



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	26-013
Appellant:	Tony and Marie McCulloch
Respondent (Assessment manager)	Trevor Gerhardt
Co-respondent (concurrence agency)	Sunshine Coast Council
Site Address:	20 Pembroke Avenue, Pelican Waters, Qld 4551, described as Lot 415 SP156018 (subject site).

Appeal

Appeal under section 229 and schedule 1, section 1, table, item 1(a) of the *Planning Act 2016* (PA) against the decision of the Assessment Manager to refuse an application to construct a carport located and extended towards Pembroke Avenue from the primary dwelling on the subject site.

Date and time of hearing:	29 April 2026 at 11.00 am
Place of hearing:	The subject site – 20 Pembroke Avenue
Tribunal:	Dr Christopher Robertson – Chair Catherine Brouwer – Member
Present:	Trevor Gerhardt – Appellant Angus McKinnon – Appellant Hannah Parker – Respondent Shaun Matthews – Respondent

Decision:

The Development Tribunal (Tribunal), in accordance with section 254(2)a) of the *Planning Act 2016* (PA) confirms the decision of the concurrency agency.

Background

1. The subject site is located on the southern side of Pembroke Avenue, is 700m² and zoned Low Density Residential. Behind the subject site, to the South development is occurring with an approval of 263 residential lots. Adjoining the west boundary is a grassed open space area suitable as a pedestrian throughway.
2. Plans for a carport at the frontage of the house were prepared in October 2025. An assessment report was prepared by *Sunshine Coast Building Approvals* in November

2025. A Preliminary Approval Decision Notice was issued by *Sunshine Coast Building Approvals* for the Carport. The plans and report were lodged to SCC on 17 November 2025 as a request for Concurrence Agency Response (Building Work).

3. The carport was refused by *Sunshine Coast Building Approvals* as Concurrence Agency as directed by SCC.
4. The Sunshine Coast Council Referral Agency Response dated 20 February 2026 directed "refusal" and provided the reasons for that decision:

1. *The proposal does not meet Performance outcome PO2(b) of the Dwelling house code:*

- *Sunshine Coast Planning Scheme, Dwelling house code, Performance Outcome PO2 (b)*
- *Garages, carports and sheds do not dominate the streetscape.*
 - *The carport would dominate the streetscape, as its location within close proximity of the front boundary (proposed setback of 200mm), is inconsistent with the existing character of the street, which includes buildings that are well setback from the front boundary.*

2. *The proposal does not meet Performance outcome PO2(c) of the Dwelling house code:*

- *Sunshine Coast Planning Scheme, Dwelling house code, Performance Outcome PO2 (c) - Garages, carports and sheds maintain an adequate area suitable for landscapes adjacent to the road frontage*
- *The location of the access driveway, existing garage and secondary unlawful access arrangement results in a large majority of the frontage allocated for vehicle maneuvering and not being landscaped with vegetation, resulting in a small area only centrally located along the northern frontage capable of being landscaped.*
- *It is anticipated that sufficient landscaping could not be established at the road frontage in any meaningful capacity without major changes to this proposal.*

3. *The proposal does not meet Performance outcome PO2(d) of the Dwelling house code:*

- *Sunshine Coast Planning Scheme, Dwelling house code, performance outcome PO2 (d) - Garages, carports and sheds maintain the visual continuity and pattern of buildings and landscape elements within the street.*
- *The predominant streetscape of Pembroke Avenue is dwelling houses with a minimum 4.5 metres setback from the road frontage, with garages 6.0 metres setback from the road frontage (adopting the provision of the Dwelling house code), with predominantly open front yards and landscaping provided at the road frontage.*
- *The carport addition proposed to be located 200mm setback, would not maintain the visual continuity and pattern of building and landscape elements within the street.*

4. *Existing car parking: The existing dwelling has 2 covered car parking spaces in the form of the existing garage attached to the dwelling house, exceeding the requirements for parking in the Dwelling house code. As such Council sees insufficient grounds to depart from the planning scheme.*

5. *The carport could be relocated to an alternative position to adopt the Performance Outcomes or Accepted Outcomes of the Dwelling house code.*

There is suitable area to the western portion along the street frontage to establish a single carport, with the ability to provide significant landscape screening along the length of the structure. This alternative option would provide additional covered parking spaces and better adopt the Performance Outcomes or Accepted Outcomes of the Dwelling house code. As such Council sees insufficient grounds to depart from the planning scheme.

5. The Appellants lodged an appeal to the Development Tribunal, on 13 March 2026.

The Appellants have submitted:

1. *The property owners require the carport to provide essential undercover parking for their caravan and vehicles. They are committed to improving on-site parking arrangements*

in a way that enhances the presentation of the dwelling and contributes positively to the streetscape, while also offering weather protection and security for their assets.

