



Development Tribunal – Decision Notice

Planning Act 2016

Appeal Number:	23- 2018
Appellants:	Shane Gale c/- Noosa Building Certifiers
Assessment Manager:	Sunshine Coast Regional Council
Concurrence Agency: (if applicable)	N/A
Site Address:	17 Point Cartwright Drive Buddina described as Lot 93 on RP107475 – the subject site

Appeal

Appeal made under the *Planning Act 2016* (PA), section 229(1)(a)(i) and Schedule 1, section 1(2)(g) and Table 1, item 1(a) against the assessment manager's refusal of the appellant's development application for building works (a carport and a boat port/structure) on the basis that the proposal conflicts with the Dwelling House code provisions of the Sunshine Coast Planning Scheme 2014.

Date and time of hearing:	10.00am on 31 August 2018
Place of hearing:	The subject site
Tribunal:	Debbie Johnson – Chair Dr Christopher Robertson - Member
Present:	Shane Gale the Appellant Terry Neller - Noosa Building Certifiers Tracie Douglas - Council representative Stephanie Raven - Council representative Peter Chamberlain - Council representative

Decision:

The Development Tribunal (Tribunal), in accordance with section 254(2)(c) of the PA replaces the decision of Council to refuse the development application for building works to construct Class 10a structures for a carport and a boat port, with a decision to allow the development application with siting and design of the structures as proposed in Rubin Designs Dwg No 170419 Issue B Sheets, WD01-WD9B and WD24, dated 9 September 2018.

Background

1. The subject lot is vaguely rectangular in shape with a site area of 690sq/m and a frontage to Point Cartwright Drive of 28m. Point Cartwright Drive is a principal road within the Kawana Waters Local Plan Code (KWLP Code), with the two-way traffic divided by a landscape strip.

Acting as the main link between the coastal beachfront community, the major commercial centre and north south transport corridor, it is used by locals and visitors alike. Directly opposite the driveway access for the subject site, there is a break in the landscape divider, allowing traffic an opportunity to do a u-turn. Housing in the vicinity is well established with the majority of allotments being developed throughout the 1970s and 1980s. Many of the homes in this area are, or have been renovated and/or extended due to their age and size, given the increase in property values.

2. While there are local shops and a few low rise multiple dwelling units built nearby, the site is surrounded by both single and two storey dwellings on similar sized land parcels. Point Cartwright Drive and the area more broadly, displays some examples of carports, garages and other residential structures being built up to the road frontage and/or within the 6m street setback. This is due in part to the area being developed over time against the historic provisions and interpretations of the Caloundra City Council's relevant versions of the Caloundra Planning Scheme (1987, 1996 and 2004) at the time of approval. In 2008 Caloundra, Noosa and Maroochy local governments were amalgamated and with this came further changes that affected all development across the Sunshine Coast region, including residential building work. In 2014 the Sunshine Coast Council adopted the Sunshine Coast Planning Scheme which includes a Dwelling House code. The current provisions of the Dwelling House Code specifically seek to discourage the erection of garages and carports in the 6m street frontage setback area, while supporting a reduced setback of 4.5m for certain single storey building elements such as entry porches, verandahs or other living areas.
3. The appellant has renovated and extended his home to accommodate the family's needs in recent times. However, while the home has a double garage, they own more than two cars. Similarly, they have a large boat which is currently kept within the property, alongside the driveway, against the neighbouring side boundary fence. The appellant engaged a building designer to prepare plans for a double carport to be erected over the driveway and an attached lean-to to house the boat undercover. The lean-to structure is proposed to cover the boat, in its current position, between the driveway and the side boundary fence. The appellant contacted a private building certifier to obtain a development approval for the proposed building works.
4. On 5 April 2018, the certifier made a development application for building works to Council on behalf of the appellant. The proposed works for both structures needed to be assessed against the performance outcome provisions of the Dwelling House, as the design did not meet all relevant acceptable outcomes.
5. Council's records, accessed through PDonline, indicate that the application was properly made on 2 May 2018.
6. On 25 May 2018, the Council issued their decision notice to the building certifier, refusing the proposed development stating: The proposal conflicts with the Performance Outcomes and Overall Outcomes of the Dwelling house code in that the proposal does not make a positive contribution to the streetscape character of the area in which it is located and cannot be conditioned to comply.
7. On 30 May 2018, the building certifier lodged an appeal with the Registrar for the Development Tribunal, on behalf of the appellant.
8. On 31 August 2018, the Tribunal conducted the hearing on the subject site.
9. On 3 September 2018, Council provided the Registrar with additional information regarding a concurrence agency referral application pertaining to a nearby site. This information was immediately distributed by the Registrar to all parties of the appeal by email.
10. On 10 September 2018, the appellant provided the Registrar with Rubin Designs Dwg No 170419 Issue B Sheets, WD01-WD9B and WD24, dated 9 September 2018, illustrating the proposed works. This information was immediately distributed by the Registrar to all parties of the appeal by email.

