



**Building and Development Tribunals**

**Queensland Government**

Department of **Local Government and Planning**

**APPEAL**

*Integrated Planning Act 1997*

**File No. 03-06-110**

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**BUILDING AND DEVELOPMENT TRIBUNAL – DECISION**

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**Assessment Manager:** Gold Coast City Council (“the Council”)

**Site Address:** *Withheld* – “the subject site”

**Applicant:** *Withheld*

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**Nature of Appeal:**

This is an appeal under s 4.2.7 of the *Integrated Planning Act 1997* (“**IPA**”) against the decision of the Gold Coast City Council about the design and siting requirements of an unenclosed carport on the subject land.

The development application, required under Part 5 Division 2 Chapter 4 of the Gold Coast Planning Scheme 2003 to permit the erection of a carport at a minimum distance of 0.665 metres (Point A) to the outermost projection from the “the subject site” front property boundary, was approved by the Council, subject to conditions, by Decision Notice dated 17 November 2006.

The applicant appealed the Council’s decision by Notice of Appeal received by the Tribunal on 15 December 2006.

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**Date and Place of Hearing:** 9 March 2007 commencing at 9am,  
Level 14 Mineral House, 41 George Street, Brisbane.

**Tribunal:** Mr Paul R Smith

**Present:** Applicant / Owner;  
Casey Mitchell, by telephone – Gold Coast City Council

**Decision**

The decision of the Council, as contained in its written Decision Notice dated 17 November 2006 is **set aside** and the application is instead approved **subject to the following conditions**:

**Conditions of Approval:**

1. *The development shall be carried out generally in accordance with the plans submitted to Council (Drawing No. WD01/2, WD02/2, WD03/2 and WD04/2 Dated 17-6-05 Drawn by EXCEL DESIGN), stamped and returned with this decision notice, except where modified by the conditions of approval herein.*
2. *The carport must be open in accordance with the Building Code of Australia Part 3.7 (figure 3.7.1.7).*
3. *The carport must be exclusively used for the parking of vehicles.*
4. *The carport is to be constructed using materials with patterns, textures and colours compatible with those of the main building. To alleviate any doubt, the carport shall:*
  - *Be of Dutch Gable design; and*
  - *Supporting posts being 350mm of brick column construction, rendered and painted similar to that of the external façades of the primary dwelling on the site; and*
  - *The roof of the carport shall be of colourbond sheeting in a colour matching the tiled roof of the primary dwelling on the site.*
5. *No enclosure, screening, or enclosed covering is to be placed or attached to the left and right-hand sides of the carport.*
6. *The carport height shall not exceed 2.4 metres above natural ground level to the under side of the carport ceiling with a maximum height of 4.0 metres above natural ground level to top of apex/ridge line.*
7. *The carport width shall not exceed 6.2 metres, inclusive of supporting columns, with an overall carport width, including eaves projections, shall not exceed 7.2 metres.*
8. *Any existing vehicular crossover or similar is to be removed and the kerb and channel reinstated to the satisfaction of the Chief Executive Officer.*
9. *The applicant is advised that an application for a Vehicular Crossing Permit is required to be obtained, prior to the issuing of any development permit for building work, in accordance with the requirements of Local Law No. 11. The vehicle crossover must demonstrate compliance with Council's standard Drawings for Vehicle Crossover as apart of the land Development Guidelines and AS2890.*
10. *The siting of the carport is approved subject to the finished slab height being compatible with Gold Coast City Council standards for Vehicular Crossings and Part 2.4.6.1 of AS/NZS 2890.1.2004 (re: maximum gradient within the carports parking module).*
11. *The use shall not cause any adverse impact on the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or otherwise to the satisfaction of the Chief Executive Officer.*

12. All lighting devices associated with the development shall be positioned on site and shielded to the satisfaction of the Chief Executive Officer so as not to cause glare or other nuisance to nearby residents and motorists.

13. During the transportation of soil and other fill material:

- All trucks hauling soil, or fill material shall have their loads secure and covered; and
- Any spillage that falls from the trucks or their wheels shall be collected and removed from the site and streets along which the trucks travel, on a daily basis; and
- Prior to vehicles exiting the site measures shall be taken to remove soil from the wheels of such vehicles to prevent soil and mud being deposited on public roads and streets.

14. Responsibility for the correct siting of the structures rests with the owner of the property. An identification survey, indicating the property and all boundary setbacks of the structures, may be required at an inspection stage to ensure the above-approved boundary clearances do not differ.

15. Surface water, resulting from a 1 in 20 year storm event and which is collected or concentrated by a building or site works, must be disposed of in a way which avoids the likelihood of damage or nuisance to any other building or property in the neighbourhood, to the satisfaction of the Chief Executive Officer.

16. A key objective of the City wide landscape character theme is to achieve a green and attractive residential environment, and accordingly frontage fences must visually enhance the streetscape amenity.

The following are examples of frontage fences that will comply:

- 50% open type construction.
- Contain recesses (minimum 600mm depth x 600mm width x 50% of the frontage fence length) for landscaping plantings.
- Be offset a minimum 600mm from the road front property boundary to allow for the provision for landscaping.

17. The applicant must comply with all relevant Specific Development Codes and Constraint Codes for the Domain or Local Area Plan (LAP) in accordance with the Gold Coast Planning Scheme 2003.

18. The construction of all works to be carried out pursuant to these conditions shall be carried out only between the hours of 6.30am and 6.30pm Monday to Saturday inclusive. No building or construction work will be carried out outside these hours or on Sundays or Public Holidays unless written approval is given by the Chief Executive Officer.

**Type of Approval:**

Preliminary Approval.

***Further Development Permits Required:***

*This is a Preliminary Approval only. To allow the development to be carried out, the following Development Permits are required: Building Works, Vehicle Crossover Permit*

***Advisory Note:***

*Development may commence only where the approval given by Council is a Development Permit and no other Development Permits are required to allow development to be carried out.*

*The applicant is advised that nothing in this approval alleviates the need to observe all relevant legislation, Council's Planning Schemes and Local Laws.*

**Material Considered**

Both parties consented to the revised conditions of approval.

**Findings**

I find that the revised conditions of approval are relevant to or reasonably required by the development application.

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**Paul Smith**  
**Building and Development Tribunal General Referee**  
**Date: 13 April 2007**

## **Appeal Rights**

Section 4.1.37. of the *Integrated Planning Act 1997* provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal 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 Tribunal's decision is given to the party.

## **Enquiries**

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals  
Building Codes Queensland  
Department of Local Government, Planning, Sport and Recreation  
PO Box 15031  
CITY EAST QLD 4002  
**Telephone (07) 3237 0403: Facsimile (07) 32371248**

