



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	25-037
Appellant:	Michelle Christensen
Respondent/ Assessment manager:	Veen Lyall-Wilson
Co-respondent/ Concurrence agency)	Sunshine Coast Regional Council
Site address:	1 Lacebark Street, Meridan Plains Qld 4551 and described as Lot 6 on SP 157253—the subject site

Appeal

Appeal under section 229 and schedule 1, section 1, table 1, item 1(a) of the *Planning Act 2016* (PA) against the refusal of a Development Application for approval of Building Works being additions to a dwelling for a double width carport to be built within the road setback area. The refusal followed the Sunshine Coast Regional Council's advice that the submitted plans were generally not in accordance with Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP).

Date and time of hearing:	11.00am, 11 November 2025
Place of hearing:	The subject site
Tribunal:	Debbie Johnson—Chair Andrew Veres—Member Lisa Lambie—Member
Present:	Michelle Christensen—Appellant Brooke Camarsh—Council Representative Michael Vockenson—Council Representative

Decision

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

Background

1. The subject site is situated on a corner with a north easterly outlook to Forest Park. The property is essentially rectangular in shape, but truncated on the north western corner to align with the street. The site has an area of 641 sq/m. It is the first of seven residential properties along this portion of Lacebark Street, between Cedar Drive to the west, and Cadagi Street to the east. While each of these seven allotments share the same depth, their respective frontages vary substantially in width. Indeed, this is a feature of the entire locality. The land slopes noticeably gently to the south but generally gives the appearance of being level.
2. The existing dwelling is a comfortable four/five bedroom, slab on ground, single storey, brick veneer construction, with a hipped roof. The home was constructed just over twenty years ago, as were the neighbouring homes. There was a double garage incorporated into the original house design, but this has long since been converted to additional living space. There is room for one or two vehicles to park off road on the existing concrete driveway off Lacebark Street. The property also features an inground pool and generous covered outdoor area.
3. The western property boundary borders Cedar Drive. Cedar Drive is designated as a trunk collector road, on Map 3 Master Plan 28 (Site Development Plan - Detailed Planning Area 10 - Land Use Area Residential 1) 2002. This frontage was fenced and heavily landscaped by the original development company. There is currently no vehicular or pedestrian access to Cedar Drive. The northern street frontage, while partially fenced, is predominately open by comparison with the secondary street frontage. The garden is established and largely informal. Few of the surrounding homes appear to have been significantly updated, hence there is a distinct residential character that aligns with the 2000 period.
4. The appellant purchased the property in the last twelve months. It currently provides for herself and four children, two of whom have disabilities. It is likely that her aging parents who are increasingly needing support, will join the family in the near future. They will occupy the living area that was the original double garage. While it appears that the garage conversion took place more than 10 years ago, there is no record of the works being subject to a development approval for building works.
5. The appellant purchased the property with the intention to build a standalone double carport. The carport is proposed over the concrete driveway area, currently used for the off-street parking of their vehicles. This area is between the home and the front boundary.
6. The appellant engaged JTS Patio Constructions Pty Ltd, trading as Apollo Patios to document the proposed design for lodgement as a development application for building works. The conceptual drawings indicate a 3.4m high gable structure that is approximately 6m long and 6.2m wide, situated 1.5m in from the front boundary to Lacebark Street. The drawings do not provide any existing site detail.
7. On behalf of the appellant, JTS Patio Constructions Pty Ltd trading as Apollo Patios, subsequently engaged Pronto Building Approvals seeking a development approval for building works.
8. On 24 June 2025, Pronto Building Approvals lodged an application to the Sunshine Coast Regional Council.
9. On 10 September 2025, the Sunshine Coast Regional Council advised the assessment manager that the submitted plans were not considered to be generally in accordance with

Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP).

10. On 18 September 2025, the assessment manager issued a Decision Notice of refusal to JTS Patio Constructions Pty Ltd, trading as Apollo Patios. The notice stated the reason for the refusal was that the Generally in Accordance Request was not supported by the Sunshine Coast Regional Council.
11. On 14 October 2025, the appellant stated the grounds for appeal and completed and submitted the Form 10 – Notice of Appeal to the Registrar.
12. On 10 November 2025, the assessment manager sought approval via the registrar to withdraw from the appeal in accordance with section 229(5) of the PA, which provides that if an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal to withdraw from the appeal. The tribunal granted the respondent leave to withdraw.