The appellant stated items that were altered are-

- Height of lean-to lowered to match existing garage height
- Direction of fall of lean-to reversed
- Lean-to moved back from front boundary 2.5m
- Slab height of lean-to to be set down.

Material Considered

The material considered in arriving at this decision comprises:

1. 'Form 10 – Application for Appeal Notice', grounds for appeal and correspondence accompanying the appeal lodged with the Tribunals Registrar 30 May 2018.

Those documents included:

- Land owner's consent to the making of an Application for appeal dated 29 May 2018.
 - Sunshine Coast Council's Decision Notice- Refusal DBW 18/0065 dated 28 May 2018, advising the Council decide to refuse the application on 25 May 2018.
 - Sunshine Coast Council's Notice about Decision – Statement of Reasons dated 25 May 2018. The notice stated that the reasons for this decision are:
The proposal conflicts with the Performance Outcomes and Overall Outcomes of the Dwelling House code in that the proposal does not make apposite contribution to the streetscape character of the area in which it is located and cannot be conditioned to comply.
 - Letter of support dated 13 November 2017, from Mark Nicol, Director Housing Portfolio Solutions, Capital and Assets, Housing and Homelessness Services, Department of Housing and Public Works, being the adjoining landowner most affected by the works proposed.
 - Building Design drawings prepared by Rubin Designs, identified as Dwg No 170419, Issue A Sheets WD.01 - WD.08 inclusive, dated 1 May 2017.
 - Aerial map view of the subject site and the immediate locality.
2. Written submission by Terry Neller of Noosa Building Certifiers, to support the development application for building works as submitted to Council on 5 April 2018.
 3. Sunshine Coast Regional Council's Assessment Report- DBW18/0065 dated 7 May 2018 prepared by Tracy Douglas recommending refusal, as taken from Council's records POnline.
 4. Form 2- Building work details as submitted to Sunshine Coast Regional Council by Noosa Building Certifiers as taken from Council's records POnline.
 5. Emailed correspondence from Sunshine Coast Regional Council in respect to Class 10a development approved at 32 Point Cartwright Drive, as received by the Registrar on 3 September 2018, following the hearing.
 6. Emailed correspondence from the appellant, being amended drawings for the proposal, as received by the registrar on 10 September 2018, following the hearing.
 7. Emailed response from Council relating to the amended drawings, received through the Registrar on 14 September 2018.
 8. Verbal submissions by the Appellant and the Building Certifier at the hearing.
 9. Verbal submissions by the Council's representatives at the hearing.
 10. Observations about the built and natural environment around the location of the subject site.
 11. The *Planning Act 2016* (PA)
 12. The *Planning Regulation 2017* (PR)
 13. The *Development Application Rules*
 14. The *Building Act 1975* (BA)

15. The *Building Regulation 2006* (BR)
16. The *Queensland Development Code* (QDC) Part MP 1.2
17. The *Sunshine Coast Planning Scheme 2014*
18. The *National Construction Code 2016* (NCC)
19. Planning and Development online information for the subject site and surrounding residential properties.
20. Institute of Public Works Engineering Australasia (IPWEA) Standard Drawings RS-049 Vehicle Crossing Residential Driveways.
21. IPWEA Standard Drawings RS-050 Vehicle Crossing Residential Driveways.
22. AS2890 Parking Facilities.