2. By utilising a lightweight, visually transparent design and maintaining generous separation from side boundaries, the carport does not impede views from neighbouring properties toward the street nor compromise their outlook. Its placement within the front setback does not result in privacy impacts, as there is no change to the existing use of the area. The structure has been designed with a subordinate height and scale to the existing dwelling and surrounding dwelling houses, ensuring it sits comfortably within the established residential character. Locating the carport in the front setback also helps reduced hardstand and built form within side and rear boundary areas, thereby protecting the amenity and separation between neighbouring dwellings. Additionally, the carport accommodates parking in a manner that will keep the property owners caravan and cars off the street and maintains orderly use of the site, which contributes positively to the residential character of the locality and avoids overcrowding within the street.

3. The existing dwelling is a single-storey house with a high-pitched hip roof and a prominent parapet-wall entry feature. By comparison, the proposed carport incorporates a flat, lightweight roof form that is colour-matched to the existing dwelling. Its low profile and open-sided design ensure that it remains visually recessive, presenting only a thin roof line to the street and sitting clearly subordinate to the scale and prominence of the existing dwelling. The proposed carport width is 6.1m. The carport width is less than 31% of the lot frontage and the proposed carport will be positioned directly over the existing driveway, meaning its location does not introduce new built form into previously unbuilt areas within the streetscape. Instead, it formalises an area already used for vehicle parking. While vehicles and a caravan could continue to occupy this space without a structure, the carport provides weather protection and security for the property owner, while also reducing visual clutter associated with uncovered parked vehicles. This results in a more orderly and cohesive streetscape outcome.

4. The open design prevents the creation of mass or bulk within the front setback and avoids visual obstruction. The structure integrates with the existing development and maintains a low visual impact, ensuring that it does not tower above, overshadow, or otherwise command the streetscape. As such, the proposed carport does not dominate the streetscape and instead contributes positively to the character and appearance of the surrounding area.

5. 'streetscape' is a defined term under schedule 1 (definitions) (Table SC1.2 Administrative definitions) contained in the Sunshine Coast Council Planning Scheme and expressed in the following manner: "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." The subject application requires that consideration be given to ANY buildings or structures, roads, footpaths, vegetation and street furniture whether they be lawful or otherwise to contribute to the satisfaction of the definition of 'streetscape' in carrying out the assessment of the concurrence application. The existing streetscape is characterised by substantial vegetation, street furniture, roads and proposed footpaths, all of which visually frame the streetscape and form the dominant elements when viewed from the street. The existing vegetation, including mature street trees and established landscaping, extends well above the height of both the existing dwelling and the proposed carport, substantially screening the subject site from the street and resulting in limited visibility of the structure. In addition, the street contains several light poles positioned close to the road, which introduce vertical elements of a similar form to the proposed carport posts. However, the

carport posts are considerably lower in height and set further back from the road, ensuring they remain visually recessive and do not alter or interrupt the established streetscape pattern.

6. The proposed carport is situated directly over the existing driveway, and the configuration of the existing dwelling provides insufficient space or access on either side for an alternative carport location, therefore it would not be proper nor appropriate to suggest an alternative location on the site. The eastern side of the property is not a safe or suitable option for a driveway crossover due to the pronounced road curvature, existing street furniture, and the approved footpath, all of which render that area inappropriate and unsafe for vehicular access.

6. At the Hearing the Appellant advised that they would be happy to accept landscape Conditions with an approval.
7. At the Hearing the SCC representative advised that the existing shade sail structure in the street is considered 'unlawful', having an enforcement notice over it, and is considered by Council as not able to be used to support this application.
8. At the Hearing the SCC representative advised that the street has a consistent setback for garages or carports of 4.5m or more, and that consideration may be given to a 4.5 m setback distance as an acceptable setback.

Jurisdiction

9. Section 229(1) of the PA identifies that schedule 1 (the schedule) of the PA states the matters that may be appealed to the Tribunal.
10. Table 1 of schedule 1 of the Act states the matters that may be appealed to the Planning and Environment Court or the Tribunal subject to (in the case of the Tribunal) the preconditions stated in section 1(2) of schedule 1.
11. The Tribunal has jurisdiction to determine this appeal under section 229(1)(a)(i), schedule 1, section 1, table 1, item 1(a), and schedule 1, section 1(2)(g) of the Act.

Decision framework

12. The Appellant as the recipient of the decision notice must establish that the appeal should be upheld (under section 253(2) of the PA).
13. The Tribunal is required to hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision the subject of this appeal (under section 253(4) of the PA).
14. Section 249 of the PA provides the Tribunal with broad powers to inform itself in the way it considers appropriate when hearing a Tribunal proceeding and the Tribunal may seek the views of any person.
15. The Tribunal is required to decide the appeal in one of the following relevant ways set out in section 254(2) of the PA:
 - a) confirming the decision; or
 - b) changing the decision; or
 - c) replacing the decision with another decision; or submission
 - d) setting the decision aside and ordering the person who made the decision to remake the decision by a stated time.

Material considered

16. The material considered in arriving at this decision was:
 - (a) From 10 Notice of Appeal, grounds for appeal and the accompanying correspondence, which included reference to Development Tribunal 24-059 Decision Notice.
 - (b) *Planning Act 2016*
 - (c) Sunshine Coast Planning scheme 2014
 - (d) Further Appellant submission on 5 May 2026, including the Development Tribunal 24-010 Decision Notice.
 - (e) Sunshine Coast Council submission dated 26 May, 2026.

