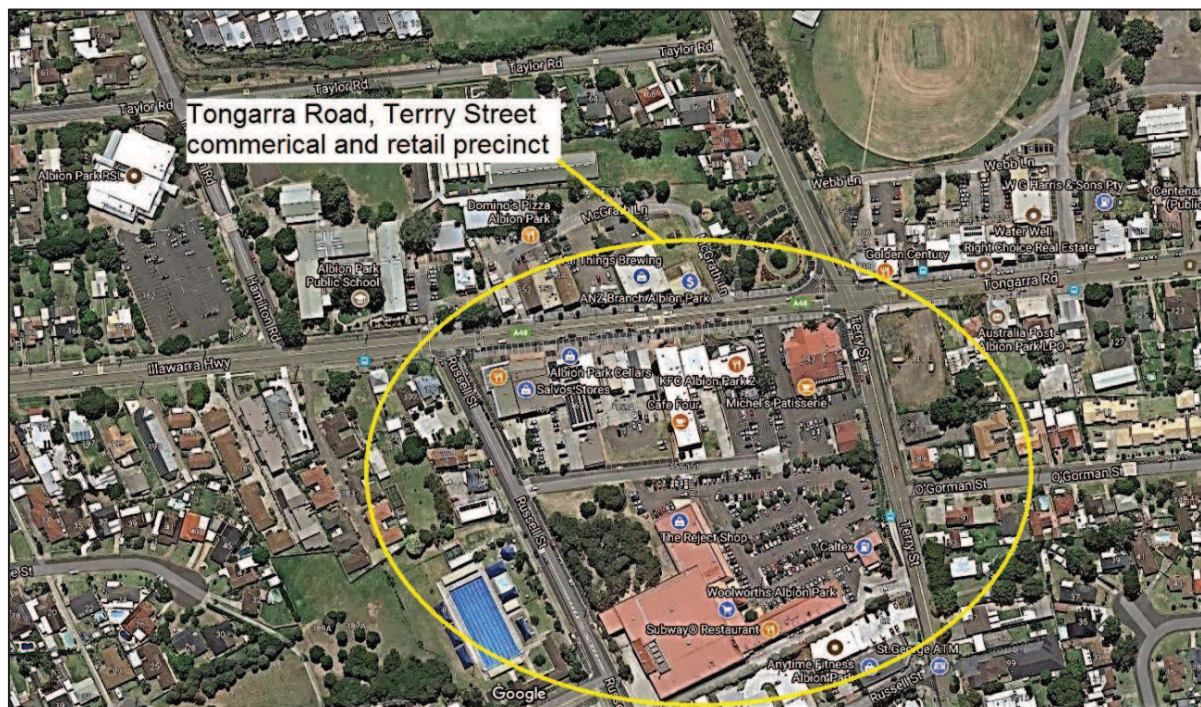


Image 16: Aerial image of the Tongarra Road / Terry Street / Russell Street retail and commercial precinct (Source: Google Maps).

The Tongarra Road retail and commercial 'superblock' is bounded by Terry Street to the east, Russell Street to the west and Tongarra Road to the north and Russell Lane to the south. The superblock includes a Woolworths Supermarket shopping complex and associated variety stores found under the one roof. The shopping centre complex provides access to a number of Automated Teller Machines and bank service providers (Horizon Credit Union and IMB are identified by Google Maps). At the Tongarra Road frontage both Commonwealth and ANZ Bank branches are located as is a Chemist medical dispensary and the New Albion Medical Centre.

Whilst it is acknowledged that many of the above listed services are located at pedestrian distances that may be in excess of the 400m travel distance specified under Chapter 3 Part 2 Clause 26 of the SEPP SL, all of the facilities referred to are accessible via Premier Bus Line, private buses (e.g. Albion Park RSL Memorial Club and Albion Park Bowling and Recreation Club) and by the hailing of a local taxi. Given the multiple of options for transport available within the urban context of the locality, the site is considered to be capable of demonstrating compliance with the SEPP in terms of access to facilities.

