



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	26-015
Appellant:	Dallas Mulholland
Assessment manager:	Trevor Gerhardt
Co-respondent (concurrence agency):	Sunshine Coast Council (Council)
Site address:	18 Deep Water Circuit, Pelican Waters, Qld 4551 and described as Lot 113 on SP 208094 – the subject site

Appeal

Appeal under section 229(2) and schedule 1, sections 1(1)(b) and 1(2)(g), and table 1, item 1(a), of the *Planning Act 2016* (the PA) against the assessment manager's decision to refuse the appellant's application for a building works development permit for alterations to an existing dwelling house, for a new Class 10a carport (the Application).

Date and time of hearing:	Monday, 20 April 2026, at 10.30am
Place of hearing:	The subject site
Tribunal:	Debbie Johnson—Chair Marie-Anne Ammons—Member
Present:	Trevor Gerhardt—Appellant's agent Angus McKinnon—Appellant's agent Tracey Douglas—Council representative Kyl Betteridge—Council representative

Decision:

The Development Tribunal (tribunal), in accordance with section 254(2)(a) of the *Planning Act 2016* (PA) **confirms** the decision of the assessment manager to refuse the Application.

Background

1. The subject site is a residential property with an area of 900m² with direct frontage to Deep Water Circuit, forming its north-eastern boundary. The subject site is located within the Sunshine Coast Council local government area. The immediate vicinity of the subject site is characterised by low-density residential land uses.

2. The allotment is included within the Low-Density Residential Zone under the Sunshine Coast Planning Scheme 2014, being the current and applicable planning scheme for the subject site (the planning scheme).
3. The subject site contains a substantial single storey dwelling house located on Lot 113, addressing Deep Water Circuit and rear access to Lamerough Canal. The main dwelling house includes a double garage set back from the front boundary. The area between the front boundary and the existing garage is intended to accommodate the proposed carport.
4. The proposed carport is shown on That Patio Guy site plan and Lysaght Living design drawings. Of primary relevance to this appeal is that the carport roof is set back 500mm from both the Deep Water Circuit frontage, generally aligning with the existing sewer line shown on the site plan. The carport dimensions differ between the site plan and the floor plan; however, it was confirmed at the tribunal hearing that the dimensions of the overall carport roof are 7260mm (wide) by 6704mm (long), with a maximum height (taken from the existing concrete driveway surface) of 3.5m, plus 100mm insulated roof panel.
5. Building works on the subject site are subject to the design and siting provisions set out in the 9.3.6 Dwelling House Code, within the planning scheme. The Dwelling House Code prescribes alternative residential design and siting provisions to those provided under the Queensland Development Code (QDC). Section 1.6 of the planning scheme states in part, that the planning scheme prescribes alternate residential siting provisions in accordance with legislation, being Section 33 of the *Building Act* 1975 (BA).
6. Acceptable Outcome (AO) 2.1 of the Dwelling House Code states:

Where located on a lot in a residential zone, a garage, carport or shed:-

- (a) is setback at least 6 metres from any road frontage;*
- (b) does not exceed a height of 3.6 metres; and*
- (c) has a total floor area that does not exceed 56m².*

Clearly, the proposed setback to Deep Water Circuit of 500mm does not achieve this AO.

7. The proposed carport is to align with the western side wall of the existing garage. As indicated on the site plan, the garage has a length of 10.7m along that side boundary. The western, side boundary setback to that garage wall is 500mm. The total length of the garage together with the proposed carport is therefore 17.404m with a clearance of 500mm to the side boundary fenceline. While Class 10a garage and carport structures can be built to the side boundary, the QDC Acceptable Solution (AS) A2(d)(ii) *prescribes the total length of all buildings or parts, of any class, within the boundary clearance is not more than 9m along any one boundary*. While the aggregate length within the side boundary clearance would exceed the 9m limitation, this aspect of the development does not form part of the reasons for refusal issued by Council. Similarly, there was no consideration of the relevant Performance Criteria PC2 set out in the QDCMP1.2 for situations where the 9M is exceeded.
8. Section 54 of the PA and schedule 9, part 3, division 2, table 3 of the Planning Regulation 2017 (PR) prescribe that a development application for building work that is subject to alternative design and siting provisions under section 33 of the BA, and does not comply with a quantifiable standard under such provisions (such as AO2.1 of the Dwelling House Code), requires referral to the applicable local government as a concurrence agency.

