



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	26-011
Appellant:	CHM Woomba Pty Ltd (A.C.N. 676 354 117)
Respondent (Assessment manager):	Stewart Magill, Pure Building Approvals
Co-respondent (Concurrence agency):	Sunshine Coast Regional Council (“Council”)
Site address:	16 Coppabella Crescent, Mooloolaba Qld 4557, formally described as Lot 151 on RP138548 (“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, of the *Planning Act 2016* (“the PA”) against the assessment manager’s decision to refuse that part of the appellant’s application for a building works development permit for a new dwelling house and associated facilities on the subject site involving a proposed carport and gatehouse (“the application”).

Date and time of hearing and site inspection:	Wednesday, 8 July 2026 at 10:00am
Tribunal:	Neil de Bruyn—Chairperson Henk Mulder—Member
Present	Hannah Miller—appellant’s representative Cameron Adams—appellant’s representative Mark Deighton—appellant’s representative Troy Deighton—appellant’s representative Lukas Kelly—assessment manager Mitchell Schwieso—Council representative Hannah Parker—Council representative

Decision:

1. The Development Tribunal (“the tribunal”), in accordance with section 254(2)(d) of the PA, **sets aside** the decision of the assessment manager to refuse that part of the application involving the proposed carport and gatehouse, and orders the assessment manager to:
 - a) remake the decision within 25 business days of the date of receiving this decision notice, as if the concurrence agency had no requirements; and
 - b) in the event that the assessment manager then decides to approve the application, to include the following conditions in the resultant building works development permit:

- i. The design and siting of the approved Class 10a carport (only) is to be in accordance with the Revision 16 plans prepared by H4 Passivhaus and submitted in response to the tribunal's direction dated 10 July 2026 and specifically Dwg Nos. WD0.03, WD1.00A, WD3.00, WD3.01 and WD4.01 (all Revision 16);
- ii. The front setback is to be a minimum of 2 metres, measured to the outermost projection of the carport, without the gatehouse or side panels to the carport, as shown on the above-mentioned plans.

Background:

2. The subject site is a rectangular residential site, formally described as Lot 151 on RP138548, with an area of 736m². The subject site is located at 16 Coppabella Crescent, Mooloolaba, within the Sunshine Coast Regional Council local government area. Coppabella Crescent is a minor access street containing low-rise dwelling houses only. The subject site also fronts onto a canal on its eastern boundary.
3. The subject site is included within the Low Density Residential Zone under the Sunshine Coast Planning Scheme 2014, being the current planning scheme for the subject site ("the planning scheme"). The subject site is also within the Protected Housing Area Precinct and the Mooloolaba/Alexandra Headland Local Plan Area and is subject to planning scheme overlays relating to acid sulphate soils, airport environs, flood hazards, building heights and regional infrastructure.
4. The subject site contains a substantial dwelling house under construction, which addresses and gains access from Coppabella Crescent, forming its western boundary.
5. The appellant proposes to include a two-bay, Class 10a carport and integrated gatehouse within the proposed dwelling house design. The tribunal infers, from the submitted material, that the plans submitted together with the application were those prepared by H4 Passivhaus identified as Revision 12 and dated 14.10.2025.
6. The proposed carport/gatehouse is proposed to be located to a zero front setback to Coppabella Crescent. The proposed carport is to be 3.2 metres in height, including an 800mm parapet, with full-height aluminium batten screening to both sides.
7. Pursuant to section 33 of the Building Act 1975 ("the BA") and section 1.6 of the planning scheme, the Dwelling House Code ("the code") under the planning scheme specifies alternative siting provisions to those set out in the relevant part of the Queensland Development Code ("QDC"). Of relevance to this appeal, the code includes Acceptable Outcome 2.1 ("AO2.1"), which requires a carport to have a setback to a road frontage of at least 6 metres. Clearly, the proposed zero front setback does not achieve AO2.1.
8. For section 54 of the PA, schedule 9, part 3, division 2, table 3 ("Table 3") of the Planning Regulation 2017 specifies that a development application for building work that does not meet a quantifiable standard for an alternative provision under section 33 of the BA requires referral to the applicable local government as a concurrence agency. Accordingly, on or about 24 November 2025, the application was referred to Council for a design and siting assessment and response.
9. Table 3 provides that, for building work for which alternative siting provisions apply, and for which a quantifiable standard (i.e. AO2.1) is not met, the referral agency assessment is to be against the applicable qualitative statement (i.e. the applicable performance outcome for AO2.1).
10. As, in this case, the proposed carport and gatehouse did not achieve AO2.1, the referral agency assessment was to be against Performance Outcome 2 ("PO2"). PO2 provides as follows:

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; and*
- d) maintain the visual continuity and pattern of buildings and landscape elements within the street.*

11. On 3 December 2025, Council issued a “further advice” request. This sought the following information from the applicant:

Carport Front Setback

- 1. *The submitted application material does not provide sufficient information to demonstrate how Performance Outcome PO2 of the Dwelling house code has been addressed in relation to dominance to the streetscape and visual continuity and pattern of buildings within the streetscape.*

The predominant streetscape of Coppabella Crescent appears to be dwelling houses a minimum of 4.5 metres to the front boundary, with no variances to frontage depth. The carport and gatehouse addition proposed to be built along the western street frontage, will be a significant variance to the pattern of buildings and would be the only structure with this setback, if established. It is therefore considered that the carport and gatehouse addition will dominate the streetscape and not maintain the visual continuity and pattern of buildings within the street.

Provide amended layout to demonstrate how the applicable Performance Outcome can be achieved. This must include:

- (a) Amended plans, with structures removed; OR*
- (b) Further setback in order to maintain visual continuity within the street/*

**Council note: Due to the minimal variance to the streetscape in Coppabella Crescent, the proposed carport and gatehouse addition are not supported within the 4.5 metres street frontage setback.*

Additionally, where the proposal consequential meets the Accepted Outcomes of the Dwelling house code and Queensland Development Code (QDC) due to the removal of structures from the proposal, the application can be withdrawn.

- 12. On 13 January 2026, the applicant’s response to the further advice request was provided. This response included amended plans showing an increase in the frontage setback of the proposed carport and gatehouse to 2 metres.
- 13. By email on 13 January 2026, Council advised that the amended setback would not be supported and that the referral agency response would direct refusal of the application.
- 14. On 20 February 2026, Council issued its referral agency response directing refusal of the application, citing the following grounds of refusal:

- 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 (built to boundary), is inconsistent with the existing character of the street, which includes buildings that are well setback from the front boundary (4.5-6 metres setback).

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, garage and built to boundary carport addition and gatehouse (width of 7.8 metres) would result in a large majority of the frontage allocated for vehicle manoeuvring and not being capable of vegetative landscaping. As such a small area only to the north of the driveway is capable of being landscaped. It is anticipated that sufficient vegetative 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 Coppabella Crescent is dwelling houses with a minimum 4.5 metres setback from the road frontage, with garages 6 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 built to boundary would not maintain the visual continuity and pattern of building and landscape elements within the street.

4. *The proposal does not meet Performance Criteria P1(a) of the Queensland Development Codes (QDC) MP1.2:*

Queensland Development Codes (QDC) MP1.2, Performance Criteria P1(a) - Buildings and Structures - The location of a building or structure facilitates an acceptable streetscape, appropriate for - the bulk of the building or structure.

The location of the proposed gatehouse alongside the carport built to boundary along the western street frontage would be the only structure of its type, setback, size and scale within the prescribed setback. It is considered that the proposed gatehouse would present a bulk structure to the streetscape.

5. *The proposal does not meet Performance Criteria P1(b) of the Queensland Development Codes (QDC) MP1.2:*

Queensland Development Code (QDC) MP1.2, Performance Criteria P1(b) - Buildings and Structures - The location of a building or structure facilitates an acceptable streetscape, appropriate for - the road boundary setbacks of neighbouring buildings or structures.