2. The Proposal

2.1 A Retirement Village containing 26 serviced self-care, self-contained dwellings, a community building, private internal access road and landscaping.

Reference is made to the following accompanying plan:

Stiletto Homes Site Plan Project No. T2_2017_F06, Dwg: A02 Issue D dated 1.12.2017
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The proposed development calls for the demolition of the existing dwelling and all associated detached garage and shed buildings, to be followed by the construction of serviced self-care self-contained housing for seniors living (A retirement village to be operated in accordance with the *Retirement Villages Act 1999*).

The proposed development for the purposes of a retirement village is proposed to be divided into a total of twenty seven (27) Community Title lots. Twenty six (26) lots are proposed to support self-contained detached and single storey dwellings restricted to occupation by seniors or people with a disability, in accordance with Chapter 3 Part 1 Clause 18 of the SEPP. An additional lot has been set aside (proposed lot 01 within the accompanying Site Plan) for the purposes of a Community Building.

Servicing in accordance with Chapter 3 Part 1 Clause 17 (1) (c) of the SEPP is to be provided by the accredited external service provider South Coast Home Health Care Pty Ltd (South Coast HHC). To this effect, an agreement signed between South Coast HHC and 14 Hamilton Pty Ltd (the applicant) is included as **Attachment C** to this supporting documentation.

Proposed Community Title lot areas, in ranging from 425m² to 506m² are in conflict with Clause 4.1AA of the SLEP 2013 which requires a minimum subdivision lot size of 3 hectares, however the SEPP is the governing policy and makes allowance for subdivision of a seniors living development with Council consent under Chapter 3 Part 1 Clause 21.

The proportion of the site that is proposed to be developed for the purposes of seniors living equates to an area of 1.4596 hectares and excludes the northern part of the site mapped under the *SLEP 2013* as 'Environmentally Sensitive Land'. The rear boundaries of the northernmost proposed Community Title lots define the interface between the area proposed for development under the *SEPP (Housing for Seniors and People with a Disability) 2004* and that part of the site identified as 'Environmentally Sensitive Land' under the *Shellharbour Local Environmental Plan 2013*. The interface between these areas is represented by the 40m wide riparian corridor of the Macquarie Rivulet. This interpretation correlates with land zoned RE1 Public Recreation located adjacent and to the east of the site as identified within the SLEP 2013 Land Zoning Map.

2.2 Development Concept:

Conceptually the proposed development is for a retirement village, a form of seniors living described under the SEPP as serviced self-care. The proposal entails consideration for twenty six (26) single storey, detached self-contained dwellings. It is the intent of the applicant to comply fully with the provisions of the SEPP SL and for the proposal to achieve an overall floor space ratio of 0.5:1 or less and to be in all respects compliant with the numerical controls for self-contained dwellings detailed under Chapter 3 Part 7 Division 4 Clause 50 of the SEPP SL. The development is to be restricted to seniors aged 55 and over or people with a disability in compliance with Chapter 3 Part 1 Clause 18 of the SEPP SL.

All dwellings are proposed to be on individual Community Title lots numbered 02 through to 27 as per the accompanying plan (total 26 dwellings), with lot 01 proposed to be the location for an approximately 120m² community building. Site access from Hamilton Road is proposed to be in the form of a private road, with the residual 4,873m² of the site area identified as Environmentally Sensitive Land excluded from development for the purposes of seniors living. This residual area is proposed to remain as a vegetation buffer to the adjacent Macquarie Rivulet. Although not proposed to be developed for the purposes of seniors living, the applicant is willing to consider, post lodgement of a DA, entering into negotiations with Council regarding the environmental protection and potential for biodiversity enhancement of the Environmentally Sensitive Land.



