

ITEM MAYORAL MINUTE: DA 197/2013 - PROPOSED AGED CARE FACILITY - ST ALBANS STREET, ABBOTSFORD

Department Executive Services

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REPORT

In 2013 a development application for a 81 bed aged care facility was rejected by the Joint Regional Planning Panel (JRPP) on the grounds of failure to comply with the access provisions of State Environmental Planning Policy (SEPP) Seniors Living. The JRPP rejection was based on a Council submission objecting to the development and strong local resident opposition.

One of the access issues associated with the development is the difference in levels between the resident entrance/exit on site and the footpath level of St Albans Street. The issue is critical for achieving an acceptable pedestrian access for aged persons.

An appeal to the refusal has been lodged with the Land & Environment Court date 8 November 2013 and notified to Council. Letters were sent to objectors from Council's solicitors. For the appeal to be successful, a suitable solution is required to provide access under the Disability Discrimination Act and the SEPP Seniors Living.

An application was submitted to Council seeking approval under S.138 of the Roads Act. This application as submitted to Council after the Development Application was refused by the JRPP. The S.138 application sought to:

- A retaining wall along the full length of the property;
- A new pathway at a higher level within the St Albans Street road reserve along the full frontage of the property;
- A new pathway with the St Albans Street footpath area connecting a proposed elevator within the development to a proposed crossing point on St Albans Street.

As background, the application under S.138 of the Roads Act was refused under delegation by the Director, Technical Services & Operations in December 2013, on a number of grounds:

- Two street trees would require removal;
- The proposal would create substantial infrastructure in the road way which would become a liability for Council;
- The application does not appear to be compliant with the Disability Discrimination Act 1992 (Commonwealth);
- Council is of the view that the proposal if installed would not satisfy the access requirements of the SEPP – Seniors Living.

The S.138 application was to support the appeal which is being defended by Council. A Conciliation Conference will commence on-site on 19 February 2014. Residents have been invited to attend as witnesses.

CONCLUSION

Council is required to participate in the Conciliation Conference (S.34) at the direction of the Land & Environment Court. Council's support for the refusal of the S.138 application is recommended.

RECOMMENDATION

1. THAT Council confirm the decision taken under delegation to refuse the application under S.138 of the NSW Roads Act 1993.
2. THAT Council note all residents that made a submission on the application have been advised, in writing, by Council's solicitors and invited to participate as witnesses in the appeal process. Those interested in doing so have registered to speak.