



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	26-022
Appellant:	Daniel Thomas McCoombes
Respondent: (Assessment manager)	Evan Woodruffe
Co-respondent (Concurrence agency)	City of Gold Coast Council
Site address:	33 Matthew Flinders Drive, Hollywell Qld 4216, described as Lot 334 on RP169124 – the subject site

Appeal

Appeal under section 229(1)(a)(i) and schedule 1, table 1, item 1(a) of the *Planning Act 2016* against the assessment manager's refusal of a development application for a Preliminary approval for building work for a boatport.

Date and time of hearing:	Friday 29 May 2026 at 10.00 am
Place of hearing:	The subject site
Tribunal:	Henk Mulder—Chair Victoria Jones—Member
Present:	Daniel McCoombes—Appellant and property owner Sara McCoombes—Property owner Evan Woodruffe—Respondent/Assessment Manager Eric Constantino—Pacific Approvals Nathan Griffey—City of Gold Coast Council, Co-Respondent Shane Weterings—City of Gold Coast Council Zack Richmond—City of Gold Coast Council

Decision:

The Development Tribunal, in accordance with section 254(2)(c) of the *Planning Act 2016*, (PA) **replaces** that part of the decision of the Assessment Manager to refuse the Preliminary Approval with a decision to approve the Preliminary Approval with such conditions relevant to the development application as required by the Assessment Manager, and subject to the following conditions:

- (1) The Carport and Boatport are to be described and shown in the drawings provided in the appeal documentation numbered D514/WD/1.01 to D514/WD/6.01 issue 'M', including for the Traffic Engineering Assessment and drawings, all as provided with the Notice of Appeal.
- (2) Any gate or entry structure incorporated in the front fence is to be suitable for pedestrian traffic only.

Background

The subject site and street

1. The subject site is 600 square metres in area, with a rectangular, conventional shape from a 17.55 metre frontage generally facing south to Matthew Flinders Drive, and 34.20 metre side boundaries. The current site use is a single storey residence with a garage facing the driveway entry beside the western boundary and a grassed lawn to the eastern side of the entry.
2. The existing dwelling is set back 6.0 metres from the street boundary to the line of the garage door, excluding side piers. The side boundary setback to the east is documented as 2.969 metres to the wall, and 2.08 metres to the wall at the western side, where a line of sewer is shown falling to the street.
3. Matthew Flinders Drive is a long, flat route with lanes in opposite directions separated by a landscaped island. It is described as a distributor road in Council's Functional Classification system, with the subject site located midway along Matthew Flinders Drive, between Oxley Drive and Bayview Street.

The proposal

4. The proposal the subject of the appeal is for a new boatport set back 6.0 metres from the street to the eastern boundary of the site. The boatport is 10.24 metres in length and 3.80 metres at its highest. The access way is sought to be from the south-west corner of the site by reversing from the street, following a curved pathway to the eastern boundary through an approved open carport structure located at the south-western end of the street boundary.

Assessment of the relevant application details

5. On 20 July 2023, the Appellant lodged a request for Referral Agency Assessment RAA/2023/1108 for a new Dwelling with Council.
6. On 8 May 2025, the Appellant lodged a preliminary Referral Agency Assessment Minor Change to RAA/2023/1108, described as RAAMIN/2025/30, using thirteen drawings numbered D514/WD/1.01 to D514/WD/6.01 as Issue 'L', dated 17 April 2025.
7. On 9 June 2025, Council issued an Information Request. Council sought a reduction in the boatport length for its proximity to the boundary or letters of no objection from the adjacent neighbour. Council also considered the swing gates at the eastern boundary side to be for boat access without a lawful crossing, and sought removal of the swing gates. Council further requested:

Demonstrate by way of swept path diagram including 300mm manoeuvring clearances, how the design car/boat trailer combination can be manoeuvred into the proposed boat store area via the existing lawful vehicular access point.

