



## Development Tribunal – Decision Notice

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### **Planning Act 2016, section 255**

<b>Appeal number:</b>	25-007
<b>Appellant:</b>	Jill Hayes
<b>Assessment manager:</b>	Robert Wibrow (Building Approvals United Queensland)
<b>Co-respondent (concurrence agency)</b>	Sunshine Coast Regional Council
<b>Site address:</b>	7 Admiralty Drive, Alexandra Headland Qld 4572 and described as Lot 13 on RP844217

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### **Appeal**

1. This is an appeal made to the Development Tribunals under section 229 of the Planning Act 2016 (Qld) (**Planning Act**).
  2. The Notice of Appeal dated 3 April 2025 appeals only against the decision of Robert Wibrow, from Building Approvals United Queensland (**BAUQ decision**). The BAUQ decision refused an application for a development approval (which would have retrospective effect) relating to a carport that had been constructed on 7 Admiralty Drive, Alexandra Headland Qld 4572 (**subject address**).
  3. The BAUQ decision made 6 November 2024 was, however, a decision that it was directed to make as the assessment manager by the Sunshine Coast Regional Council (**Sunshine Coast Council**) made 20 March 2024. The Sunshine Coast Council made two decisions on 20 March 2024, one refusing an application for approval (DBW23/0292) that related to development approval for building works assessable against the Planning Scheme Carport; the other directed refusal as a Concurrence Agency Referral to an Assessment Manager, being BAUQ.
  4. While the appellant's Notice of Appeal only identifies the decision of 6 November 2025, the document called "Annexure A" to the Notice of Appeal sets out the grounds of appeal against the decisions by Sunshine Coast Council of 20 March 2024.
  5. For the avoidance of doubt, this Tribunal has proceeded on the basis that the appellant appeals against the decisions made by Sunshine Coast Council on 20 March 2024, and the decision of the assessment manager BAQU made 6 November 2024.
  6. The appellant asks the Tribunal to set aside the decisions and replace them with a decision approving the carport subject to conditions.
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**Date and time of hearing:** 27 May 2025, 10:00 am

**Place of hearing:** 7 Admiralty Court, Alexandra Headland Qld 4572

**Tribunal:** Gerry Elmore—Chair  
Catherine Brouwer—Member  
Sera Rohan—Member

**Present:** John Hill—Appellant’s husband  
Jeff Dodd—Sunshine Coast Regional Council  
Logan Talbot—Sunshine Coast Regional Council

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## **Jurisdiction**

7. The Tribunal is satisfied it has jurisdiction to hear and decide the appeal made by the appellant.
8. Section 229(1)(a)(i) and (ii) and schedule 1 of the *Planning Act* provide for the matters that may be appealed to a tribunal. Section 1(2) of the *Planning Act* states table 1 applies to a tribunal only if the matter involves one of the circumstances set out in paragraphs (a) to (l) of section 1(2).
9. Section 1(2)(g) relevantly makes table 1 apply to the tribunal if the matter involves “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.”
10. Schedule 9 of the *Planning Regulation 2017* (Qld) (**Planning Regulation**) establishes a statutory framework for building work under the *Building Act*. Section 1 part 1 of schedule 9 of the *Planning Regulation* prescribes that “building work under the *Building Act* is assessable development, unless it is accepted development under Schedule 7” of the *Planning Regulation*.
11. Schedule 7, part 1 of the *Planning Regulation* prescribes “building work declared under the *Building Act*, section 21 to be accepted development.” The building of a carport and patio is not accepted development as declared under section 21 of the *Building Act 1975* (Qld) (**Building Act**) and set out in schedule 1 of the *Building Regulation 2021* (Qld) (**Building Regulations**).
12. Section 5(1) of the *Building Act* adopts a broad definition of what is building work. It includes, relevantly under section 5(1)(a), “building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building or other structure.”
13. The construction of a carport is assessable development for the purposes of section 43 of the *Planning Act*, as categorised by schedule 9 of the *Planning Regulation*.
14. A decision to approve a carport is not a decision made by the Queensland Building and Construction Commission.
15. By reason of the foregoing analysis, the subject matter of the appeal is within the jurisdictional limits of the Tribunal.

