

Case Note: Wingfield and City of Bayswater

Carport depth and vehicle over footpath

In [Wingfield and City of Bayswater \[2020\]](#) WASAT 152, SAT considered a decision of the City to refuse a development application for a carport in the front setback of a single residential lot. The City refused approval of the application on two grounds, one of which was that the carport did not meet the minimum vehicle length requirement under Clause 5.3.4 Design of Car Parking Spaces [1; 11].

The City was concerned that the approval of the carport would lead to a situation where parked vehicles would overhang the lot and create a potential safety hazard for pedestrians using the adjacent public footpath.

The Tribunal found that the City's concerns about overhanging vehicles 'carried resonance', in relation to the objectives under Element 5.3 of the R-Codes [108]. The potential for vehicles to overhang the footpath creates a potential safety hazard for users of the footpath, including residents and visitors. Further, the potential for overhanging vehicles is inconsistent with an objective under the R-Codes for ensuring access to housing has provided for the safety and legibility to footpaths for residents and visitors. [109; 111; 131]

The tribunal made several additional findings:

The potential safety hazards from approving the development application must be balanced against the interest of the owners in using their lot for car parking space. In this case, the owners already have a twocar garage and so their need for car parking space is, to some extent, already met. [122]

Any current unapproved use of their driveway to park more cars cannot be relied upon by the owners to support a need for more car parking space in this application, because it is this very need that has to be assessed as part of this application for a carport. [123]

Whilst the owners indicated an intention to use the carport for parking their own car (less than the proposed carport's length), the development approval applies to future landowners' approval to park any vehicle in the carport. [124]