8. On 8 October 2025, based on Council's online record of lodgements, the response to the preliminary Referral Agency Assessment Minor Change to RAA/2023/1108 information request was completed.
9. Revised drawings numbered D514/WD/1.01 to D514/WD/6.01 as Issue 'M', dated 21 August 2025, were issued to Council as a part of the Referral agency assessment request for Minor Change to Referral Agency Assessment RAA/2023/1108.
10. After a number of extensions of time, Council provided their Referral Agency – approval and refusal (with conditions) on 27 March 2026.
11. On 8 April 2026, the Assessment Manager advised the appellant that the application for a Change to Existing Approval from the Assessment Manager using the thirteen drawings numbered D514/WD/1.01 to D514/WD/6.01, Issue 'M', had been approved for alterations/additions to the existing dwelling, including the alfresco and carport, and refused for the boatport.
12. On 16 April 2026, the Appellant lodged an appeal with the Development Tribunal against the part-refusal for the boatport.

Jurisdiction

13. The Tribunal has jurisdiction for this appeal under PA, section 229, schedule 1, section 1(1)(b) and 1(2)(g) and table 1, item 1(a).

Decision framework

14. The Appellant as the recipient of the decision notice must establish that the appeal should be upheld, pursuant to section 253(2) of the PA.
15. The Tribunal is required to hear and decide the appeal by way of a reconsideration of the evidence that was before the Respondent who decided to give the decision notice, the subject of this appeal, under section 253(4) of the PA.
16. Section 249 of the PA provides the Tribunal with broad powers to inform itself in the way it considers appropriate when conducting a tribunal proceeding.
17. Under section 253 the Tribunal may, but need not, consider other evidence presented by a party to the appeal with leave of the tribunal or information requested by the registrar, under section 246 of the PA
18. 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

- d. setting the decision aside and ordering the person who made the decision to remake the decision by a stated time.
- 19. The Tribunal's decision takes the place of the decision appealed against (section 254(4)).
- 20. The Tribunal must not make a change, other than a minor change, to a development application (section 254(3)).

Material considered

- 21. The material considered was:
 - (a) 'Form 10 – Notice of Appeal', with the supporting lodgement documents and further information contained therein.
 - (b) Copy of the Original plans (OP'L') D514/WD/1.01 to D514/WD/6.01 as Issue 'L', dated 17 April 2025 supplied upon request to the Registrar on 2 June 2026.
 - (c) Information Request Referral Agency Assessment for Minor Change to RAA/2023/1108 9 June 2025. (IR)
 - (d) Copy of the Resubmitted plans (RSP'M') D514/WD/1.01 to D514/WD/6.01 as Issue 'M', dated 21 August 2025, as contained in the lodgement documents.
 - (e) Traffic Engineering Assessment by SITE dated 31 January 2026. (TEA)
 - (f) Pre-Referral Response Notice – Referral Agency – approval (with conditions) from Council of the City of Gold Coast (Council) dated 19 March 2026. (P-RRN)
 - (g) Amended Response Notice – Referral Agency – approval and refusal (with conditions) from Council dated 27 March 2026. (ARN)
 - (h) Decision Notice - Approval and Refusal - Change to Existing Approval by Pacific Planning dated 8 April 2026. (DN)
 - (i) Grounds for Appeal (GfA), contained in the lodgement documents dated 16 April 2026
 - (j) Videos titled Appendix 4 - Access Video.mp4 (VID1) and Appendix 5 - Egress Video.mp4 (VID2), received as a part of the Lodgement documents 29 April 2026.
 - (k) The verbal submissions made by the parties at the hearing and during the site inspection.
 - (l) Council Submission in Response to matters raised by Appellant for the Tribunal Hearing, undated accepted by the Tribunal 3 June 2026. (CS)
 - (m) Draft Alternative Design Option (ADO) presented by Council at the Hearing and subsequently supplied upon request to the Registrar, 3 June 2026.
 - (n) Council Email (CE) regarding New swept path analysis dated 15 January 2026 supplied upon request to the Registrar on 2nd June 2026
 - (o) Correspondence as a Response to the CS from the Appellant (R-CS), dated 2 June.
 - (p) MP 1.2 – Design and Siting Standard For Single Detached Housing – On Lots 450m2 and Over

- (q) Planning Act 2016 (PA).
- (r) The City Plan planning scheme for the Gold Coast v13. (CP)
- (s) Gold Coast Road Network Plan 2018–2028, Council of the City of Gold Coast