16. By Notice of Appeal<sup>1</sup> dated 2 April 2024, the appellant filed that appeal with the registry of the Development Tribunals. The Notice of Appeal was filed within the appeal period of 20 days.<sup>2</sup>
17. Once a document has been filed starting an appeal of this kind, the Chief Executive<sup>3</sup> must establish an appeal under section 242 of the Act. A tribunal must be established for tribunal proceedings.<sup>4</sup> On 24 April 2025, Registrar Laura Beasley notified the parties about the establishment of a Development Tribunal comprising of the members listed above.
18. The Tribunal having been established under the authority of section 235 and 242 of the *Planning Act*, and the subject matter being of the kind within the ambit of section 229(1) and schedule 1 of the *Planning Act*, the Tribunal has jurisdiction to hear and determine the present appeal.

**Decision:**

19. The Development Tribunal (Tribunal), pursuant to section 254(2)(b) and (c) changes and replaces the following decisions:
  - (a) The decision made by Sunshine Coast Council refusing the development approval for building works assessable against the Planning Scheme Carport to which DBW23/0292.
  - (b) The decision made by Building Approvals United Queensland acting on the direction of Sunshine Coast Council that refused the application CAR23/0863.
20. The decisions referred to in paragraph 19 are changed and replaced with the following decision of the Tribunal:
  - (a) The Tribunal approves the carport but with the following conditions:
    - i. No changes are to be made to the height of the carport, without first obtaining all the necessary approvals.
    - ii. The Carport is not to be enclosed on any side, without first obtaining all the necessary approvals.
    - iii. There is to be no extension of the roof, or installation of any roof-like extension, from the carport, without first obtaining all the necessary approvals

**Material considered**

21. In coming to the decision, the Tribunal has had regard to the following material:
  - (a) Form 10: notice of appeal/application for declaration
  - (b) Appendix A – grounds for appeal
  - (c) Council assessment report
  - (d) Notice about decision – statement of reasons
  - (e) Report cover sheet
  - (f) Letter from Zana Larikka to JE Hayes (22 March 2024)

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<sup>1</sup> *Planning Act 2016* (Qld) s.230(1).

<sup>2</sup> *Planning Act 2016* (Qld) s.229(3)(h).

<sup>3</sup> *Acts Interpretation Act 1954* (Qld) s.33AB.

<sup>4</sup> *Planning Act 2016* (Qld) s.235(1).

- (g) Decision notice – refusal
- (h) Referral agency response
- (i) Development services – request for concurrence agency response (building work)
- (j) Letter from Marcus Brennan to Sunshine Coast Council CEO (13 December 2023)
- (k) Letters to Sunshine Coast Council (19/04/2020)
- (l) Development services eDevelopment Application Form
- (m) letter from Zana Larikka to JE Hayes (22 March 2024)
- (n) Decision notice – refusal
- (o) Referral agency response
- (p) Development services eDevelopment Application Form
- (q) Letters to Sunshine Coast Council (19/04/2020)
- (r) letter from Zana Larikka to JE Hayes (22 March 2024)
- (s) Decision notice – refusal
- (t) Referral agency response
- (u) BAU Decision notice refusal for application No: 24-5581
- (v) Email from Rob Wibrow to [info@brennanplanning.com](mailto:info@brennanplanning.com)
- (w) Responses from Parties to Tribunal Directions post hearing on 27 May 2025.