9. On 12 February 2026, a referral was made to Council pursuant to section 57 of the PA for a design and siting assessment and referral agency response – Council reference CAR26/0089.

10. On 17 February, Council issued a further advice, stating as follows:

“Council has reviewed the lodgement material submitted by the applicant and conducted a streetscape analysis of lawfully approved structures within the front boundary area. In reference to Performance Outcome PO2 of the Dwelling House Code – which requires development to maintain the visual continuity and pattern of buildings and landscape elements within the street – the following observations and requirements are noted.

Assessment has been undertaken of the immediate streetscape as viewed from the subject site at 18 Deep Water Circuit. Within this context, the prevailing building line is consistently set at approximately 5.0 - 6.0 metres from the front boundary. With the exception of an approved 3.4m setback to the garage at 32 Deep Water Circuit, Pelican Waters. This variation is considered minor in nature, and due to the configuration of that lot, the bulk of the structure is adjacent to the open/green space area along the canal and does not visually present as an extension of built form projecting forward of the established setback line when viewing the streetscape at ground level.

In contrast, the proposed carport introduces a prominent built form that projects forward of the main dwelling. Its vertical and horizontal massing, and overall height of 3.5m contributes to a significant increase in built form when viewed from the street. The additional roof structure becomes a visible component of the dwelling’s overall building envelope, further amplifying its presence.

By projecting forward of the established front setback, the carport diminishes the consistent uniformed setback character that defines the streetscape. It reads as an extension of the house, thereby reducing the perceived frontage depth compared to neighbouring properties, which predominantly retain open front setbacks. The structure represents a notable departure from the prevailing building line and disrupts the established rhythm and pattern of dwellings along the street.

It is noted that the subject site currently includes compliant covered car parking arrangements with setbacks that meet the applicable standards.

To align with the character of the streetscape and intent of PO2, submit amended plans demonstrating a greater setback for the proposed carport, consistent with the prevailing building line of Deep Water Circuit.”

11. On 2 March 2026, the appellant’s agent, Sunshine Coast Building Approvals, submitted a response to the further advice request. The response requested that Council finalise the decision based on the referral report and drawings submitted on 12 February 2026. No additional information or response to Council’s advice was included.

12. On 9 March 2026, Council issued a referral agency response directing refusal of the application. The grounds for this decision in part stated, that the proposed development failed to achieve performance outcome PO2(b) and (d) of the Dwelling House Code. Council further stated that:

500mm setback from outermost projection of the proposed carport to the road frontage, in lieu of 6 metres ... does not meet the Performance Outcome PO2 (b) and (d) of the Dwelling House Code.