Image 18: Stiletto Homes Site Plan Dwg: A02 Issue D 1.12.2017

2.3 Traffic and access provision

A private access and circulation road within the site is proposed to connect with Hamilton Road at two locations. The private road will provide direct vehicular access for all proposed dwellings to be located within the retirement village site. An assessment of traffic impact accompanies the SCC application as prepared by BITZIOS Consulting.

3. Strategic Justification

3.1 Relationship with Regional and Local strategies:

Illawarra Shoalhaven Regional Plan:

The Illawarra Shoalhaven Regional Plan introduces four stated goals within the document preamble. Stated Goal No. 2 *'A variety of housing choices with homes that meet needs and lifestyles'* has relevance to the proposed development and is described within Regional Plan in the following terms –

'Providing housing choice to meet the community's needs into the future, in locations that can sustain housing is a key objective of this plan.'

Applicant's Response:

The proposed development is considered to be consistent with Goal No. 2 of the Regional Plan in providing for additional housing choice for seniors 55 years and over and for people with a disability. The proposal is receptive to the needs of an aging population and in particular proposes to cater towards a growing transitional sector of the aging community where down-sizing from current living arrangements may be desired, however assisted living arrangements are not required.

The location is considered suitable for self-contained seniors living and people with a disability as it has ready access to a range of goods and services available locally within the Tongarra Road / Terry Street Albion Park retail and commercial precinct.

3.2 Public interest reasons for seniors living within the locality

Albion Park is defined as a Major Town under the Dept. of Planning *Regional Strategy (2006 – 2031)*. According to the Dept. of Planning and Environment NSW *State and Local Government Area Population projections* Albion Park had a population of 66,200 in 2011 with a projection of 71,150 persons for 2016 and increasing to 90,500 forecast by 2036. This represents an increase in population of 36% over the projected time period and a significant proportion of this estimate will include older persons and people with a disability, in line with the National overall aging population demographic trend.

A *2009 Survey of Disability, Aging and Carers* prepared by the ABS revealed 18.5% of the National population (4 million persons) responding to the survey to advise that they have a disability. The Shellharbour DCP (Version 2 as Amended 6 July 2016) refers to a projected 70% increase in the number of older persons with a disability over the coming 30 year period.

Given the established trend for an aging population, there is a strong public interest in the promotion of facilities for seniors living, with the Albion Park area considered as a strong candidate to accommodate an increase in the existing facilities available for aged care.

3.3 Adequacy of services and infrastructure to meet demand

Existing service infrastructure, water and sewer and drainage is available within the locality of the proposed development site. Electricity and telecommunications facilities are also available. The adequacy of service provision will be the subject of an assessment by Council pending the submission of a future Development Application.

4. Consultation

A pre-lodgement meeting was conducted at Shellharbour City Council between Council staff and the applicant at 9.30am on Wednesday 24 May 2017. On the 21 September 2017 the Council advised the Department of various concerns relating to the proposed development in a four page written submission. The Council submission has been provided to the applicant and reviewed, with responses to the matters raised by Council provided as follows:

Issue raised by Council: 1. Assessment of SEPP Criteria

1. *Compatibility of a development to the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development - SEPP SL cl. 25 (5) (b) (i).*

The Council correspondence dated 21.9.2017 identifies concerns relating to the subject site having a partial flood affectation (High Hazard) under the Macquarie Rivulet Flood Study 2017. The Council considers the flood affectation to identify the subject site as Schedule 1 land and thereby any application for a SCC is struck out under Chapter 1 Clause 4 of the SEPP SL. The Council makes an assumption that the proposal includes a Torrens Title subdivision to extract that part of the site identified under Schedule 1 as Environmentally Sensitive Land from the proposal overall.

Applicant's response:

That part of the site that is identified as having the flood affectation of High Hazard under the Macquarie Rivulet Flood Study 2017 is not proposed to be developed for the purposes of seniors living (High flood hazard being identified under Schedule 1 of the SEPP SL). As confirmed by the Department in pre-lodgement email correspondence,

an application for Seniors Living may be lodged for consideration over that part of the site that is not identified under Schedule 1.