## Background

22. In 2021 the appellant caused to be built a carport extension at the subject address. Prior to construction, the appellant consulted several of her neighbours and obtained signed documents from each of them in 2020, wherein they express no objections to the construction of the carport. The Tribunal has nineteen such documents from the appellant’s neighbours.
23. On 13 November 2023, the appellant’s agent, Mr Marcus Brennan from Brennan Planning Pty Ltd, applied for a development approval for the carport extension (**development application**). The development application was made to Sunshine Coast Council (**Sunshine Coast Council**). The development application has two identifying numbers: DBW23/0292 and CAR23/0863. The significance of these two numbers is they represent different aspects of the development application.
24. DBW23/0292 relates to an application for a development approval for building works assessable against the Planning Scheme Carport. CAR23/0863 relates to a Concurrence Agency Referral application to an Assessment Manager.
25. On 20 March 2024, Sunshine Coast Council completed a “Council Assessment Report” in response to the development application.
26. On 20 March 2024, Sunshine Coast Council decided to refuse the part of the development application to which DBW23/0292 related. In respect of the Concurrence Agency Referral application, the Sunshine Coast Council gave an early response of refusal of the application and directed the Assessment Manager to refuse the application CAR23/0863.
27. On 6 November 2024, the respondent refused the application CAR23/0863 as directed by Sunshine Coast Council.

## Basis of refusals

28. The Sunshine Coast Council refused the development application DBW23/0292 and directed the refusal of CAR23/0863 for essentially three reasons:
- (a) One, the carport does not meet Performance Outcome PO2(a)<sup>5</sup> which requires that 'Garages, carports and sheds preserve the amenity of adjacent land and dwelling houses'. Specifically, that the siting of the carport at the frontage would impact the amenity of the adjoining house at 9 Admiralty Drive – reduced access to sunlight and light spill from the 'high set ceiling'.
  - (b) Two, the carport does not meet Performance Outcome PO2(d) which requires that Garages, carports and sheds maintain the visual continuity and pattern of buildings and landscape elements within the street. In particular, the development is inconsistent with the front setback pattern of the street, being setback between 392mm and 415mm, where the predominant setback is 4m – 6m.
  - (c) Three, the carport does not meet Performance Criteria P2(c) of the Queensland Development Code MP1.2 which requires that Buildings and structures do not adversely impact on the amenity and privacy of residents on adjoining lots. That is, the carport impacts on the morning sunlight and light spill for the adjacent land and dwelling to the west (9 Admiralty Drive).

## The hearing

2. At the hearing on 27 May 2025, the focus by the parties was on two central issues:
- (a) The extent to which the carport extension location, being very close to the front boundary, was consistent with the streetscape, specifically, did it maintain the visual continuity and pattern of buildings and landscape.
  - (b) The true impact by the carport extension on the sunlight to adjacent properties.

## Consideration

29. At the hearing on location, and the subject street, the Tribunal made the following observations of the property:
- (a) The majority of dwellings within the street included integrated carparking forward of the main building line, which were setback predominantly 4m to 6m from the front boundary.
  - (b) There were other carports within the street closer to the front boundary – 13 Atlantis Parade (setback between 2m and 4m – SRC Ref RAB17/0418) and 2 Ocean Crest (setback 1.75m from Admiralty Drive).
  - (c) The carport roof form has been designed and built with a hipped roof and materials closely reflecting the house, which is seen behind and higher than the carport.
  - (d) There was no landscaping between the carport and the western boundary, and there was a covering over all or part of this gap between the building and the boundary.
  - (e) The verge in front of the house/carport is twice the width of the remainder of the Admiralty Drive verge due to its curving out wider at the junction with Atlantis Parade, and a pair of large canopied and majestic palms in the verge are distinctive

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<sup>5</sup> Performance Outcome PO2(a), (d) and (c) are listed s.9.3.6 Dwelling house Code (**Dwelling Code**). The Dwelling Code is established under the Sunshine Coast Planning Scheme 2014 (**Sunshine Coast Scheme**) which was gazetted in the QUEENSLAND GOVERNMENT GAZETTE No. on 2 May 2014, and commenced on 21 May 2014.

features of the streetscape. The drive to the property lies between those palms. These streetscape landscape elements were noted as unique in the subject streetscape of Admiralty Drive, and that they contributed to the quite different aspect of this property to the others there, both those east and those west along the Drive, where the verge was narrower.

