
REPORT 1
(1215/11/IM)

PROPOSED BUS SHELTER - 141 RONGOTAI ROAD, KILBIRNIE

1. Purpose of Report

To report to Council on an objection from the adjacent property owner to a proposal to install a bus shelter outside 141 Rongotai Road, Kilbirnie.

2. Executive Summary

Council seeks to erect a bus shelter on the footpath at an existing bus stop located outside 141 Rongotai Road, Kilbirnie. It is allowed to do so unless it will unreasonably prevent access to any land fronting the road where the shelter is proposed.

The Local Government Act 1974 process which Council is required to follow has been carried out. This involves writing to the owner of the adjacent property and informing them that they can object if they consider the shelter will adversely affect the access to their property.

The property owner has objected, however the officers' assessment is that the proposed shelter will not unreasonably prevent access to their land and recommend that the objection be dismissed.

However it is recommended that officers discuss the precise siting of the shelter with Mr and Mrs Patel to accommodate their preference for a central location along their property frontage.

3. Recommendations

Officers recommend that Council:

1. *Receive the information.*
2. *Dismiss the objection from the owners of 141 Rongotai Road, Kilbirnie to the installation of a bus shelter on the frontage to their property on the basis that installation of the bus shelter will not unreasonably prevent access to their land.*
3. *Agree to erect the bus shelter on the footpath outside 141 Rongotai Road under section 339 of the Local Government Act 1974.*

4. *Agree that if Mr and Mrs Patel obtain consents to develop their property in the future and that development requires relocation of the shelter, that Council will meet the cost of the relocation.*
5. *Instruct the officers to discuss the precise siting of the shelter with Mr and Mrs Patel to accommodate their preference for a central location along their property frontage.*

4. Background

Council seeks to erect a bus shelter at an existing bus stop located outside 141 Rongotai Road, Kilbirnie.

Section 339 of the Local Government Act 1974 allows Council to erect a bus shelter on the footpath of any road provided that the bus shelter does not unreasonably prevent access to any land that has frontage to the road where the shelter is proposed.

Council is required to give notice to the owner of the land whose frontage may be injuriously affected by a proposed bus shelter. The owner has the right to object to the Council.

Council has given notice to the owners of 141 Rongotai Road Kilbirnie. Attached as Appendix 1 is a copy of the notice. This includes plans of the shelter.

The owners of 141 Rongotai Road have objected to the proposed bus shelter. A copy of the objection is attached as Appendix 2.

The Council is required to consider the objection and after hearing any submissions made by the objector, may dismiss the objection, decide not to proceed with the proposal, or make such modifications to the proposal as it thinks fit.

In their written objection, Mr and Mrs Patel detailed a number of concerns relating to the existing bus stop and the proposed bus shelter. These were:

- Bus patrons overflow on to their driveway.
- Bus patrons vandalise their fence and letter box and this will increase as people will loiter in the bus shelter.
- Increased chance of vandalism, tagging and unruly behaviour as a result of the increased bus traffic following opening of the ASB sports centre.
- The existence of the bus shelter will result in more rubbish on their property and extra cleaning up for them.
- The existing bus stop overlaps two existing driveways and causes a hassle accessing on to Rongotai Road.

They suggest moving the stop closer in to Kilbirnie and nearer the access way and cycle route from Rongotai Road to Kemp Street. Alternatively they suggest moving the stop slightly towards 139/137 Rongotai Road which would not affect any driveways.

They do not make specific reference to the impact of the proposed shelter in regard to its effect on pedestrian or vehicle access to or from their property, which is the matter to be addressed under the LGA.

Mr and Mrs Patel attended the 22 September 2011 Strategy and Policy Committee meeting and spoke to their objection. They again emphasised the adverse effects resulting from the existing bus stop and their concern that these problems will be worse when more bus passengers use the stop following the opening of the ASB sports centre. In addition to the matters raised in their written submission, Mr and Mrs Patel raised some further points as follows:

- They have had to repair their fence, letterbox and gate as a result of damage caused by bus passengers.
- The shelter will cause a safety issue as it would block their view of pedestrians when they wish to drive out from their property.
- Bus passengers boarding at the stop could choose to walk the short distance back to the previous stop where there is an existing shelter
- In the event that the shelter is approved, then they would like the opportunity to discuss the exact location which they would prefer to be centrally sited along their fence line.

As a result of questions from Councillors, Mr and Mrs Patel advised that the bus stop is mainly used to drop off passengers and is well used by students from Rongotai College both going to and from school. They also advised that it is their understanding that the stop outside number 141 is an extra section compared with the previous stop.

5. Discussion

The matter to be considered under section 339 of the LGA 1974 is whether the erection of the proposed shelter is likely to unreasonably prevent access to Mr and Mrs Patel's land at 141 Rongotai Road.