A Torrens Title subdivision to excise Environmentally Sensitive Land is not proposed by the applicant. The northern part of the site that is mapped as flood affected – High Hazard is confined to the riparian corridor of the Macquarie Rivulet within the subject site. This flood affected – high hazard part of the site is to remain undeveloped and is not included within the SCC application. Given the high hazard flood affectation of Environmentally Sensitive Land within the subject site, no future development potential would be potentially sterilized by the proposed development.

The Council identifies that the only access to the site is via Hamilton Road and that during a PMF event, the site would become isolated for up to 3.5 hours. The Council notes further that many other roads in and out of Albion Park would similarly be cut off should such an event ever occur, including the Illawarra Highway, Tongarra Road and Ashburton Drive. Whilst not wishing to diminish any of the Council's concerns in regards to flooding, these concerns do not appear to have been an impediment to Council's approval of the nearby seniors living development at 'Mountain View Mews' that is just 33m to the south of the subject site and at the intersection of Hamilton Road with Taylor Road. The Mountain View Mews seniors living development has only one access and that is via Hamilton Road.

Council's correspondence states in relation to a PMF event:

'In the event that access for emergency personnel to the site is required during the peak of the PMF event, Hamilton Road could be traversed by a heavy vehicle and/or a helicopter could potentially land on the cul-de-sac end of Hamilton Road.'

In any instance, this option is highly discouraged for Seniors Living Developments given the sensitivities of the proposed demographic population of the development.'

The proponent notes that access in the event of a PMF has not been a deterrent to Council's approval of an adjacent seniors living development that has substantially the same access arrangements reliant upon Hamilton Road.

The proposed development is for a retirement village, a form of serviced self-care housing, proposed to consist of self-contained dwellings for seniors aged 55 and over. It is respectfully suggested that the '*sensitivities of the proposed demographic population*' may not have the same direct relevance as that of a development wherein a high level of care is required, as would be the case for example for a Nursing Home development, wherein Council's stated concerns would be very relevant.

Issue raised by Council: 2. Site Compatibility Criteria

2. *Compatibility of development to the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26).*

The Council raises concerns relating to travel distance and available footpath infrastructure and concerns relating to potential impacts upon the proposed development from the proposed Albion Park Bypass.

Applicant's response:

Whilst the Council's valid concerns are again noted, the proponent is willing to construct additional footpaths to satisfy Council's requirements. Access to services and facilities is considered to be satisfactory in terms of compliance with the SEPP and are detailed within Section 1.10 Access to services and facilities of this supporting document.

In pre-lodgement discussions the Council staff advised that no timeline was currently in place to schedule the introduction of the proposed bypass. The Council's submission of 21.9.2017 advises of a delivery date before 2026/2027 and makes general assumptions about potential amenity impacts. These assumptions may be considered premature in the absence of any construction details of the bypass proposal.

Should the proposed Albion Park Bypass be considered as a reason for Council to not support the proposed development, it is noted that this does not appear to have been a consideration for the existing Mountain View Mews Seniors Living development that could be similarly affected.

Council also raises concerns regarding the disconnection of the subject site from access to services as an outcome of the proposed Albion Park Bypass. The proponent response is that this would be a matter for consideration at the time of formalising the plans for the proposed bypass that at present remains as a conceptual only and with a projected delivery date of 2026-2027. At this point in time, to the knowledge of the applicant, in having consulted on this matter with Council, no details other the proposed route are available (*'The design outcome to the bypass has not been formalised..'* – Council correspondence 21.9.2017). It is suggested that planning at the design stage of the major bypass development would take account of consideration for the maintenance of connectivity for residential developments to the north of the proposed bypass.