Findings of fact

22. The Tribunal makes the following findings of fact:

Relevant findings concerning the proposed development

- (a) The proposed development is a minor alteration to an existing development application approval. The relevant elements of the proposal seek to establish a roof cover over a boat park at the side of a residence and set back from the street in line with the residence at 6.0 metres.
- (b) The proposed boatport is nominally 3.60 metres high at the side boundary, with a raking roof line for a 3.90 metre height at the fascia of the residence. It has a length of 10.24 metres and nominally a width of 3.20 metres, encompassing the full width of the eastern side boundary setback.
- (c) The 17.55m site frontage is not of sufficient width to permit a second road crossing directly aligned with the proposed boatport by the eastern side boundary, separate from the existing crossing and driveway for the carport adjacent to the western boundary.
- (d) The appellant seeks to establish the viability for access and egress of the towed boat via the approved carport on the western side to the proposed boatport at the eastern side boundary.
- (e) The appellant has submitted videos demonstrating access and egress to Mathew Flinders Drive.
- (f) The appellant has submitted a certified engineer's report confirming viability for reversing turning circles with a boat as access, as well as egress from the parked boat position across the width of the site and between the carport posts at the street boundary.

Relevant findings concerning the planning criteria

- (g) The proposal for the boatport the subject of the appeal was referred to Council by the assessment manager under the Design and Siting Referral triggers - Schedule 9, Part 3, Division 2, Table 3 of the Planning Regulation 2017.

- (h) The referral is for work required to be assessed against Table 6.2.1-2 of the Low density residential zone code from the City Plan planning scheme for the Gold Coast.

Table 6.2.1-2: Low density residential zone code — for assessable development

Performance outcomes	Acceptable outcomes		
Setbacks			
PO1 Setbacks: (a) assist in the protection of adjacent amenity; (b) allow for access around the building; (c) contribute to streetscape character; and (d) allow for off-street car parking.	AO1 Setbacks are as follows:		
	Setback	Minimum distances measured in metres (m)	
	Front	6 m	
	Side and rear	Height	Setback
		up to 4.5m	1.5m
		between 4.5m — 7.5m	2m
		exceeding 7.5m	an extra 0.5m is added for every 3m in height or part thereof over 7.5m

City Plan: v13

6.2.1 Low density residential zone code

Page 4

- (i) The assessment of the proposal for a boatport is against side boundary setback requirements for which compliance with PO1 of the Low density residential code is required to be met.
- (j) The proposal does not and cannot be conditioned to meet the quantifiable standard of the Acceptable Outcome AO1, fundamentally due to the front setback proposed. Assessment then turns to the Performance Outcomes PO1 as a qualifiable standard.
- (k) Council's Information Request after the Original Plans Issue 'L' from the appellant, states that:

The proposal is located within the 1.5 metres of the eastern side boundary. As such must be assessed against PO1 of the Low density residential code.

PO1 of the Low density residential code is given below:

Setbacks:

- (a) Assist in the protection of adjacent amenity;
- (b) Allow for access around the building;
- (c) Contribute to streetscape character; and
- (d) Allow for off-street car parking.

Adjacent amenity

The proposed boat port will be built to boundary for a length 10.54 metres at a height of 3.8 metres. Although open, given the height and length the proposal is considered to (sic) overbearing to the adjoining lot (31 Matthew Flinders Drive, Hollywell), and will not protect adjacent amenity.

As such, compliance with PO1 of the Low density residential code are (sic) not considered met.

Therefore, the applicant is requested to provide the following:

- a. Reduce the length of the boat port to 9 metres and provide an increased setback of 0.5 metres from the eastern side boundary.

OR

- b. *Provide letters of no objection from all owners of 31 Matthew Flinders Drive.*

- (l) Council also sought to clarify solutions in the Information Request for a second road crossing as proposed in the original application drawings Original Plans Issue 'L':

Unlawful access to the boat port

The proposed drawings show electric swing gates on the south-eastern corner of the subject site Council officers have determined this gate is likely intended to provide access to the boat storage area, officers note that there is no lawful crossing at this location. If appropriate access through the lawful access point, the application is unfavourable for approval.

