



Building and Development Dispute Resolution Committees—Decision

Sustainable Planning Act 2009

Appeal Number:	25-15
Applicant:	Mr W R Reid
Assessment Manager:	Sunshine Coast Regional Council
Concurrence Agency: (if applicable)	N/A
Site Address:	2 Rosewood Rise Flaxton and described as Lot 10 RP 838739 Pr 102 – the subject site

Appeal

Appeal under section 527 of the *Sustainable Planning Act 2009* (SPA) against the decision of the Assessment Manager to refuse a Development Application for a Preliminary Building Approval for a shed (Application).

Date and time of hearing:	11.00am Friday 25 September 2015
Place of hearing:	The subject site
Committee:	Robin King-Cullen – Chair Samantha Hall - Member
Present:	William Reid – Applicant Yvonne Reid – wife of Applicant Luke Owen-Jones - Earthcert Building Approvals, the building certifier Steven Rosenius –Sunshine Coast Regional Council representative

Decision:

The Building and Development Dispute Resolution Committee (Committee), in accordance with section 564 of the SPA **sets aside** the decision appealed against and approves the Application subject to the following conditions:

- (a) provision of landscape buffering between the proposed shed and Rosewood Rise along the north eastern side boundary of the subject site to screen the shed from Rosewood Rise;
- (b) the exterior colour of the shed to be characterised by muted earth/environmental tones that blend with the hinterland rural and natural environment.

Background

On 22 June 2015, the Application was lodged with the Assessment Manager.

By letter dated 22 July 2015, the Assessment Manager advised the Applicant that it had decided to refuse the Application for the following reasons:

“the proposed development does not comply and cannot be conditioned to comply with the Sunshine Coast Planning Scheme 2014, Part 9, 9.3.6 Dwelling House Code, Blackall Range Local Plan Area, performance Outcomes PO13.

Where for a dwelling house, the development:-

(a) has a scale and bulk that is subservient to the natural and rural landscape with building forms that are visually broken up.”

On 17 August 2015, the Applicant filed an appeal with the Building and Development Dispute Resolution Committees against the Assessment Manager’s decision to refuse the Application.

The proposal

The proposed shed has a floor area of 230 square metres. It is 20 metres in length and 11.5 metres in width with a maximum height at the roof apex of 4.4 metres. The existing house and carport on the subject site are stated to have a floor area of approximately 242 square metres. The combined total floor area of the existing house, the existing carport and the proposed shed is stated to be approximately 472 square metres.

The proposed shed is to house the owner’s 5 vintage cars, which he intends rebuilding as a hobby, and for the storage of household tools and equipment.

The site and locality

The subject site has an area of 4941 square metres and is located in a low density residential estate abutting the northern boundary of the Kondalilla National Park. It has been developed with a single story brick house, a freestanding carport and associated landscaping.

The site slopes down from Rosewood Rise in both a northerly and easterly direction. The house and carport are located toward the frontage of the subject site in a north-west/south-east orientation. The area proposed for the shed has been excavated and levelled and is approximately 3 metres below the level of Rosewood Rise and approximately 4 metres below the level of the house. This excavated area is located to the east of the house behind the carport and frontage landscaping.

The proposed shed is to be located approximately 30 metres from the front boundary and approximately 20 metres from the north eastern side boundary. Due to the shape and slope of the subject site, the location of the carport as well the location and density of the frontage landscaping, the proposed shed will be visible from Rosewood Rise only over that small section of the site’s frontage which has been cleared to give access to the excavated area that is to be the location of the proposed shed. Significant vegetation exists along the side and rear site boundaries, providing screening to the excavated area that is to be the location of the proposed shed.

The Sunshine Coast Planning Scheme 2014

The subject site is located within the Blackall Range Local Plan Area of the Sunshine Coast Planning Scheme 2014 (SCPS 2014). As such, the proposed development triggers the specific provisions of Performance Outcome PO13 in Part 9, section 9.3.6 Dwelling House Code, Blackall Range Local Plan Area of the SCPS 2014, which provides the following:

“The dwelling house:-

- (a) has a scale and bulk that is subservient to the natural and rural landscape with building forms that are visually broken up;*
- (b) has exterior surfaces that allow the dwelling house to blend in with the natural and rural landscape; and*
- (c) incorporates roof forms that are consistent with traditional rural or rural village setting.”*

In its decision to refuse the Application, the Assessment Manager referred only to (a) above.

The Acceptable Outcomes corresponding to PO 13(a) are AO 13.1 and AO 13.2. AO 13.1 is not relevant to the Application as it limits the number of storeys of the dwelling house to two. Relevantly though, AO 13.2 provides:

“The total footprint of the *dwelling house*, including any associated garage, carport or shed, does not exceed 280m².”