Issue raised by Council: 3. Site Compatibility Criteria

3. *Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.*

Council advises that the existing character and built form is low scale and in accordance with the zoning, represents a transition from residential zoned uses to rural zoned uses and concludes that the proposed density of development, inclusive of the proposed bulk, scale, built form and character of the development is contrary to zoning objectives. Additionally the Council considers the proposed Community Title lot areas to be disallowed under Clause 4.1AA of the Shellharbour LEP 2013.

Applicant's response:

The proponent has made consideration of the local land use context as detailed within Section 1.3 (The location and surrounding land uses). The location contains a mix of land uses ranging from residential to the west of the site to an industrial land use (landscape supply yard) located to the east. This mix of land uses is to be anticipated for a locality that is under transition.

The location in being proximate to urban developments found immediately to the south is evidently in transition from a former, eclectic mix of land uses to be found on the periphery of the northern urban extent of Albion Park, towards that of a predominance of residential land uses. It is considered likely that the Council's future plans for a bypass road will only intensify the rate at which this transition from one land use to another occurs and result in new opportunities for residential growth, including seniors living.

The natural physical boundary between this transitional space and a bona fide rural land use is unquestionably the presence of the Macquarie Rivulet, in defining the northern property boundary of the subject site. Lands located to the north of the Rivulet are used for extensive agriculture and the expected continuation of this land use is reflected by a corresponding RU1 Primary Production zoning under the SLEP 2013.

Whilst the Council considers the proposed Community Title lot areas to be disallowed under Clause 4.1AA of the Shellharbour LEP 2013, it is observed that the SEPP SL overrides the local planning controls as set out under Chapter 1, Clause 2 (a) by:

'Setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy'

The subdivision of land is further permitted with consent under Chapter 3, Part 1, Clause 21, of the SEPP and the proponent does not therefore see the act of subdivision as a prohibition to the development under a SCC application. This conclusion is reinforced by comparable seniors living developments currently operational, having enjoyed a relatively recent approval via the SCC application path and subsequent DA consent issued by the *NSW Land and Environment Court*.

As one such example, the Cedar Ridge (Retirement Village) located at 58 Old Saddleback Road, Kiama (DA Consent No. 10.2011.86.1) for the construction of a retirement village comprised of twenty-nine (29) self-care dwellings included a Strata Title of the single storey dwellings, a community room and private internal access road. A subsequent Section 96 (1A) Modification to this consent was issued by Council on the 12.04.2013, altering the development from that of Strata to Community Title with lot sizes that fall below the Community Title minimum lot size requirement of Clause 4.1AA of the Kiama LEP 2011.

Section 1.8 of this supporting documentation responds to the likely impacts of bulk and scale of the proposal upon the local environment. Conceptually all dwellings are to be of single storey, detached design and to be orientated to maximise amenity and solar access. Full details including an assessment of bulk and scale and overshadowing impacts are to be included at Development Application stage should the Department in the interim respond positively to the SSC application.

*Issue raised by Council: **General Advice***

4. The Council raises concerns regarding the management and ownership of the northern part of the site that is identified as Environmentally Sensitive Land and further concerns that this part of the site will be sterilised in terms of future development potential.

Applicant's response:

The management of that part of the site that is identified as Environmentally Sensitive Land and that is further identified as flood affected (High Hazard) within the Macquarie Rivulet Flood Study 2017 will be the subject of negotiation between Council, the developer and the NSW Office of Water at DA assessment stage should a SCC be granted. Given the High Hazard level of flood affectation ascribed to this portion of the site by Council, the proponent contends that no potentially developable land would be sterilised as an outcome of development of the remainder of the site.

*Issue raised by Council: **General Advice***

5. The Council states that the proposed internal road width is inadequate for Council kerb-side collection of waste and that the servicing of the site would need to be undertaken by a private contractor.

Applicant's response:

It is proposed that garbage and recycling collection services be provided by a private contractor. Details to be provided at DA assessment stage should a SCC be granted.

