



Building and Development Dispute Resolution Committees—Decision

Sustainable Planning Act 2009

Appeal Number:	40 - 13
Applicant:	Richard Barrie
Assessment Manager:	Don Grehan of Pacific BCQ
Concurrence Agency: (if applicable)	Sunshine Coast Regional Council (Council)
Site Address:	4 Centenary Heights Road, Coolum Beach, described as 4 on RP 95015 (subject site)

Appeal

Appeal under section 527 of *Sustainable Planning Act 2009* (SPA) against the decision of the Assessment Manager to refuse a preliminary application for building work (Application) for a garage to be constructed within the road boundary setback area. The decision followed the Concurrence Agency's advice directing the Assessment Manager to refuse the application.

Date and time of hearing:	10.00am Thursday, 6 February 2014
Place of hearing:	6 Centenary Heights Road (Subject Site)
Committee:	Shane Adamson – Chair Debbie Johnson – Member
Present:	Don Grehan - Pacific BCQ (Assessment Manager) Gary Sheffield - Sunshine Coast Regional Council (Concurrence Agency representative)

Decision:

The Building and Development Dispute Resolution Committee (Committee), in accordance with section 564 of the SPA **confirms** the decision made by the Assessment Manager to refuse the Application.

Background

On 8 November 2013, the Applicant applied for a preliminary approval for building works seeking to construct an attached garage setback 3m from the eastern road boundary and 100mm from the northern side boundary. The 40m² structure was to be fully enclosed with a pitched roof to match the roof line of the existing dwelling on the site. The single storey garage was to have an overall width of 6.460m and length of 6.230m with a 700mm wide eave overhang along the southern side. On the same day, the Assessment Manager referred the application to the Sunshine Coast Regional Council as Concurrence Agency because the proposed garage was to be built within the 6m building setback area along the street frontage.

On 18 November 2013, the Council issued an information request to the Assessment Manager stating in part:

"....the application has a very dominate effect upon the streetscape. Please provide a design with less impact".

On 28 November 2013, the Assessment Manager responded to the information request stating in part

"....my client does not agree...please be advised that no changes to the submitted design are proposed, we request that you decide the request for referral agency advice at your earliest convenience... ."

On 3 December 2013, the Council directed the Assessment Manger to refuse the Application stating in part:

"...the proposed garage does not conform with the building character and appearance of other properties within the street. Most dwellings are setback in compliance with the Maroochy Plan."

On 12 December 2013, the Assessment Manager issued a decision notice refusing the Application.

On 24 December 2013, the Applicant lodged an appeal with the Committee Registrar about the refusal of the Application.

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 Committee's Registrar on 24 December 2013;
2. Oral submissions by the Assessment Manager and the Council representative at the hearing and the further written submission provided at the hearing by the Council representative;
3. Property details as available through Council's website;
4. Historic aerial photographs of the subject site as viewed through Google Maps;
5. The Maroochy Plan 2000 (in particular the Detached House Code);
6. *The Sustainable Planning Act 2009* (SPA);
7. Queensland Development Code MP 1.2 – Design and Siting Standard for Single Detached Housing – on Lots 450m² and over (QDC MP1.2)

Findings of Fact

The Committee makes the following findings of fact.

The site is located on the western side of Centenary Heights Road within an established urban area of Coolum. The locality is characterised by dwellings located on similar sized allotments, with most dwellings having a 6m building setback, except those on some corner allotments, which appear to have a reduced building setback of about 4.5m to the secondary frontage.

The subject site has a frontage of about 20m and contains a dwelling that is setback about 6m from the front property boundary. There is some low level vegetation within the 6m building setback area near the frontage.

The driveway leads to a single garage within the dwelling and a single bay carport erected on the northern side, which extends to the boundary. The single garage is currently used by the residents as a study area although the garage roller door remains in place. At present any onsite car parking is either on the driveway or in the single carport. It is over the area of the

driveway that the Applicant intends to construct the new double garage. Further, the Applicant advises that the carport would be demolished if the new garage is approved and built.

The existing dwellings on both adjoining sites appear to have their garage areas setback 6m from the road frontage. This is typical of dwellings in the immediate vicinity. It should be noted that under acceptable measure A2.1 of the Detached House Code of the Maroochy Plan 2000, single storey homes can have a reduced setback of 4.5m. However, this applies only to habitable areas with a window or transparent door facing the street and carports, but not garages.

The neighbouring dwelling on the northern side is setback 1.5m from the common boundary. The new double garage is to be aligned with the northern boundary having a length of 6.2m. The neighbouring property could be adversely affected by the proposed siting of this structure.

In the Application material the Assessment Manager advised that there were a number of properties in Centenary Heights Road that have structures within the front 6m setback area. At the hearing the Council representative provided a submission that showed that few, if any of the properties mentioned above have approvals for these structures.

In any event, it is evident from the site inspection that the existing character of the area is comprised of dwellings predominately setback 6m to the road frontage. Exceptions to this, are those homes on corner allotments, where the setback to the secondary frontage would be about 4.5m.

The Queensland Development Code Part MP1.2 (QDC MP 1.2) determines the design and siting standard for single detached housing on lots 450sq/m and over. However, in addition to the QDC, local planning schemes may impose additional or alternative requirements. The Maroochy Plan 2000 provides alternative siting requirements to those found in the QDC. Therefore, the Acceptable Solutions and Performance Criteria of the QDC do not apply to this development.

Under the Maroochy Plan 2000, the relevant garage siting provisions from the Detached House Code is acceptable solution A2.3, which states:

In Residential (other than Sustainable Rural Residential), Centre, Industrial, Special Purpose and Master Planned Community Precincts:

The minimum street setback for garages (including corner lots) is 6 metres; and

Garages doors facing the street (i.e. within 0 to 45 degrees of parallel to the street) have a maximum aggregate width of:

- *6m, or*
- *50% of the allotment frontage width, (whichever is the lesser).*

The site is located in a Neighbourhood Residential precinct. Because the proposed siting for the garage does not meet the acceptable solution, an assessment is required against the performance criteria.

Under the Detached House Code, performance criteria P2, states:

Buildings and structures are sited to contribute positively to the streetscape, maximise community safety, and maintain the amenity of adjacent land and dwellings by having regard to the following:

- a) Views and vistas;*
- b) Building character and appearance;*
- c) Causal surveillance; and*
- d) An adequate area suitable for landscaping being provided for at the front of a lot.*

In this case there are no views or vistas that are of real concern. However, the proposed garage will impact upon the views of the northern property to the south. This will marginally reduce casual surveillance from the subject site and will also have some impact on the casual surveillance of the adjoining site to the north. If the garage were to be allowed there will also be a loss of land that could be landscaped near the adjoining boundary to the north.

Importantly, the proposed garage is an enclosed structure with a pitched roof having an area of about 40m². The width of the garage is 6.460m, parallel to the frontage, and will present as a solid structure protruding 3m into the building setback area, which is significant.

Reasons for the Decision

The proposed garage will be a significant structure located close to the adjoining property boundary to the north and within 3m of the front property boundary. Given the size and bulk of the structure the Committee finds that the garage will not contribute positively to the streetscape and will adversely impact upon the amenity of the adjoining property to the north. The proposed development is not in keeping with the character and appearance of other buildings in the locality and therefore the Committee confirms the decision of the Assessment Manager to refuse the Application.

Shane Adamson
Building and Development Committee Chair
Date: 11 March 2014

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
GPO Box 2457
Brisbane QLD 4001
Telephone (07) 3237 0403 Facsimile (07) 3237 1248