Findings of Fact

The Tribunal makes the following findings of fact:

1. The subject site is zoned low density residential under the provisions of the Sunshine Coast Planning Scheme 2014. The appellants have sought to erect two Class10a structures within the street frontage setback area. The purpose is to facilitate acceptable covered areas to protect additional family vehicles and a large boat which is parked within the property.
2. The double carport has been designed to follow the existing roof line over the double garage, extending it out and over the driveway to within 150mm of the street frontage, sufficient to allow the guttering within the property. The proposed height of the gutter line at the front boundary is noted at 2.5m above the existing finished ground level. The proposed carport roof is hipped and therefore tapers up from the gutter line at a pitch of 20 degrees in line with the roof on the existing double garage.
3. The boat structure has been designed to sit alongside the carport, in the area between the carport and the side boundary, however the proposed boat structure is higher and designed to 'flyover' the carport roof and part of the double garage roof. The proposed boat structure is 3.7m high and approximately 7m long. It is setback approximately 2.5m from the road frontage and the roof is pitched at 1 degree to minimise the impact of the overall height.
4. The subject site is currently very well-presented and the built form is well articulated incorporating varied roof forms single and two storey elements. The property is further enhanced with attractive landscape and fencing along the street frontage.
5. The appellant was asked to clarify, given the building design plans failed to show, how the boat was to be able to access the covered area given the double carport supports and roof height would prevent the boat from being pulled in over the existing driveway. The appellant advised that the existing driveway crossover would need to be extended in width so that the boat could go directly in and out alongside the current driveway. Given the dimensions for the width of the proposed carport (5.65m) and boat structure (3.92) alongside it, the likely width of the driveway crossover would be approximately 9.5m, as measured across the front alignment.

Decision Framework and Relevant Legislative Provisions

6. 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 -
 - (a) other evidence presented by a party to the appeal with leave of the tribunal; or

(b) any information provided under section 246.

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

Further material for tribunal proceedings

- (1) The registrar may, at any time, ask a person to give the registrar any information that the registrar reasonably requires for the proceedings.
- (2) The person must give the information to the registrar within 10 business days after the registrar asks for the information.

8. Section 254 of the PA deals with how this appeal may be decided and the first three subsections of that section 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) for a deemed refusal of an application-
 - (i) ordering the entity responsible for deciding the application by a stated time and, if the entity does not comply with the order, deciding the application; or
 - (ii) deciding the application.
- (3) However, the tribunal must not make a change, other than a minor change, to a development application.

9. Section 254(3) uses the expression 'minor change' and that expression is defined relevantly in Schedule 2 of the PA as follows:

minor change means a change that—

- (a) for a development application—
 - (i) does not result in substantially different development; and
 - (ii) if the application, including the change, were made when the change is made—would not cause—
 - (A) the inclusion of prohibited development in the application; or
 - (B) referral to a referral agency if there were no referral agencies for the development application; or
 - (C) referral to extra referral agencies; or
 - (D) a referral agency to assess the application against, or have regard to, matters prescribed by regulation under section 55(2), other than matters the referral agency must have assessed the application against, or have had regard to, when the application was made; or
 - (E) public notification if public notification was not required for the development application;

10. Schedule 1 of the Development Assessment Rules specifically addresses the meaning of 'substantially different development' as follows:

1. An assessment manager or responsible entity may determine that the change is a minor change to a development application or development approval, where – amongst other criteria – a minor change is a change that would not result in 'substantially different development'.
2. An assessment manager or responsible entity must determine if the proposed change would result in substantially different development for a change –

- (a) made to a proposed development application the subject of a response given under section 57(3) of the Act and a properly made application;
 - (b) made to a development application in accordance with Part 6;
 - (c) made to a development approval after the appeal period.
3. In determining whether the proposed change would result in a substantially different development, the assessment manager or referral agency must consider the individual circumstances of the development, in the context of the change proposed.
4. A change may be considered to result in a substantially different development if any of the following apply to the proposed change:
- (a) involves a new use; or
 - (b) results in the application applying to a new parcel of land; or
 - (c) dramatically changes the built form in terms of scale, bulk and appearance; or
 - (d) changes the ability of the proposed development to operate as intended; or
 - (e) removes a component that is integral to the operation of the development; or
 - (f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or
 - (g) introduces new impacts or increase the severity of known impacts; or
 - (h) removes an incentive or offset component that would have balanced a negative impact of the development; or
 - (i) impacts on infrastructure provisions.

Amended Drawings

11. Following discussions on site at the hearing, the appellant offered to reconsider aspects of the proposal to address specific concerns raised in respect of street boundary setbacks and building heights in relation to the side boundary. The appellant subsequently lodged amended drawings through the registrar on 10 September 2018. The appellant stated items that were altered are-
- Height of lean-to lowered to match existing garage height
 - Direction of fall of lean-to reversed
 - Lean-to moved back from front boundary 2.5m
 - Slab height of lean-to to be set down.