Jurisdiction

13. This appeal has been made under section 229 of the PA, as a matter that may be appealed to a tribunal.
14. Schedule 1 of PA, section 1(2) however states table 1 may apply to a tribunal only if the matter involves one of the circumstances set out in paragraphs (a) to (l) of that section. Paragraph (g) of section 1(2) states 'a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under the Act that may or must be decided by the Queensland Building and Construction Commission'.
15. The tribunal is satisfied that the application lodged with the assessment manager and the referral of the development application to Council satisfies that requirement, being a development application for approval of building works under section 32 of the *Building Act 1975*, which provides:

A local government may make or amend—

- (a) *a local planning instrument that designates, for the BCA or QDC, matters prescribed under a regulation; or*
- (b) *a provision of a local law or planning scheme or a resolution about an aspect of, or matter related or incidental to, building work prescribed under a regulation; or*
- (c) *alternative provisions under section 33.*

16. That application was subsequently refused by the assessment manager as directed by Council, who are the referral agency. Table 1 item 1(a) in schedule 1 of the PA sets out that for a development application an appeal may be made to a tribunal against the refusal of all or part of the development application.
17. The refusal by the assessment manager directly followed the advice provided by Council and has therefore enlivened the jurisdiction of the Tribunal.

Decision framework

18. Section 246 of the PA provides as follows (omitting the examples contained in the section):

The registrar may, at any time, ask a person to give the registrar any information that the registrar reasonably requires for the proceedings.

The person must give the information to the registrar within 10 business days after the registrar asks for the information.

19. Section 253 of the PA sets out matters relevant to the conduct of this appeal. Subsections (2), (4) and (5) of that section are as follows:
- (2) *Generally, the appellant must establish the appeal should be upheld.*
 - (4) *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.*
 - (5) *However, the tribunal may, but need not, consider— other evidence presented by a party to the appeal with leave of the tribunal; or any information provided under section 246.*
20. Section 254 of the PA deals with how an appeal such as this may be decided and the first three subsections of that section (omitting section 254(2)(e), as it relates to a deemed refusal which is not relevant here) and are as follows:
- 1. *This section applies to an appeal to a tribunal against a decision.*
 - 2. *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; or*
 - (e) *[not relevant].*
 - 3. *However, the tribunal must not make a change, other than a minor change, to a development application.*

Material considered

21. 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 on 14 October 2025.
 - (b) Written advice, titled 'Generally in Accordance Request', dated 10 September 2025, to the assessment manager.
 - (c) Decision Notice - Refusal issued by the assessment manager being Veen Lyall-Wilson of Pronto Building Approvals. Reference number 250596 dated 18 September 2025 for the proposed carport.
 - (d) Appeal written submission, prepared by Council, and submitted by email on 10 November 2025, via the registrar, before the hearing. All parties to the appeal were provided with this submission again, at the hearing held on site.
 - (e) *The Planning Act 2016 (PA).*
 - (f) *The Planning Regulation 2017 (PR).*
 - (g) *The Development Application Rules.*
 - (h) *The Building Act 1975 (BA).*

- (i) The Building Regulation 2021 (BR).
- (j) The Queensland Development Code (QDC) Part MP 1.2.
- (k) Sunshine Coast Planning Scheme 2014.
- (l) Development.i Sunshine Coast Council.
- (m) The National Construction Code 2022 (NCC).
- (n) The verbal submissions made by the parties at the hearing and during the site inspection.
- (o) Google Maps and Streetview.
- (p) Site inspection and street walk conducted at the hearing.