- (f) 9 Admiralty Drive, the adjacent property to which sunlight may have been impacted, had erected privacy screens for their pool along the boundary adjacent the subject carport extension.
30. At the hearing, the Tribunal was taken to carports not on the street that is the subject address. The calls for consideration of the “*visual continuity and pattern of buildings*” of contiguous streets is relevant toward determining whether the existing carport would maintain such in the subject address. The Tribunal considers the “*visual continuity and pattern of buildings*” in streets other than the subject street is of limited relevance, if any, to the determination of the appeal. The Performance Outcome is directed to “*the street*” not, as it were, “*the suburb.*”
31. There may be other Performance Outcomes for the suburb generally, but the Tribunal concludes that it is correct to assess “*visual continuity and pattern of buildings and landscape elements*” by limiting such assessment to “*the specific street in question*” and to that part of the street which can be seen from the verge at the subject property.
32. The factors that are relevant to whether a proposed building work will maintain, “*visual continuity and pattern of buildings and landscape elements*” is to be largely informed by what is the limit of the continuity and pattern in the relevant street in the first place. In some streets, there may be several markers of both building patterns and streetscape that inform what would ensure continuity and patterning; in other streets, however, especially those undergoing regeneration, determining the markers of continuity will be more challenging. It follows, again, as was put correctly in submissions by the Council, each assessment must be determined on a case-by-case basis.
33. In addition, The Sunshine Coast Planning Scheme 2014 defines ‘streetscape’ as 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.’
34. The Tribunal concludes, with respect to compliance with PO2(d) of the Dwelling House Code, and having regard to the definition of streetscape, that the existing carport extension, does not substantially detract from the visual continuity and pattern of buildings and landscape elements within the street. Specifically, the Tribunal notes:
- (a) This situation is unique and specific to this street alone as outlined here. The property lies at the end of a T junction of Atlantis Parade with Ocean Drive and directly at that junction there is a widening of the grassed verge in front of the subject property and the drive from the property lies directly at the end of Atlantis Parade. Two large palm trees have been planted in the verge outside the subject property, as a pair framing the vista down Atlantis Parade which terminates at the house and carport there. This arrangement serves to present the subject property as much a part of the Atlantis Parade streetscape as of Admiralty Drive. The Admiralty Drive streetscape is in effect divided into two parts - that north of the subject property and that to the south.

35. On the evidence available to the Tribunal, which includes its own observations on the day of the hearing, it is not open to conclude that the carport constructed impacted on the sunlight to such an extent it affected the amenity of the adjacent buildings.
36. The privacy screens erected by the neighbouring property – which sit above the erected boundary fence – would have been most affected by the carport and appear to have had a greater impact on blocking morning sunlight spill than the carport extension. The Tribunal was informed (and this was not challenged by any of the respondents) that the privacy screens were in existence before the construction of the carport.
37. Accordingly, the structure does not adversely impact on the amenity and privacy of residents on adjoining lots in compliance with both PO2(a) of the Dwelling House Code and Performance Criteria P2(c) of the Queensland Development Code.

#### **Orders of the Tribunal**

38. Pursuant to section 254(1)(b) and (c) of the *Planning Act 2016* (Qld) changes and replaces the following decisions:
  - (a) The decision made by Sunshine Coast Council refusing the development approval for building works assessable against the Planning Scheme Carport to which DBW23/0292.
  - (b) The decision made by Building Approvals United Queensland acting on the direction of Sunshine Coast Council that refused the application CAR23/0863.
39. The Tribunal decides to approve the carport on the following condition:
  - (a) No changes are to be made to the height of the carport, without first obtaining all the necessary approvals.
  - (b) The Carport is not to be enclosed on any side, without first obtaining all the necessary approvals.
  - (c) There is to be no extension of the roof, or installation of any roof-like extension, from the carport, without first obtaining all the necessary approvals.

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**Gerry Elmore**  
**Development Tribunal Chair**

**Date: 28 January 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:

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](mailto:registrar@hpw.qld.gov.au)