12. These drawings were then distributed to all parties. On 14 September 2018, the Council emailed the registrar stating in part-

The minor changes to the proposal have not changed council's view that the requirements of the planning scheme are not satisfied. The reasons set out in the Council Assessment Report for DBW18/0065 decided 25 May 2018 are still applicable to the updated proposal. The proposed structures will dominate the streetscape with built form and will not make a positive contribution to the streetscape character of Point Cartwright Drive. As such the proposal does not achieve the outcomes of the *Dwelling house code*.

13. The tribunal also considered the extent and nature of the revised design illustrated in the amended drawings, and is satisfied that they reflected a 'minor change' to the original proposal (in terms of section 254(3) of the PA) for the following reasons:

The amended proposal will not result in a substantially different development as it will not:

- (a) involve a new use - as the use remains the same;
- (b) result in the application applying to a new parcel of land;
- (c) dramatically change the built form in terms of scale, bulk and appearance;
- (d) change the ability of the proposed development to operate as intended;
- (e) remove a component that is integral to the operation of the development;

- (f) significantly impact on traffic flow and the transport network, such as increasing traffic to the site;
- (g) introduce new impacts or increase the severity of known impacts;
- (h) remove an incentive or offset component that would have balanced a negative impact of the development; or
- (i) impact on infrastructure provisions.

Relevant Planning Scheme Provisions

14. The relevant planning scheme is the Sunshine Coast Planning Scheme 2014 (the Scheme).
15. Neither a carport nor a boat port/ structure is separately defined in the Scheme as the definition for a dwelling house includes out-buildings normally associated with a dwelling house.
16. The expression 'Dwelling House' is defined in the Scheme as follows:
A residential use of premises for one household that contains a single dwelling.
The use includes out-buildings and works normally associated with a dwelling house and may include a secondary dwelling.
17. Under Part 5 Material Change of Use tables of assessment, Table 5.5.1 states within the Low Density Residential zone, a *dwelling house* is accepted development provided it meets the acceptable outcomes of the Dwelling house code. Where proposed development does not meet the acceptable outcomes for the use code, the development becomes code assessable.
18. Under Part 5 Building Works Tables of assessment, Table 5.7.1 states building works (for all zones) is accepted development if the applicable use code (Dwelling House code in this instance) and the Transport and Parking code identifies acceptable outcomes applicable to accepted development.
19. Section 5.3.3(2) of Part 5 of the Scheme, states "*Accepted development that does not comply with one or more of the relevant acceptable outcomes in the relevant parts of the applicable code(s) becomes assessable development requiring code assessment unless otherwise specified.*"
20. In this matter, development for a Dwelling House becomes code assessable. The building works are subject to the provisions of the Dwelling house code, the KWLP Code and the Transport and parking code.
21. Part 9.3.6.1 of the Scheme sets out the application of the Dwelling house Code provisions-
9.3.6.1 Application
(1) *This code applies to accepted development and assessable development identified as requiring assessment against the Dwelling house code by the tables of assessment in Part 5;*
(2) *The acceptable outcomes in Table 9.3.6.3.1 (Requirements for accepted development and performance outcomes and acceptable outcomes for assessable development) are requirements for applicable accepted development.*
22. Therefore, where accepted development does not meet the prescribed acceptable outcomes, the development becomes assessable development and can be assessed against the corresponding performance outcomes. Council becomes the assessment manager in this situation.
23. The appellants had initially sought to engage a private building certifier to issue a building permit for the proposed shed. The building certifier determined that the proposed works did not meet all acceptable outcomes for AO2.1 of the Dwelling House code. On behalf of the appellants, the building certifier lodged a development application for building works for the

two structures, with Council. The application was made on the basis that it was code assessable development against performance criteria PO2 of the Dwelling House Code due to the reduced setback of the two structures and the proposed height of the boat port/structure being 4.543m.

24. Table 9.3.6.3.1 sets out Performance outcomes and acceptable outcomes for the Dwelling House Code, the relevant assessment criteria are listed below.