Findings of fact

22. The tribunal makes the following findings of fact:

- (a) The hearing for the appeal was held at the appellant's home and subject site, on 11 November 2025. The existing residence no longer provides a garage as the original garage that was under the main roof has been incorporated into the habitable living areas.
- (b) The tribunal was informed that the appellant required two covered car parking spaces to allow safe, weatherproof access from the vehicles into the dwelling. The appellant stated that, without a carport, this transition becomes hazardous and uncomfortable.
- (c) At the hearing the appellant reiterated justification for the proposal and stated that the structure would have a negligible impact on the streetscape, which was varied and inconsistent in character. Several neighbouring examples were cited, where structures such as solid fence walls were part of the streetscape.
- (d) At the hearing there was brief discussion with respect to the original garage. The appellant stated that this area provided an opportunity to support her aging parents and that it had been a contributing factor in her considerations when purchasing the site.
- (e) The Council representatives advised that it uses the immediate vicinity (visible up and down the street from the property in question) as their definition of streetscape, and in that context, other properties did not have approved carports or garages in the setback zone.
- (f) The design documentation for the carport indicates a street setback of 1.5m from the front boundary and while it is proposed to align with the original garage wall, the setback to this eastern side boundary is not provided. There is a solid masonry wall, approximately 1.4m high, between the appellant's property and the adjoining neighbour to the east.
- (g) The existing dwelling's road boundary setbacks vary between 4m and 6m along Lacebark Street. This is due to the provisions contained in Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP). Master Plan 28 determined the original development outcomes for this locality.

- (h) Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP), predates the Queensland Development Code (QDC) and the Sunshine Coast Planning Scheme 2014. The Kawana Waters DCP was approved by Caloundra City Council prior to local government amalgamations in 2008.
- (i) The Sunshine Coast Planning Scheme 2014, continues to recognise Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP) as the higher order approval.
- (j) Council's written submission to the tribunal sets out the distinct planning framework applicable to the Kawana Waters area. They included legal advice that they have previously relied upon and their interpretation of 'Generally in Accordance' as a performance-based solution.
- (k) Kawana Waters' master planned development area is regulated by a preserved DCP under section 316(2)(b) of the PA. The Kawana Waters DCP constitutes the planning scheme for the area that it applies to.
- (l) Council stated at the hearing and in writing that the legal advice provided to them in 2022 stated that while the QDC MP1.2 applies as an assessment benchmark, it does not override the requirement to comply with the Kawana Waters Master Plans. The council also stated that this advice also stipulated a private certifier must not approve building work that is inconsistent with a Master Plan approved under Kawana Waters DCP, even if it were accepted development under the planning scheme.
- (m) Council advised that the process of varying the provisions of the Master Plan were costly, complex and required the consent of Stockland who is developer. To provide a more practical and cost-effective pathway, Council has for many years adopted an informal approach to the consideration of minor plan of development variations in the DCP area. This is known as a Generally in Accordance (GIA) application. Council stated this process allows for a performance-based approach while maintaining the integrity of the master planning framework.
- (n) However, Master Plan 28 does not provide any embedded performance-based solutions to be considered. Rather, Master Plan 28 prescribes specific design and siting standards, including setbacks and building envelopes, shown in Map 3 Site Development Plan and Map 4 Building Setback Plan.
- (o) In the absence of any performance criteria, Council currently relies upon the performance outcomes of the Sunshine Coast Planning Scheme, Dwelling House code. In this instance, Council has considered PO2 of the Dwelling House Code as a benchmark.
- (p) Council stated that the intent of PO2 is to ensure that garages, carports and sheds:
 - i. preserve the amenity of the adjacent land and neighbouring dwelling houses;
 - ii. do not dominate the streetscape, maintaining a visually balanced and attractive realm;
 - iii. maintain adequate space for landscaping adjacent to the road frontage; and
 - iv. support the visual continuity and pattern of buildings and landscape elements within the street.

- (q) The subject site is located on the corner of Cedar Drive which is a primary local road. As you turn into Lacebark Street, from Cedar Drive the subject site is on the right-hand side. On the opposite side of the street is Forest Park, this parkland is the main, if not only green space for the neighbourhood. It is a large open area that allows for a clear view of the subject site when approaching from Lillypilly Court and White Cedar Drive.
- (r) There are no carport or garage structures in the immediate streetscape. Master Plan 28 contains specific building envelopes and setbacks for residential development in this area. The setbacks vary according to the typology of the allotment and the overall plan of subdivision was diverse in the allocation of allotment widths.

The Queensland Development Code (QDC)

- 23. QDC MP 1.2 applies to new building work for single detached dwellings, Class 1 and associated Class 10 buildings and structures on lots 450m² and over in area.
- 24. QDC Acceptable Solutions A1 and A2 outline the required building line setbacks from the road, side and rear boundary lines.
- 25. However, despite the provisions outlined in the QDC, a local government may adopt alternative boundary clearances and site cover provisions for Class 1 and 10 buildings in their local planning scheme. The provisions of the QDC apply to the extent that a local planning scheme does not opt to provide alternative provisions.