For the sake of completeness, the Committee noted that the definition of “dwelling house” in the SCPS 2014 includes not just a residential dwelling but also out-buildings and works normally associated with a dwelling house, such as a garage, carport or shed.

The proposed development does not comply with AO 13.2 in that the combined footprint of the existing dwelling house, carport and the proposed shed is 472 square metres. The proposed development must therefore be assessed against PO 13(a).

In considering the proposed development, the Committee also noted that under Part 3 Strategic Framework of the SCPS 2014, the Blackall Range is identified in Table 3.8.2.1 as having regionally significant landscape features. Specific Outcome 3.8.2.1(e) relevantly provides that “The prominent landscape features identified in Table 3.8.2.1 (Regionally significant landscape features) and important views to these features are protected from intrusion from buildings and other aspects of urban development.”

The Committee was of the view that the proposed shed would not impact on important views to the Blackall Range’s significant landscape features.

Material Considered

The material considered in arriving at this decision comprises:

1. ‘Form 10 – Appeal Notice’, grounds for appeal and correspondence accompanying the appeal lodged with the Committees Registrar on 17 August 2015.
2. Oral submissions by the Applicant, the building certifier and the representative of the Assessment Manager at the hearing.
3. The Committees’ on site inspection of the subject site and immediate locality.
4. The Assessment Manager’s response to the Committee’s request for advice about the date that it received the development application.
5. The *Building Act 1975* (BA).
6. The *Sustainable Planning Act 2009* (SPA).
7. The Sunshine Coast Planning Scheme 2014 (SCPS 2014).

Findings of Fact

The Committee makes the following findings of fact:

1. The premises currently has no enclosed storage area outside of the dwelling house.
2. The proposed shed is intended to house the Applicant’s 5 vintage cars which he intends rebuilding as a hobby, and for the storage of household tools and equipment.
3. The floor area of the proposed shed when combined with the floor area of the existing single story dwelling and the existing carport, will give an overall footprint on the subject site of approximately 472 square metres. This is well in excess of a footprint of not more than 280 square metres identified in AO13.2 of the Dwelling House Code of the SCPS 2014.

4. The subject site slopes down from Rosewood Rise in both a northerly and easterly direction.
5. Due to the shape and slope of the subject site, the location of the existing carport as well as the location and density of the frontage landscaping, the proposed shed will be visible from Rosewood Rise only over that small section of the site's frontage which has been cleared to give access to the excavated area that is to be the location of the proposed shed.
6. The subject site has an area of 4941 square metres. The combined building footprint of the existing house and carport and the proposed shed is approximately 472 square metres (equivalent to a site cover of less than 10%). The balance of the site area is either landscaped or covered in natural vegetation, which would screen the proposed shed from neighbours opposite and abutting the subject site.
7. The proposed shed will not impact on important views to the Blackall Range's significant landscape features.

Reasons for the Decision

The proposed development is considered to comply with the Performance Outcome PO 13(a) of Part 9, 9.3.6 Dwelling House Code of the SCPS 2014, in that it has a scale and bulk that is subservient to the natural and rural landscape when taking into account the following:

1. The proposed shed will not impact on important views to the Blackall Range's significant landscape features.
2. Due to the size, shape and topography of the subject site, the proposed location of the shed is such that it will be visible from Rosewood Rise only over that small section of the subject site's frontage, which has been cleared to give access to the excavated area that is to be the location of the proposed shed. Introduction of additional landscape buffering to this area as required by condition (a) of the Committee's approval will ameliorate any adverse impact of the proposed shed upon Rosewood Rise.
3. The proposed boundary setbacks, the location of the shed in relation to the existing house and carport and the extent of existing vegetation on the subject site, all serve to buffer and screen the proposed development from adjoining and nearby properties. The proposed shed will be "subservient" literally because it will be below the ground level and more particularly it will be below the roof lines of the existing house and carport.
4. The relatively low site coverage of all buildings and structures on the subject site, when compared to the extent of the subject site covered in vegetation.
5. The mitigation of the proposed shed's visual impact by appropriate colour treatment of its exterior finishes as required by condition (b) of the Committee's approval.

Robin King-Cullen
Building and Development Committee Chair
Date: 7 October 2015

Appeal Rights

Section 479 of the *Sustainable Planning Act 2009* provides that a party to a proceeding decided by a Committee may appeal to the Planning and Environment Court against the Committee's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Committee or
- (b) that the Committee had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Committee's decision is given to the party.

Enquiries

All correspondence should be addressed to:

The Registrar of Building and Development Dispute Resolution Committees
Building Codes Queensland
Department of Housing and Public Works
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