*Issue raised by Council: **General Advice***

6. The land is adjacent to a 5th order stream and is subject to NSW Office of Water requirements for riparian corridors.

Applicant's response:

The requirements of the NSW Office of Water in regards to the riparian corridor of the Macquarie Rivulet will be determined at DA assessment stage should a SCC be granted.

*Issue raised by Council: **General Advice***

7. The land is identified under Council's Biodiversity Sensitivity mapping and may in future be identified under revised RFS mapping as Bushfire Prone Land.

Applicant's response:

Such matters will be a consideration for detailed assessment under Section 79C of the *Environmental Planning and Assessment Act 1979* and, if applicable, the *Rural Fires Act 1997* at DA assessment stage should a SCC be granted.

*Issue raised by Council: **Conclusion***

8. *Compatibility with the surrounding environment (1) and compatibility with the locality (2):*
 1. *'The site has the potential to become isolated in the event of a flood. While the level of isolation is limited, the impact on the proposed demographic being seniors and/or people with a disability could have a deleterious impact to those residents'.*

Applicant's response:

During a Probable Maximum Flood event, the site would become isolated for a maximum of 3.5 hours. Whilst Council's concerns are valid, it should be acknowledged that the proposal is for serviced self-care dwellings to be operated as a retirement village. The presumption that seniors aged 55 and over who are capable of independent living would necessarily require especial assistance because of their age demographic may not be a wholly valid assumption as many persons remain both fit and active well past the entry age of 55 for seniors living.

The proposed development does not include a nursing home (Residential Care Facility) where indisputably Council's concerns would have particular relevance and require especial consideration.

2. *'The site has a bushfire hazard constraint and may be a risk to any future occupants, particularly the elderly and people with a disability'.*

Applicant's response:

The subject site is not currently identified as Bushfire Prone Land (BFPL). Should the site be identified as such due to the inclusion of grassland within the RFS endorsed BFPL mapping, the level of risk will be substantively diminished via development of the site from the present pastoral state, to an urban context with associated hard stand areas and bushfire management considerations included within the physical design of the proposed development.

3. *'The site will be subject to noise and traffic associated impacts from significantly greater volumes of traffic in the future than it currently experiences with the construction of the Albion Park Bypass'.*

Applicant's response:

The Council appears to be making a general presumption that seniors are a demographic cohort that are especially sensitised to noise impacts and therefore especial consideration as to the suitability of the site in terms of potential noise impacts from passing traffic is required.

The proponent disagrees with the apparent presumption and makes the observation that one could with equal presumption observe that residents may be subject to less noise from traffic than that which they are accustomed to, by nature of the clustering of dwellings around a private road servicing only the development site itself. The proponent suggests that a retirement village is a land use no more noise sensitive than other forms of residential development wherein noise from passing traffic is not ordinarily a significant criteria for consideration within Council's assessment of a DA.

Regardless, it is the proponents opinion that anticipated noise impacts are a matter for consideration at the master planning stage for the projected 2026-2027 bypass and not a matter for consideration under the SCC application at which period in time no bypass exists and to quote the Council submission of 21.9.2017, *'the design outcome to the bypass has not been formalised..'*

4. *'The proposed use and density of development is counterintuitive with the RU6 Transition zone objectives that attempts to protect and maintain land that*

provides a transition between rural and other land uses of varying intensities or environmental sensitivities'.

Applicant's response:

It is acknowledged that a seniors living development is a prohibited land use under the SLEP 2013 for the RU6 Transition zone. The appropriate mechanism to overcome this land use prohibition is Chapter 3 Part 1A of the SEPP SL wherein a SCC may be submitted to the Dept. for consideration at a State Government level. Under the SEPP the appropriateness of the proposed site use and density may be tested for compliance with the relevant SEPP SL controls. The SEPP control allows for a maximum site density of 0.5:1 and the development for the purposes of a retirement village proposes a site density of less than the SEPP standard.



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