Acceptable outcome AO2.1 states:

Where located on a lot in a residential zone, a garage, carport or shed:-

- (a) is setback at least 6m from any road frontage;*
- (b) does not exceed a height of 3.6m; and*
- (c) has a total floor area that does not exceed 56sq/m.*

Note AO2.1 (b) and (c) do not apply to a garage under the main roof of a dwelling house

Note AO2.1 (a) alternative provision to the Queensland Development Code (QDC)

Performance outcome PO2 states:

Garages, carports and shed:-

- (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.*

Acceptable outcome AO9 states:

Access driveways, internal circulation and manoeuvring areas and on site car parking areas are designed and constructed in accordance with:-

- (a) IPWEA Standard Drawings SEQ R-049, R-050 and R-056 as applicable and
- (b) AS2890 Parking Facilities- Off-street parking.

25. IPWEA Standard Drawings SEQ R-049 and R-050 are applicable in this instance and provide the technical details for residential driveway and crossovers. The standard drawings nominate subject to carport/ garage approval, the maximum driveway width of 5m at kerb invert and 6m at the property boundary for a double garage or carport built on the property boundary. As the applicant has stated that the proposed driveway crossover is likely to be approximately 9m wide it cannot meet the technical requirements nominated on IPWEA Standard Drawings SEQ R-049 and R-050. Therefore the performance provisions of PO9 apply.

26. Performance outcome PO9 states:

The design and management of access, parking and vehicle movement on the site facilitates the safe and convenient use of the dwelling house by residents and visitors.

27. Table 7.2.14.4.1 of the KWLP Code sets out Performance outcomes and acceptable outcomes for assessable development, the relevant assessment criteria are listed below.

Acceptable outcome AO2.1 states:

Development adjacent to a primary streetscape treatment area or gateway/entry point where identified on Figure 7.2.14A (Kawana Waters local plan elements) or with frontage to Nicklin Way or Point Cartwright Drive:-

(a) incorporates architectural and landscape treatments which enhance the sense of arrival to, and the coastal urban character of, the local plan area and emphasise corner locations; and

(b) incorporates building materials such as varied roof forms, changes in materials and variations in projected and recessed elements and facades.

Acceptable outcome A02.2 states:

Development provides for streetscape improvements which complement existing or proposed streetscape works in the local area to ensure continuity of streetscapes and landscape design.

Performance outcome PO2 further endorses these objectives by stating:

PO2 Development contributes to the establishment of attractive and coherent streetscapes and gateways to:-

(a) enhance the sense of entry to, and the coastal urban character of, Kawana Waters local plan area;

(b) enhance the landscape and visual amenity of Nicklin Way to better define the boundaries of individual neighbourhoods: and

(c) enhance the landscape and visual amenity of other major roads in the local plan area.

28. The performance outcomes and acceptable outcomes of the KWLP Code focus on the 'coastal urban character' beach link to architecture and the presentation of varied forms and roof lines. There is emphasis on qualitative value under this code as opposed to the prescriptive quantitative values under the Dwelling House code.

29. Part 9 Developments: 9.1 Preliminary (2) of the Scheme states: Use Codes and other Development codes are specific to each planning scheme area. Thus, the KWLP Code Performance outcomes and Acceptable outcomes are given precedence to the provisions of the Dwelling house code and the Transport and parking code in this matter.

30. The Dwelling House Code contains some alternate provisions to the QDC.

31. The QDC Part MP1.2 is the standard for the Design and Siting requirements applicable to Class 1 Dwellings and Class 10 structures on residential sites over 450 m² in area. The provisions of the QDC apply only to the extent that a local planning scheme does not opt to provide alternative provisions. The QDC provides Performance Criteria and Acceptable Solutions. Where proposed development does not meet all of the applicable Acceptable Solutions, the application must be referred to Council as the Concurrence Agency for written advice, within a prescribed time frame, before the Assessment Manager can issue a Decision Notice.

32. In this instance the Dwelling House Code AO2.1 (a) provides some alternative siting provisions to the QDC MP 1.2, acceptable solution A1(a), therefore the 6m setback provisions of the Dwelling House Code apply to the proposed development.

33. The QDC MP 1.2 acceptable solution A2(a) prescribes the Side and Rear Boundary Setback requirements for a part of a Building or Structure is –

(i) where the height of that part is 4.5m or less -1.5m.