- b) *The proposed carport is 6.704m x 7.26m extending forward of the established street setback of 4.5-6.0m setbacks, resulting in a structure that visually dominates an otherwise open streetscape.*
 - d) *The proposals fails to maintain the established visual pattern of buildings and landscape elements, being that structures along Deep Water Circuit are consistently set back approximately 5-6m from the front boundary.*
- 13. On 16 March 2026, the assessment manager issued a decision notice refusing the Application. The decision notice indicates that this decision was made solely because of the Council's referral agency direction.
- 14. On 16 March 2026, the appellant duly lodged a Form 10 Notice of Appeal to the tribunal registrar.
- 15. On 14 April 2026, via the registrar, Council provided the assessment report for CAR26/0089 dated 3 March 2026, and a submission outlining Council's assessment processes and considerations.
- 16. On 20 April 2026, a site inspection and hearing were held on the subject site.
- 17. One item of discussion on site included the setback of the existing two storey dwelling at 4 Rainbow Lane, the property that adjoins the subject site on the eastern side.
- 18. On 20 April 2026, following the inspection and hearing, the tribunal issued the following directions for all parties to submit further information and/or further responses to matters raised at the hearing. The two (2) requested submissions included:
 - a) Further submissions by Sunshine Coast Building Approvals to Council's email and attachments received by all parties on 14 April 2026; and
 - b) Further information by Council identifying the approved setback at 4 Rainbow Lane, Pelican Waters.
- 19. On 21 April 2026, Council provided the approved Site Plan confirming 4 Rainbow Lane (lot 112) had an approved boundary setback of 6m to the front deck and main fascia. Building approval No 3324, dated 19 January 2009, was issued by Caloundra Building Approvals for the dwelling at 4 Rainbow Lane. On 29 April 2026, the tribunal identified an appellant's submission for Application CAR26/0089 on Development.i, that had not been provided to the tribunal. The tribunal, through the registrar, issued a request for that appellant's response, made on 2 March 2026 in response to Council's Request for Further Advice.
- 20. On 1 May 2026, Sunshine Coast Building Approvals provided the appellant's response of the 2 March 2026 and a further detailed submission to Council's attachments. This material was submitted via the registrar and received by the tribunal on 14 April 2026. This submission included:
 - (a) An objection to council submissions and report emailed via the registrar to the tribunal on 13 April 2026;
 - (b) The appellant submissions delivered at the tribunal hearing:
 - i. *The definition of 'streetscape' under Schedule 1, Table SC1.2 of Sunshine Coast Council Planning Scheme - The collective combination of urban form elements that constitute the view of a street and its public and private domains. These elements include buildings, roads, footpaths, vegetation, open spaces and street furniture;*

- ii. The absence of the definition of 'dominate' in the Sunshine Coast Council Planning Scheme and reliance of the Macquarie Dictionary definition by the appellant's agent;
 - iii. Reference to the findings of streetscape and dominate in Tribunal Decision Notice Appeal number 24-010;
- (c) The following examples of allotments approved or otherwise as follows:
 - i. The proposed carport is less than the maximum height and is consistent with 9 Westholme Court and 20 Westholme Court;
 - ii. Properties 4 Rainbow Lane, 14 Deep Water Court and 12 Deep Water Court did dominate the streetscape;
 - iii. Council's approval of carports to 7 Westholme Court, 12 Westholme Court and 20 Westholme Court;
 - iv. Additional carports, lawful or otherwise, at 9 Westholme Court and 16 Westholme Court; and
- (d) Additional submissions including:
 - i. The proposed carport is an open carport with a front and side boundary setback of 500mm and a height less than 3.5m;
 - ii. The proposed carport is for a four-wheel drive motor vehicle; and
 - iii. Agreement for the tribunal to impose landscaping conditions.

Jurisdiction

- 21. Section 229(1) of the PA provides that Schedule 1 (the schedule) of the PA states the matters that may be appealed to a tribunal.
- 22. Section 1(1)(b) of the schedule provides that the matters stated in Table 1 of the schedule are the matters that may be appealed to a tribunal. However, section 1(2) of the schedule provides that Table 1 only applies to a tribunal if the matter involves one of the matters set out in section 1(2).
- 23. Section 1(2)(g) provides that Table 1 applies to a tribunal if the matter involves a matter under the PA, to the extent the matter relates to the BA, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission.
- 24. Table 1 thus applies to the tribunal in this appeal. Accordingly, the tribunal is satisfied that it has jurisdiction to hear and decide this appeal.

Decision framework

- 25. Section 253(2) of the PA states, that generally the appellant must establish the appeal should be upheld.
- 26. Section 253(4) states, that the tribunal must hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against.
- 27. Section 253 (5) states, that the tribunal may, but need not, consider—
 - (a) other evidence presented by a party to the appeal with leave of the tribunal; or

(b) any information provided under section 246, being, the registrar may, at any time, ask a person to give the registrar any information that the registrar reasonably requires for the proceedings.