It is not in dispute that the existing bus stop which has been in place for many years now, may on occasions cause a nuisance to the Patels and this can be a characteristic of any bus stop. The matters of concern which they raise are unfortunately common to the hundreds of bus stops which are in place throughout Wellington, and some or all of these activities could well increase following the opening of the new ASB sports centre.

Mr and Mrs Patel's proposal that the existing stop be moved is not a matter for consideration under the section 339 process which is concerned solely with the effects of the proposed shelter, and whether the proposed shelter will unreasonably prevent access to their property.

Having said this it is perhaps helpful to make some comment on the appropriateness of the existing bus stop as follows:

1. The existing bus stop is sited to provide good pedestrian connections to Salek Street and the eastern section of Rongotai Road with a zebra crossing

- well located nearby to provide safe access for bus passengers alighting or boarding a bus at this stop to cross over Rongotai Rd. The stop is the best location for Rongotai College students on their way to or from school.
2. The next bus stop towards Kilbirnie is sited about 170m away and moving the stop outside 141 closer to nearby access way through to Kemp Street, although perhaps more convenient for the ASB sports centre, is not favoured because it would result in less appropriate spacing between stops and be less convenient for passengers living along Salek or other nearby streets and for students at Rongotai College.
 3. It is legally permissible and not uncommon for bus stops to be located across vehicle driveways so as to maximise kerbside parking.
 4. This stop has been operational for at least 15 years and pre-dates the Patel's occupation of 141 Rongotai Rd.
 5. The stop remains the best location to serve local needs, and the expected increase in passenger activity resulting from the opening of the ASB Centre. This includes both the set down of passengers and also the expectation of more waiting passengers travelling to Miramar, Strathmore or Seatoun.

In regard to the proposed new bus shelter, which is the matter being addressed under the section 339 provisions, the location plan and photo simulation included in Appendix 1 show that the proposed shelter will sit comfortably along the frontage of the Patel's property occupying a little over a quarter (27%) of the frontage by length. The shelter will be to the latest Council design and will incorporate seating, toughened glass side panels, and perforated aluminium back and lower side panels to deter graffiti. Although not shown on the photo simulation, it will have a front panel to give protection from the southerly.

At 3.1m the footpath alongside the property is wider than required to accommodate current and expected pedestrian numbers. With the shelter in place there will be a footpath width of just over 1.6m in front of the shelter which will provide adequate width for pedestrians to walk past. There will be generous space for waiting bus passengers to stand or sit in the shelter or stand in front of the fence without any need to congregate close to or in front of the gates to the Patel's driveway.

The Patel's driveway out on to Rongotai Road is alongside the western side of their property and this provides them with both pedestrian and vehicle access. The shelter will be 1.4m away from the closest point to the driveway and will not present any obstruction to the ability of either vehicles or pedestrians to enter or exit the property via the driveway.

Mr and Mrs Patel in their oral submission were concerned that the proposed shelter will obstruct their ability to see pedestrians approaching along the footpath. It is the officers view however that the design of the shelter, which incorporates glass side panels, will allow good visibility between a driver exiting the property and a pedestrian walking along the footpath towards the Patel's driveway.

In regard to the precise siting of the shelter, Mr and Mrs Patel in their oral submission asked that in the event the shelter is approved, they have the opportunity to discuss the siting and that their preference is to have the shelter

centrally positioned along their fence. If Council approves the installation, then the officers will talk with the Patels and confirm there will be no problem repositioning the shelter along their property frontage to suit Mr and Mrs Patel's wishes.

6. Conclusion

The officers have assessed the likelihood of the proposed bus shelter unreasonably obstructing the Patel's access on to Rongotai Road and concluded that the shelter will have no material effect on their access. It is therefore recommended that the objection be dismissed.

The officers will discuss the precise siting of the shelter with Mr and Mrs Patel and can accommodate their preference for a central location.

Contact Officer: *Stavros Michael, Director Infrastructure and Steve Spence, Chief Transport Planner*

Supporting Information

1) Strategic Fit / Strategic Outcome

The recommendations are consistent with the expectations and desired outcomes of the Transport Strategy.

2) LTCCP/Annual Plan reference and long term financial impact

N/A

3) Treaty of Waitangi considerations

N/A

4) Decision-Making

This is not a significant decision

5) Consultation

a) General Consultation

The procedure required under the Local Government Act 1974 has been used.

b) Consultation with Maori

N/A

6) Legal Implications

Council may make a decision to dismiss the objection, decide not to proceed with the proposal, or make such modifications to the proposal as it thinks fit.

7) Consistency with existing policy

The recommendations are consistent with current Council policies