Findings of fact

17. The Tribunal makes the following findings of fact:
18. Pembroke Avenue lies on generally flat terrain and is a straight road for a distance of about 500 metres in an north east - south west direction between Oxford Parade and where Pembroke Avenue bends to the south about 280m west of the subject site.
19. Southwest of the Botany Drive roundabout, there are two short, gentle curves or bulges of the south verge and roadway and these have verge plantings. Similarly, there is one of these to the east of that roundabout at the Venus Street intersection.
20. Views north-east along the Avenue from the vicinity of the frontage of No 20 partially extend to Oxford Parade, however in that direction the roundabout at the Botany Drive intersection, three properties along from the subject site, is planted with a bushy tree and palms, and this planting obscures much of the otherwise longer streetscape vista. Views southwest from the vicinity of the frontage of No 20 extend to the bend in Pembroke Avenue and are terminated there by the dense vegetation adjacent the road edge.
21. The land, and thus the houses and garages, of properties along much of the south side of Pembroke Avenue, west of the Botany Drive intersection roundabout to past the subject site, are set a little higher than the roadway, so the driveways rise slightly to the garages and the buildings present well to the road user.
22. This 500m portion of Pembroke Avenue is considered the streetscape context for the subject site. This is in accordance with the SCC Planning Scheme definition (Schedule 1): *"The collective combination of urban form elements that constitute the view of the street and its public and private domains. These elements include buildings, roads, footpaths, vegetation, open spaces and street furniture"*. Also, this is the streetscape context of the subject site agreed upon by the Council officers at the Hearing.
23. **The Open Space and Setbacks:** The setbacks of the houses and garages are generally consistent along this section of Pembroke Avenue. It appears that all the garages or carports along the street do not extend closer to the street boundaries than 4.5 metres. The property east of the subject site, No. 18, has its garage positioned at generally the same setback as the existing garage on the subject site, No. 20. There is a general or overall continuity along this streetscape context of the building's setback and of the open space along the Avenue between these buildings.
24. **The Frontage-Streetscape Vegetation:** About 62% of the properties in this Avenue section have front boundary fences (based on Google maps May 2023 data). Thus, there are many properties with no built fence, and these generally have garden beds along the full

street boundary (excluding the driveway and entry), or have shorter garden beds in the lawns, which extends from the kerb into the property frontage. There are a variety of fence forms along the Avenue, with the majority being either low height or palisaded for the most part allowing the gardens of lawn and plant beds to be seen as part of the streetscape. There are only a few properties with more visually closed, masonry front fences.

25. **Street Trees:** Street trees are located irregularly along the Avenue subject streetscape in the grassed verges. There is no regular or formal established avenue tree planting. There is a street tree in the grass verge of the subject property's street frontage.
26. Overall, the streetscape has a spacious character with the apparent open space width extending between the consistently setback houses, which are seen in conjunction with the street and garden vegetation above the fences. The garages, setback from the street boundary more than about 4.5m and generally 6m, predominantly appear as closely associated with, or part of, the built character of the houses. The garages do not extend forward into the landscape-streetscape as seen on driving along the Avenue. The verge lawns, the street trees, the frontage garden beds, and the trees and gardens only semi-screened by fences, together form the generally attractive streetscape character.

Reasons for the decision

27. The argument that the Dwelling House Code, particularly with regards to carports has been inconsistently applied throughout the Pelican Waters where some are in direct conflict with the code does not apply as the code applies to the application, and is relative to the immediate environs of a particular street or locality context.
28. The Tribunal finds that for the purposes of applying Dwelling House Code PO2 it is the streetscape elements of Pembroke Avenue between Oxford Street and, to the southwest, the Pembroke Avenue south turn, which are relevant. These have been outlined in paragraphs of the above section.
29. Applying the provisions of the Dwelling House Code AO (a): PO2 The proposed carport will extend into the streetscape of Pembroke Avenue. The Dwelling House Code specifically designates in Performance Criteria (P02) that garages, carports and sheds:-
 - 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;
 - d. maintain the visual continuity and pattern of buildings and landscape elements within the street.

To this end the Acceptable Outcome is cited as:A02.1 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.
30. The originally proposed carport outermost projection would be placed at a 200mm setback from the northern road frontage in lieu of 6 metres, or of the possibly acceptable setback of 4.5m. In the further information provided after the Hearing the appellant advised they would accept a carport setback of 1m. Both the 200mm and the 1m setback options proposed would not maintain the visual continuity and pattern of buildings and landscape elements of the street.
31. The proposed carport as presented is in direct conflict with Performance criteria (P02) and the Acceptable Outcome of the Dwelling House Code, A02.1(a).

32. The proposed lots at the rear of the subject site is envisaged, in conjunction with the pedestrian pathway planned to the west of the subject property, will have minimal impact upon the subject site as it currently is constructed.

Dr Christopher Robertson
Development Tribunal Chair

Date: 10 June 2026

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:

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