28. Section 254(2) states, that the tribunal must decide the appeal by—

- (a) confirming the decision; or
- (b) changing the decision; or
- (c) replacing the decision with another decision; or
- (d) setting the decision aside, and ordering the person who made the decision to remake the decision by a stated time;

29. Section 254 (3) states, that the tribunal must not make a change, other than a minor change, to a development application.

30. Section 254(4) of the PA states, that the tribunal's decision takes the place of the decision appealed against.

Material considered

31. The material considered in arriving at this decision was:

- (a) Form 10 Notice of appeal, grounds for appeal and correspondence accompanying the appeal lodged with the tribunals registrar and receipted on 17 March 2026;
- (b) The assessment manager's decision notice dated 16 March 2026;
- (c) DA Form 2 dated 16 March 2026;
- (d) Sunshine Coast Council's referral agency response dated 9 March 2026;
- (e) Proposed Site Plan by That Patio Guy QBCC Lic No 1161615;
- (f) Proposed carport drawings by Lysaght Living identified as #SCOL00661, Sheets labelled 3, 4, 7 and 8;
- (g) Sunshine Coast Building Approvals concurrence agency report, dated February 2026, including appendices 1 to 3, containing-
 - i. Sunshine Coast Council Request for Concurrence Agency Response (Building Work) Form;
 - ii. Referral checklist for building work; and
 - iii. Carport structure plans by Lysaght Living and That Patio Guy.
- (h) Council's further advice dated 17 February 2026;
- (i) Email correspondence via the registrar from Council, received 14 April 2026, prior to the hearing. The attachment contained
 - i. Council's assessment report for CAR26/0089 dated 3 March 2026, including Council's early referral agency response; and
 - ii. A submission outlining Council's assessment processes and considerations;
- (j) Email correspondence via the registrar, from Council, received 21 April 2026, post hearing. The email confirmed the 6m setback for the two storey adjoining dwelling at 4 Rainbow Lane, Pelican Waters and provided the approved Site Plan;
- (k) Email correspondence via the registrar, from Sunshine Coast Building Approvals received 1 May 2026, post hearing. The attachments included

- i. Email correspondence from Sunshine Coast Building Approvals dated 2 March 2026, in response to Council's further advice; and
 - ii. Further submissions from Sunshine Coast Building Approvals dated 1 May 2026;
- (l) The *Planning Act 2016* and the Planning Regulation 2017;
 - (m) The *Building Act 1975* and the Building Regulation 2021;
 - (n) *Sunshine Coast Planning Scheme 2014*, including the *Dwelling House Code*;
 - (o) Queensland Development Code Part MP1.2 – *Design and Siting Standard for Single Detached Housing – on Lots 450m² and over*;
 - (p) The verbal submissions made by the parties at the hearing and during the site inspection;
 - (q) Queensland Tribunal Decision Notice 24-010;
 - (r) Sunshine Coast Regional Council Development.i;
 - (s) Google maps; and
 - (t) Nearmap.