The applicant is therefore requested to:

- Remove the swing gates at this location; and,*
- Demonstrate by way of swept path diagram including 300mm manoeuvring clearances, how the design car/boat trailer combination can be manoeuvred into the proposed boat store area via the existing lawful vehicular access point.*

- (m) Subsequent to the IR, the appellant resubmitted information with the drawings RSP'M' which had deleted the swing gates and modified the carport posts and entry gate to suit a swept path configuration from the south-west corner of the existing crossover and carport, to the proposed boatport at the eastern side boundary.
- (n) Council, in their amended response, provide approval for the separate components of the Minor Change application, whilst refusing the boatport component, the subject of this appeal.
- (o) Council's reasons for refusal of the boatport were:
- The boat and towing vehicle are unable to achieve safe and practical access via the existing vehicular crossover and through the proposed carport. This presents a boat port to the street that cannot reasonably be accessed. Therefore, the proposal presents an undesirable development to the streetscape and does not facilitate on-site parking.*
 - The evidence (swept path drawings) provided by the applicant do not account for the presence of on-street parking along the eastern side of the vehicular crossover (VXO). Should vehicles be parked in this location, the manoeuvring of the boat and towing vehicle would not be achievable to facilitate on-site parking.*
 - The submitted information demonstrates that access and egress via the existing vehicle crossing disrupts traffic on a high order road and therefore despite the non-compliance with PO1, it is not in the public interest to support the proposed development.*

- (p) Council also advised:

Matters prescribed by a Regulation - Design and siting

As prescribed by the Planning Regulation 2017, Council's assessment, as referral agency, was limited to the following matters:

- *Whether the proposed building or structure complies with the qualitative statement stated in the paragraph*

Relevant findings concerning the grounds for appeal

- (q) The appellant provided a swept path assessment prepared by a qualified RPEQ traffic engineer seeking to demonstrate access and egress of car and boat via the existing vehicular crossover. This is also conveyed with video and photographic evidence.
- (r) The appellant considers on street parking a minimal hindrance. Multiple Google records of views over time provided in the lodgement documents seek to establish that the presence of parked cars that would conflict with boatport access is rare.
- (s) The appellant considers the boat access or egress occurs so infrequently and at such low speed, that it is consistent with site access arrangements in the residential context.

Relevant findings concerning the hearing

- (t) The hearing took place on site prior to an inspection of the circumstances of the site and surroundings.
- (u) The hearing proceeded with appellant describing their response to the three reasons set out by Council as the basis for their refusal of the boatport component of the application for the minor changes to the existing approval.
- (v) This response by the appellant included:
 - (i) The engineer's certified and documented confirmation for the swept path of travel for access and egress.
 - (ii) A description of the boat movement in and out of the site at around once a month.
 - (iii) The precedent of two properties nearby on the same side of the street undertaking the same activity for boat movement, being driving out in a forward direction and reversing in, with the towed boat.
 - (iv) Acknowledgement that cars parking by the driveway entry would materially affect access with the reversing manoeuvre required. This was described as negligible based on observations over 3.5 years of residency at the site, and also intended to be conveyed with the Google view photo record of the street parking in the appeal lodgement documents. Where it did occur, there was facility to park on the street in the allocated parking lane, ready for a future opportunity for reversing access to the site. The appellant argued this was a common sense outcome leading to a high likelihood of success.
 - (v) The appellant clarified that the description by Council of Mathew Flinders Drive as a 'high order' road is not accurate, as it is a designated 'distributor' road, and of less significance in its intensity of use than a 'high order' road.
- (w) Council acknowledged that the issue regarding neighbour's support for the proposed boatport was resolved to their satisfaction by receipt of a letter of confirmation from the relevant neighbour. Related discussion noted the minimal material effect for amenity, sightline and overshadowing of the proposed boatport to that neighbour.

