



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	25-044
Appellant:	Andrew Adams
Respondent (Assessment manager):	Martin Accatino
Co-respondent (Concurrence agency):	Cairns Regional Council
Site address:	14 Tallow Wood Close, Redlynch Qld 4870 and described as Lot 242 on RP 850091 – the subject site

Appeal

Appeal under section 229 and item 1 of table 1 of schedule 1 (Appeals) of the *Planning Act 2016* (PA) against the Assessment Manager's decision dated 6 November 2025 to refuse the development approval for a side annex carport at the subject site.

Date and time of hearing:	13 January 2026
Place of hearing:	The subject site
Tribunal:	John Eylander—Chair Glenn Chambers—Member George James—Member
Present:	Andrew Adams—Appellant Harald Weber—Respondent representative Kieren Nyko—Council representative Jayne Proberts—Council Representative

Decision:

The Development Tribunal (Tribunal), in accordance with section 254(2)(a) of the *Planning Act 2016* (PA) confirms the decision of the assessment manager to refuse the development application for a side annex carport.

Background

1. The appellant had a 'side carport annex' constructed next to an existing double carport in about 2014.

2. There is a double open carport on the eastern side of the property with a roller door to the street. This double carport has a 6.23 metre frontage at the property boundary to Tallow Wood Close, Redlynch. The side carport annex has a 3.13 metre frontage to the street. The total property frontage is 20 metres. The side carport annex has been constructed with the same form as the existing double carport with an open side and a roller door to the street.
3. This is a 9 metre concreted crossover to the street.
4. The pedestrian access to the home is on the carport annex crossover to a front gate.
5. The structure is open and links the road and sidewalk to the home.
6. The structure is sympathetic to the house and neighbouring properties.
7. There is another crossover on the western side of the property to a double gate for vehicular traffic to the rear of the property and a triple garage/shed.
8. Tallow Wood Close is a suburban street surrounded by low set homes. A number of these homes have double and triple carport and garage structures at the rear of their property with vehicles, boats, caravans, motorcycles and trailers visible.
9. Some of the houses have a boat and/or caravan at the front of the property.
10. The appellant advised he is seeking development approval as he is seeking to sell the property.
11. The Cairns Regional Council ('CRC') advised there was no enforcement proceedings on foot.
12. The CRC 'Referral Agency Response' dated 3 November 2025 refusal reasons for decision stated –
 1. *The as-constructed Carport has been assessed against the applicable performance criteria stated in MP1.2 of the Queensland Development Code.*
 2. *The as-constructed Carport seeks an alternative outcome to Acceptable Solution A1(a)(i) of the Queensland Development Code. The as-constructed Carport is 3.130 metres in width, setback 0.100 metres from the road boundary, resulting in a cumulative length of 9.360 metres of structures located within the 6 metre road boundary setback. The as-constructed Carport attaches to the existing approved two bay open carport.*
 3. *The as-constructed Carport is considered to compromise the achievement of the applicable Performance Criteria of the Queensland Development Code MP1.2, with specific reference to P1(a)(b):*
 - (P1) *The location of a building or structure facilitates an acceptable streetscape, appropriate for –*
 - (a) *the bulk of the building or structure; and*
 - (b) *the road boundary setbacks of neighbouring buildings or structures; and*

The site has an existing double carport located 0.000 metres from the road boundary for a length of 6.230 metres. The as-constructed additional carport structure would result in a third bay being built 0.100 metres from the road boundary for a length of 3.130 metres. This would result in a total of 9.360 metres encroachment into the road boundary setback on a lot with a 20 metre frontage creating an excessive bulk to the streetscape.

Furthermore, the existing streetscape has a consistent pattern of only one double Carport structure located within the road boundary setback with the entirety of the remaining development setback 6 metres or more.

Additionally, no neighbouring buildings or structures have been built within the road boundary setback and therefore the as-constructed carport is also inconsistent with the existing setbacks of neighbouring buildings and structures.

As a result, the proposed development is unable to achieve compliance with P1(a) and (b) of MP1.2.

13. The Appellant submitted –
 - (a) The carport does not obstruct any vision from either direction of the street.
 - (b) There are similar carports of the same type in the area.
 - (c) His neighbour has no objection to the carport.
 - (d) The carport has been there for more than 11 years.

Jurisdiction

14. The Tribunal's jurisdiction has been enlivened pursuant to section 229 and item 1 of table 1 of schedule 1 (Appeals) of the *Planning Act 2016* arising from the direction of the referral agency to refuse the as constructed carport.