It is considered that the proposed gatehouse, alongside the carport with a proposed height of ~ 3.477 metres would not present consistent setbacks to

the road frontage in accordance with the established neighbouring buildings or structures.

6. *The proposal does not meet in full Performance Criteria P1(d) of the Queensland Development Code (QDC) MP1.2:*

Queensland Development Code (QDC) MP1.2, Performance Criteria P1(b) – Buildings and Structures - The location of a building or structure facilitates an acceptable streetscape, appropriate for - nuisance and safety to the public.

The gatehouse is proposed alongside the carport addition, at the western street frontage for a width of 7.8 metres. Whilst it is recognised the gatehouse and carport addition would provide a clear and easily identifiable entry point, aiding to safety of the public they would pose a dominating presence to the street. The development would present a nuisance to the streetscape and the established pattern along Coppabella Crescent.

7. *The non-compliances with the Dwelling house code and Queensland Development Code (QDC) MP1.2 are not justified by existing site and design constraints, including an existing constructed dwelling layout. The proposed carport and gatehouse are part of a new dwelling construction that could be designed to comply with all relevant assessment benchmarks.*
15. The application was made to the assessment manager for a building works development permit for the proposed development. There is no evidence before the tribunal as to the date upon which the application was made; however, this omission is not considered to be significant in the circumstances of this appeal.
16. On 1 May 2026, the assessment manager refused the relevant part of the application covering the proposed carport and gatehouse and issued his decision notice of the same date. The decision notice cited only the Council's direction of refusal as the reason for this decision. No other reasons for the refusal were given.
17. A separate decision notice was given by the assessment manager, dated 23 October 2025, approving the part of the application involving the new dwelling house and swimming pool.
18. The appellant duly lodged this appeal, against the refusal of the application for the carport and gatehouse, with the tribunal registrar on or about 14 May 2026.
19. A site inspection and hearing was held on the subject site on Wednesday, 8 July 2026 at 10:00am.
20. Following the hearing, the tribunal issued the following directions on 10 July 2026:

Following the hearing and inspection held on site yesterday, the tribunal directs as follows:

1. *The appellants are invited, should they wish to, to provide details (addresses, descriptions and, if possible, current images) of the local examples of existing buildings and structures that they allege encroach into frontage setbacks, that were referred to at the hearing.*
2. *The appellants are invited, should they wish to, to provide amended design plans of the proposed carport and gatehouse, reflecting any design changes they are prepared to make following the discussion at the hearing and, in particular, having regard to PO2(b) and (d) of the applicable Dwelling House Code. Regard must be had to Section 254(3) of the Planning Act 2016,*

which provides that a tribunal must not make a change, other than a minor change (as defined), to a development application. It is recommended that the appellants seek the advice of their professional team in this regard.

3. *Council is directed to provide its written response and comments on any amended plans submitted by the appellants under 2. above, by email to the Registrar and copied to the appellants, by no later than 4pm on 7 August 2026.*
4. *Council is directed to provide copies and full details of communications between council officers and the appellants (and, as applicable, the assessment manager and the appellants' representatives) during the assessment and referral process, including any amended design plans proposed as part of these communications.*
5. *The tribunal notes that the assessment manager's decision notice dated 1 May 2026 appears to confirm the refusal, in its entirety, of the application for the "construction of detached dwelling, carport and swimming pool" despite being headed "Decision Notice – Approval – 20250644." The appellants are directed to provide formal confirmation and documentary evidence of the approval status, or otherwise, of the as-built dwelling house and swimming pool.*

Other than as mentioned in 3. above, the parties are to provide the requested material, by email to the Registrar and copied to the other party, by 4pm on 24 July 2026.