- (x) Council considered the proposal for the boatport, which necessitated a swept path through the new carport at the opposite side boundary, whilst possible, was not a practical outcome, and had a direct effect on the passage of vehicles in the street.
- (y) Council were concerned that the successful access to the boatport demonstrated in the video may have been achieved only after multiple unsuccessful attempts, to secure the presented version, and was consequently unreliable as a justification.
- (z) Council had similar concerns about the photos, unsupported as they were by independent authentication.
- (aa) The height for the carport at the street was advised by the appellant to be suitable for the boat on its trailer to pass under.
- (bb) Council considered that Table 6.2.1-2 PO1(d) required the reduced setback proposed for the boatport should not abet a poor design outcome.
- (cc) Council noted there was not a specific element in the City Plan that established parameters for boat egress and access.
- (dd) Council supplied an Alternative Design Option which would effectively relocate the vehicle road crossing and double carport to the eastern side of the front boundary in direct line to the boatport location.
- (ee) The appellant conveyed their view that the Alternative Design Option would reduce the location, extent, amenity and surveillance of the outdoor children's play area/garden and street access, and entail substantially greater expense, including removal of the existing concrete driveway and crossing.

Relevant findings from subsequent communications after the Hearing

- (ff) At the direction of the Tribunal, Council forwarded the relevant documents delineating the original application and Council engineering internal email assessments as well as a copy of the site use option considered acceptable by Council for the boatport access.
- (gg) Council also supplied a Council Submission as a written response to the information set out in the Grounds for Appeal and as discussed at the hearing, after which the appellant duly responded with the Response to the Council Submission, both of which the Tribunal duly accepted as a part of the appeal.
- (hh) Council reiterated the safe and accessible criteria sought for the boatport was not met by the proposed vehicle crossover location, both in terms of the complex manoeuvring necessary, and the disruption necessitated in the higher-order road classification of Mathew Flinders Drive.
- (ii) Council had a view that with secondary gates to the eastern side of the front boundary, the use of an illegal road crossing at the kerb would be the outcome of the boatport proposal.
- (jj) Council considered the street traffic impact to be significant, and directly affected by any adjacent on-street parking, which created additional constraint to an already complex manoeuvre.

- (kk) Council considered traffic queuing during a reversing manoeuvre through the side of a carport was a poor design outcome resulting in the boat port being accessed other than via the approved vehicle crossover. The recommended resolution in Council's view is the relocation of the crossover and the consequent direct line to the boatport for the reversing manoeuvre.
- (ll) The appellant in their Response to the Council Submission sought to emphasise the traffic engineer's certified review for access and egress using swept path diagrams and their statement, and noted that no subsequent engineering response from Council was provided.
- (mm) The appellant considered that any assertion by Council for an illegal use of vehicle crossing was an assumption based on a less-informed pre-referral application, subsequently revised in accordance with Council requirements.
- (nn) Additional responses by the appellant sought to dispel the concerns of Council, including:
 - (i) On-street parking is not a material component for safe and practical access. Where in the appellant's view any rare restriction was provided by a parked car, it would be temporary and simply require temporary on-street parking of the boat and trailer, which was readily available.
 - (ii) Access and egress with a trailer and boat is an infrequent occurrence. Any traffic disruption is minimal and not greatly distinguishable from the solution Council seeks for the site use, which still requires reversing a trailer and boat in the 'higher-order' street.

Reasons for the decision

- 23. The activity of access and egress of vehicles including boats on trailers from properties on this road is a regular occurrence. The wide, level and single-direction roadway enables long and clear sight-lines for indication to vehicles approaching the site.
- 24. The Tribunal accepts that the traffic assessment from the RPEQ certified engineer confirms viability for access and egress of a boat on a trailer.
- 25. The complexity and time required to manoeuvre a trailer is inherent in such activity and is not in conflict with the basis identified in the City Plan as assessable for the application.
- 26. The Tribunal has assessed the proposed development on the basis identified in Table 6.2.1-2 of the Low density residential zone code from the City Plan planning scheme for the Gold Coast.
- 27. The Tribunal considers the consequential criteria for PO1 are met.
- 28. With regard to PO1(a), the Tribunal accede to the Council decision to relax the setback of 1.5 metres for the boatport to be built by the side boundary on the basis of the neighbour's agreement - as sought by Council, and supplied by the appellant, and that daylight, ventilation and amenity for the neighbour is reasonably unaffected by the proposal, in all the circumstances.
- 29. With regard to PO1(b),(c), and (d), the proposed boatport: maintains access around the building; facilitates off-street parking; and, with the 6.0 metre setback, will have negligible impact on the streetscape character.

30. The Tribunal considers the Appellant has established that the appeal should be upheld.

Henk Mulder
Development Tribunal Chair
Date: 17 July 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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