Decision framework

15. The onus rests on the appellant to establish that the appeal should be upheld (section 253(2) of the PA).
16. The tribunal is required to hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against (section 253(4) of the PA).
17. 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 the PA (pursuant to which the registrar may require information for tribunal proceedings),
18. The tribunal is required to decide the appeal in one of the ways mentioned in section 254(2) of the PA.

Material considered

19. 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 25 November 2025
 - (b) Consent note from Neighbour dated 19 November 2025
 - (c) Development Application Decision Notice from All Construction Approvals dated 6 November 2025
 - (d) Referral Agency Response from Cairns Regional Council dated 3 November 2025

Findings of fact

20. The tribunal makes the following findings of fact:
- (a) The carport annex was constructed in about 2014 and integrated into the double carport including the roof line and is 9.36 metres in width.
 - (b) There is a 9 metre wide concreted crossover to Tallow Wood Close and another concrete crossover to a gate leading to a triple garage shed/garage at the rear of the property.
 - (c) The double carport has a roller door as does the carport annex.
 - (d) The pedestrian access to the home is along the cross over to a gate next to the carport annex.
 - (e) The property has a block front fence with screen panels that match the colour scheme of the house. The carport annex is in the style of a gabled front fence.
 - (f) The carport annex roof is lower than the house and double carport.
 - (g) The house is 14 metres wide and positioned 2.1 metres from the eastern boundary and 4.25 metres from the western boundary.
 - (h) The front garden is well kept with greenery that screens the access to the rear of the property.
 - (i) The width of the front boundary is 20 metres.

Reasons for the decision

21. The CRC decision to refuse the carport annex was based on their view that the carport compromised the achievement of the applicable Performance Criteria of the Queensland Development Code MP1.2, with specific reference to P1(a) and (b):

(P1) The location of a building or structure facilitates an acceptable streetscape, appropriate for –

(a) the bulk of the building or structure; and

(b) the road boundary setbacks of neighbouring buildings or structures.

22. The Tribunal must consider the Performance Criteria of MP1.2.

P1 The location of a building or structure facilitates an acceptable streetscape, appropriate for—

(a) the bulk of the building or structure; and ...

23. To quantify the bulk of the proposed as-constructed carport, the mean height calculation on the methodology provided under the QDC definition of 'mean height' equates to 3.17m in mean height for a width of 9.36m (width of carport). Considering this as percentage of the overall road boundary frontage, the Tribunal considers this provides an indication of how the proposal can be quantified in terms of bulk presenting to the streetscape.
24. This calculation equates to 46.8% of the road frontage boundary that will be taken up by structure that has a mean height of 3.17m. It must be noted that both the existing gable carport and annex structure have roller doors fitted to the frontage in the same plane as the external wall.

25. The annex structure, being a low-pitched skillion, must be considered in conjunction with the existing gable roof when evaluating the 'bulk' to the streetscape. At over 3 metres in mean height for 46% of the road boundary, that is built to the road boundary, the Tribunal considers this excessive 'bulk'.
26. Alternatively, if the entire structure was low pitched skillion or had a hip roof that tapered lower towards the road then the Tribunal would consider this less bulk (elevational area) being presented to the streetscape.

(b) the road boundary setbacks of neighbouring buildings or structures; and ...

27. The nearby Jasmine Street and Rosewood Close have a mix of similar structures encroaching into the road boundary setbacks, however not to the size and bulk of the constructed carport.
28. When assessing Tallow Wood Close, there are at least four other examples of carport encroachments, however none are 9m in width or built to boundary. This would make this proposal the outlier of the streetscape.

(c) the outlook and views of neighbouring residents; and ...

29. Considering the annex is located some 13 metres away from nearest point of the external wall of the adjoining dwelling to the west, it is unlikely there will be any significant effect on the outlook and view of the adjoining residents.
30. The carport annex does not impact to an appreciable degree for the outlook and views of neighbouring residents.

(d) nuisance and safety to the public.

31. The carport annex does not create a nuisance or affect the safety of the public.
32. The Development Tribunal considers the as constructed carport creates unacceptable bulk to the streetscape. In accordance with section 254(2)(a) of the *Planning Act 2016* (PA) and confirms the decision of the assessment manager to refuse the development application for a side annex carport.

John Eylander
Development Tribunal Chair

Date: 20 March 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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