21. The appellant's response was received by the Registrar on 24 July 2026 at 2:18pm. This response included:
 - (a) A contextual analysis, including photographs, identifying nearby addresses with a carport either on, or close to, the relevant property's boundary lines.
 - (b) Photographs of solid block walls/front fencing within Coppabella Crescent.
 - (c) A copy of Council's strategic policy relating to amenity and aesthetics considerations for carports.
 - (d) Copies of both assessment manager decision notices for the dwelling and pool, and for the carport and gatehouse.
 - (e) Updated design plans (Revision 16). Significantly, these plans show the carport as being sited to a 2 metre frontage setback, with both side panels removed, a reduced parapet feature and the deletion of the proposed gatehouse.
22. The Council's response to Item 4 of the tribunal's directions was received by the Registrar on 24 July 2026 at 3:37pm. This response included a full documentary history of the assessment process.
23. The Council's response to Item 3 of the tribunal's directions was received by the Registrar on 7 August 2026 at 12:26pm. This response advised that, whilst Council acknowledges the amendments made in the Revision 16 plans, and also acknowledges that these changes have the effect of reducing the overall bulk and visual enclosure of the carport (the gatehouse having been deleted), it maintains the view that the proposed carport is inconsistent with the built form pattern in the street and does not achieve PO2, and therefore maintains its stance that the application should be refused.

Material considered:

24. The following material has been considered by the tribunal in this appeal:

- (a) The material provided by the appellant and the Council in response to the tribunal's directions dated 10 July 2026, as described in paragraphs 21, 22 and 23 above.
- (b) 'Form 10 – Notice of Appeal' lodged with the tribunal's registrar on 14 May 2026.
- (c) Grounds of appeal, prepared by Adams and Sparkes Town Planning, dated 19 March 2026.
- (d) The assessment manager's decision notice dated 1 May 2026.
- (e) Council's referral agency response dated 20 February 2026.
- (f) Request for concurrence agency referral, prepared by Adams and Sparkes Town Planning, dated 24 November 2025.
- (g) Design plans, prepared H4 Passivhaus and dated 14.10.2025 (Revision 12).
- (h) The *Planning Act 2016* and the *Planning Regulation 2017*.
- (i) The *Building Act 1975* ("BA").
- (j) The Sunshine Coast Planning Scheme 2014.

Jurisdiction:

- 25. 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.
- 26. Section 1(1)(b) of the schedule provides that the matters stated in table 1 of the schedule ("table 1") 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).
- 27. 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.
- 28. This appeal involves a development application under the PA for building work under the BA for which schedule 9, part 3, division 2, table 3 ("Table 3") of the *Planning Regulation 2017* applies. Section 1(2)(g) therefore applies to this appeal.
- 29. 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

- 30. Generally, the onus rests on an appellant to establish that an appeal should be upheld (section 253(2) of the PA).
- 31. The tribunal is required to hear and decide an appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against (section 253(4) of PA); however, the tribunal may nevertheless (but need not) consider other evidence presented by a party with leave of the tribunal, or any information provided under section 246 of PA.

32. The tribunal is required to decide an appeal in one of the ways mentioned in section 254(2) of the PA, and the tribunal's decision takes the place of the decision appealed against (section 254(4)).
33. The tribunal must not make a change, other than a minor change, to a development application (section 254(3)).