Findings of fact

- 32. The matters contained within Tribunal Decision Notice 24-010 differ materially to the current appeal. The records state that the matter in contention was the carport height exceeding 3.6 m at Booker Parade, Golden Beach. The street contains dwellings of various building type, forms, styles and ages with no established or predominant setback pattern in the street and reduced setbacks for carports, shade sails and patios. The lot types were regular in shape with 15m frontages and the proposed carport at Booker Parade would occupy less than 50% frontage.
- 33. Westholme Court is characterised by several built elements within the streetscape. From a desktop assessment, 9, 12, 13, 16, 20 and 40 Westholme Court contain carports, shade sails and patios within the front boundary setback. Only the rear allotments of Westholme Court directly face Deep Water Circuit and the two locations are separated by the canal. The development of Westholme Court contains contemporary residences of similar appearance and built date to Deep Water Circuit.
- 34. Homes built at 12 and 14 Deep Water Circuit contain 2 storey residences. From observations taken within the street and through google mapping, these may be built partially within the required front boundary setback. Although the mass of the buildings are larger than the subject site, these depict a consistent built form of single and double contemporary residences throughout this area.
- 35. Rainbow Lane is home to only two allotments, number 4 and 6. Access to Rainbow Lane is via an extension from Deep Water Circuit. Number 4 Rainbow Lane is adjacent to the subject site, number 18 Deep Water Circuit. They share a common side boundary being, the subject site's eastern boundary.
- 36. 32 Deep Water Circuit is positioned 100m away from the subject site and while it is effectively located opposite, it is around the bend in the circuit. The development at 32 Deep Water Circuit includes approved works within the 6m setback. This allotment is different to every other allotment in Deep Water Circuit in that the allotment's street frontage is predominately fronting the Deep Water Circuit Park and not Deep Water Circuit itself.

37. There are more than 30 allotments, all fully developed, along Deep Water Circuit and Rainbow Lane. With the exception of 32 Deep Water Circuit, the 6m road setback to class 1 or class 10 structures appears to be generally maintained.
38. The circuit accommodates a mix of single storey and two-storey contemporary residences developed from the mid-2000s through to the 2010s, resulting in a consistence architectural era and uniform presentation. The dwelling at 18 Deep Water Circuit is single storey and secured with a solid rendered fence and sliding aluminium gate across the concrete driveway. The dwelling features a double lock up garage and storage area under the main roof. The garage wall is 10.7m long and set 500mm from the (western) side boundary.
39. The proposed carport is to be positioned over the existing concrete driveway, with the roof line setback 500 mm inside the front boundary. The light weight structure features a skillion roof, having a maximum height of 3.6 m where it would be fixed to the garage parapet wall. The overall parapet height of the existing dwelling is approximately 5m.
40. The Dwelling House Code AO2.1 prescribes a 6m road setback is required for garages, carports and sheds where located on land situated in residential zone area. Where a reduced setback is required, the proposed development must be assessed against the Dwelling House Code performance criteria listed at PO2.1:-
- (a) preserve the amenity of adjacent land and dwelling houses;
 - (b) do not dominate the streetscape;
 - (c) maintain an adequate area suitable for landscapes adjacent to the road frontage; and
 - (d) maintain the visual continuity and pattern of buildings and landscape elements within the street.

Reasons for the decision

41. The tribunal, in accordance with section 254(2)(a) of the PA, has decided this appeal is dismissed and the earlier decision is upheld without amendment.
42. The tribunal makes the following findings of fact:
- i. The structure encroaches significantly into the 6m front setback;
 - ii. The carport will project forward of the dwelling in a way that it becomes the primary visual element;
 - iii. The carport will occupy the entire frontage from the existing garage to the property boundary which reduces the dwelling's primacy; and
 - iv. The carport will become the first and strongest visual element.
43. The tribunal finds that the siting and construction of the proposed carport would fail to maintain the visual continuity and the established pattern of buildings and landscape elements within the street.

Appeal rights

Schedule 1, Table 2, item 1 of the *Planning Act 2016* provides that an appeal may be made against a decision of a Tribunal to the Planning and Environment Court, other than a decision under section 252, on the ground of -

- (a) an error or mistake in law on the part of the Tribunal; or
- (b) jurisdictional error.

The appeal must be started within 20 business days after the day notice of the Tribunal decision is given to the party.

The following link outlines the steps required to lodge an appeal with the Court.

<http://www.courts.qld.gov.au/courts/planning-and-environment-court/going-to-planning-and-environment-court/starting-proceedings-in-the-court>

Enquiries

All correspondence should be addressed to:

The Registrar of Development Tribunals
Department of Housing and Public Works
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