34. However A2(d) of QDC MP1.2 states in part - Class 10a structures (such as the boat port) may be exempted from A2(a) where the structure is not a deck, patio pergola or the like used for entertainment purposes where-

(i) the height of a part within the side boundary clearance is not more than 4.5m and has a mean height of not more than 3.5m; and

(ii) the total length of all parts, of any class, within the boundary clearance is not more than 9m along any one boundary; and

- (iii) the class 10a buildings or parts within the boundary clearance are located no closer than 1.5m to a required window in a habitable room of an adjoining dwelling.
35. The Dwelling House code does not provide alternative siting provisions to the QDC MP1.2 acceptable solution A2 for the side boundary setbacks applicable to the boat port structure, therefore the provisions of QDC MP1.2 acceptable solution A2 apply to the proposed development.
36. The revised building design plans indicate that the intended mean height of the boat port structure, at the side boundary are 3.7m, measured from the finished floor level of the proposed structure.
37. The proposed works therefore do not meet Acceptable Solution A2 (d)(i) of QDC MP 1.2 which state that:
- (i) the height of a part within the side boundary clearance is not more than 4.5m and has a mean height of not more than 3.5m.
38. This work is therefore assessable against the Performance criteria provisions for P2 that states:
- Buildings and Structures-
- (a) provide adequate daylight and ventilation to habitable rooms; and
- (b) allow adequate light and ventilation to habitable rooms of buildings on adjoining lots; and
- (c) do not adversely impact on the amenity and privacy of residents on adjoining lots.

Surrounding development

39. The subject site is in very close to both the Ocean and the boat ramp providing access to the mouth of the Mooloolah River. Driving along this part of Point Cartwright Drive it is evident that there are a few residents who own boats and these are accommodated in various ways, some undercover alongside the dwelling and others in the open parked alongside or in the driveway. Similarly, there are examples of double carports and even garages built within the 6m setback area but these are in the minority.
40. There is a continuous concrete footpath strip along the nature strip on both sides of Point Cartwright Drive in the vicinity of the subject lot. However, while the concrete footpath is wider along one side than it is on the other there is sufficient lawn and street planting on both sides to provide shade and interest in the landscape.
41. The neighbouring property to the west is the one most likely to be impacted by the proposed works as the boat port is to be built alongside the shared boundary. This property is owned by the Department of Housing and Public Works. The department has provided a letter declaring that they have no concern with the proposal. The single storey dwelling on this property appears to be setback 1.5m from the shared side boundary and it is the garage that is positioned closest to the area where the boat port/ structure would be.
42. With respect to the subject site, the carport and boat structure are to be built in front of and against the existing double garage, ensuring habitable rooms area unaffected.
43. The subject site has a 28M frontage to Point Cartwright Drive. The front boundary line is clearly identified with an attractive fence and is well landscaped with the exception of where the new work is proposed. There are two street trees on the nature strip adjacent to the subject site, both are clear of the area where the new carport and boat structure is proposed.

Conclusions

44. The Tribunal considers that:
- (a) the proposed carport and boat port structure will enhance the property and preserve the existing streetscape for the following reasons:
- the appellant's two storey dwelling is well-articulated and the new structures have been designed carefully to integrate sympathetically with the home;
 - the separate treatment of the proposed structures provide a varied roof form;

- the bulk and scale of the carport is similar to others in the location and the roofline will follow that of the existing double garage;
- the siting, bulk and scale of the boat port will be less significant than the carport given it is to be set back 2.5m from the property frontage;
- the appellant's boat is lawfully parked alongside the driveway and is easily seen from the street with or without it being protected by a roof; and
- despite the wider driveway access and the new structures, the property offers significant landscape features.

(b) The proposed carport and boat port structure will maintain the visual continuity and pattern of buildings and landscape elements within the street.

45. The Tribunal considered other carports and structures built on other properties in the same street and while many of these are likely to have been lawfully built prior to the adoption of the current planning scheme, they contribute to the existing streetscape, where the subject site is found.
46. The Tribunal considers that the proposed carport and boat port/ structure of the size and scale proposed, positioned at the front of the site, will be consistent with and contribute to the coastal urban character within the community of Buddina as prescribed under the Performance Outcomes and Acceptable Solutions of the KWLP Code.

Debbie Johnson
Development Tribunal Chair
Date: 6 November 2018

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.

Enquiries

All correspondence should be addressed to:

The Registrar of Development Tribunals
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