Findings

34. The Council's grounds for directing refusal of the proposed carport, as fully detailed in paragraph 14 above, were essentially that the proposed zero frontage setback to Coppabella Crescent failed to achieve PO2(b) to (d), inclusive, of the code. That is, Council considers that the proposed carport and gatehouse would dominate the streetscape, fail to maintain an adequate landscaping area adjacent to the lot frontage and would fail to maintain visual continuity and the pattern of buildings and landscape elements within Coppabella Crescent.
35. Regarding the Council's grounds for directing refusal of the application, the tribunal finds that those grounds (numbered 5, 6 and 7) referencing the QDC are not applicable in this case, given that the Dwelling House Code is identified as constituting alternative design and siting provisions to those under the QDC, pursuant to section 33 of the BA. Notably, section 33(4) provides that, if there are alternative provisions, the QDC design and siting provisions only apply to the extent the alternative provisions do not apply.
36. At the site inspection, the tribunal walked the full length of that section of Coppabella Crescent from its intersection with Amarina Avenue to the curve at its northernmost point, being the local streetscape for the subject site. Significantly, the alignment of the street, when viewed in either direction from the subject site, is such that it curves towards the west at both ends, and away from the site's frontage. As such, the proposed carport and gatehouse when viewed along the street alignment, would be set against a backdrop of existing built forms that follow the curvature of the road alignment.
37. At the inspection, the tribunal also noted that certain houses within the local streetscape feature substantial walls and/or fences along their frontages and the adjacent side boundaries. Also, the presence of landscape elements in the form of substantial trees and hedging was noted within the local streetscape.
38. In relation to PO2(b) of the code, the tribunal finds that the proposed carport and gatehouse, as shown on the original, Revision 12 plans, would be a dominant built form and visual feature within the local streetscape. In particular, the tribunal finds that the proposed side panelling to the carport extending to the site frontage with no setback would be the main contributor to this finding, as would the 800mm parapet feature. Accordingly, the tribunal finds that the proposed development, as shown on the original, Revision 12 plans, would not achieve PO2(b) of the code.
39. However, the tribunal finds that the proposed carport, as shown on the amended Revision 16 plans (as submitted in response to the tribunal's directions dated 10 July 2026) would satisfactorily achieve PO2(b), in that its visual dominance within the streetscape would be substantially reduced by the following changes such that compliance with PO2(b) can be reconsidered:
 - (a) It would be set back from the site frontage by 2 metres;
 - (b) the parapet feature would be reduced in height;
 - (c) the side panelling to the carport would be deleted, and the carport would thus be entirely open-sided and visually permeable; and
 - (d) the proposed gatehouse has been deleted, significantly reducing the visual width and bulk of the proposed structure.

40. The tribunal finds that the reduced visual dominance of the proposed carport (as shown on the Revision 16 plans), and the fact that it would be set against a backdrop of existing built forms when viewed in either direction along the curvature of Coppabella Crescent, or when viewed directly from the street, would ensure a satisfactory degree of compliance with PO2(b) of the code.
41. In relation to PO2(c) of the code, the tribunal finds that the siting of the proposed carport and gatehouse would maintain an adequate area within the subject site's frontage for landscaping, that would be generally consistent with the extent and nature of landscaping observed by the tribunal within the local streetscape. That is, over 10 metres of the total frontage of approximately 18 metres would be available for frontage landscaping. With the deletion of the proposed gatehouse in the Revision 16 plans, there would be the potential for the provision of some landscaping elements within the open pedestrian entry. Accordingly, the tribunal finds that the proposed development would achieve PO2(c) of the code to a satisfactory extent, in that it would maintain an adequate area for frontage landscaping.
42. In relation to PO2(d) of the code, the tribunal finds the proposed carport, as shown on the Revision 16 plans, would generally maintain the visual continuity and pattern of buildings within the local streetscape, given its increased setback and visual permeability and reduced bulk, having regard to the aforementioned curvature of the street and the existing built form pattern, and having regard to the existence of substantial boundary structures and landscape elements within the streetscape. Accordingly, the tribunal finds that the proposed carport, as shown on the Revision 16 plans, would achieve PO2(d) of the code to a satisfactory extent.
43. As a result, the tribunal finds that the proposed carport, as shown on the Revision 16 plans, will not be inconsistent with the achievement of PO2 of the code, and therefore that the Council's grounds for directing refusal of the application are not applicable in relation to the amended carport design and siting. Accordingly, the tribunal finds that the appellant has satisfactorily discharged its onus to establish that an appeal should be upheld, based upon the amended design as shown on the Revision 16 plans.

Reasons for the decision:

44. The tribunal, in accordance with section 254(2)(d) of the PA, has decided this appeal as set out in paragraph 1 above.
45. The tribunal's reasons for this decision are that, for the reasons stated in paragraphs 36 to 43, the lightweight, open-sided carport proposed by the appellant, and as shown in the amended (Revision 16) plans, will satisfactorily achieve PO2 of the code.

Neil de Bruyn
Development Tribunal Chair
Date: 28 August 2026

Appeal rights

Schedule 1, table 2(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 (07) 1800 804 833

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