The Sunshine Coast Planning Scheme 2014

- 26. The Sunshine Coast Planning Scheme, Part 9.3.6 Dwelling House Code PO2, contains alternative siting provisions to that prescribed in the QDC.
- 27. Section 9.3.6.2 outlines the purpose and overall outcomes for the Dwelling House Code and states in part:
 - (1) *The purpose of the Dwelling house code is to ensure dwelling houses achieve a high level of comfort and amenity for occupants, maintain the amenity and privacy of neighbouring residential premises and are compatible with the character and streetscape of the local area.*
 - (2) *The purpose of the Dwelling house code will be achieved through the following overall outcomes:-*
 - (a) *a dwelling house incorporates a high standard of design and makes a positive contribution to the streetscape character of the area in which it is located;*
 - (b) *a dwelling house is sited and designed to protect the amenity and privacy of neighbouring residential premises;*
 - (c) *a dwelling house provides a high level of amenity to the residents of the dwelling house;*
 - (d) *a dwelling house is provided with an acceptable level of infrastructure and services;*
 - (...)
- 28. Section 9.3.6.3 outlines the relevant performance outcomes and acceptable outcomes for a Dwelling House and Table 9.3.6.3.1 sets out the requirements for accepted development and performance outcomes and acceptable outcomes for assessable development.

29. AO2.1, an acceptable outcome for Garages, Carports and Sheds, states in part:
- 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;*
- Note—AO2.1(a) alternative provision to QDC.*
30. PO2 provides the performance outcomes for garages, carports and sheds. The performance outcomes must be demonstrated when the corresponding acceptable outcome is not met. In this instance where the appellant seeks to erect a carport within the 6m setback area, they do not meet the acceptable measure set out under AO2.1. Therefore, it must be demonstrated that the proposed development does meet the performance criteria under PO2 which is listed below:
- *preserve the amenity of adjacent land and dwelling houses;*
 - *do not dominate the streetscape;*
 - *maintain an adequate area suitable for landscapes adjacent to the road frontage;*
and
 - *maintain the visual continuity and pattern of buildings and landscape elements within the street.*
31. Council's GIA process is discretionary, non-statutory and is intended for minor variations that still uphold the master plan's intent.
32. Council stated in this application that Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP) is the higher order requirement, to the current planning scheme provisions and QDC MP1.2.
33. Council stated that they considered the provisions of Part 9.3.6 Dwelling House Code PO2, Sunshine Coast Planning Scheme, as the assessment benchmark in the absence of the Master Plan having performance criteria.
34. It is the responsibility of the Tribunal to determine if the refusal of the development application for building works, as it relates to the proposed carport, should be confirmed, changed, replaced or set aside. While the appellant has provided supporting documentation already outlined in this decision, the only matters that the tribunal may lawfully take into consideration are those that address the relevant legislation.

Reasons for the decision

35. The tribunal finds that Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP), is the higher order document relevant to this matter.
36. The tribunal finds that in the absence of the Master Plan, the QDC MP1.2 would have determined the siting requirements for the street setback. However, the Sunshine Coast Planning Scheme 2014 Dwelling House code does contain alternate provisions to that of the QDC and the assessment would have fallen to the performance criteria that Council has relied upon.
37. The tribunal finds that the assessment manager was unable to issue a decision notice approving the proposed carport without Council endorsement for the siting and location of the structure.

38. The tribunal finds that the streetscape surrounding the subject is devoid of carports or garages within the street setback area, as defined by Master Plan 28 (Site Development Plan- Detailed Planning Area 10 - Land Use Area Residential 1) 2002, within the Kawana Waters Development Control Plan (DCP).
39. The tribunal finds the combination of the site's location, the local park opposite and the overwhelming adherence to the master plan's approved layout is compelling.
40. The tribunal finds that the siting for the proposed carport could not be supported.

Debbie Johnson
Development Tribunal Chair

Date: 19 December 2025

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
GPO Box 2457
Brisbane Qld 4001

Telephone 1800 804 833

Email: registrar@hpw.qld.gov.au