



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	26-019
Appellant:	Julie M Lindstrom and Michael A Wallas
Assessment manager:	Alex Otago
Co-respondent (concurrence agency)	Noosa Shire Council
Site address:	67 Wyuna Drive, Noosaville Qld 4566 described as Lot 33 on N10575—the subject site

Appeal

Appeal under 229 and schedule 1, table 1, item 1(a) of the *Planning Act 2016* (PA) against a decision to refuse an application for a development permit, specifically, a relaxation to exceed the maximum building height for a dwelling house by the installation of a lift.

Date and time of hearing:	11am, 27 May 2026
Place of hearing:	The subject site
Tribunal:	John Panaretos—Chair Lisa Lambie—Member
Present:	Jack Lewis—Appellant's Agent Frank Macchia—Architect (via Zoom) Michael Wallas and Julie M. Lindstrom—Appellants/Owners (via Zoom) Julie Anne Reyboz—Macchia Design Studio (via Zoom) Matthew Pinese—Noosa Shire Council representative Andrew Gaffney—Noosa Shire Council representative

Decision:

The Development Tribunal (tribunal), in accordance with section 254(2)(a) of the *Planning Act 2016* (PA) confirms the decision of the assessment manager to refuse the application.

Background

1. The existing two storey house is topped by a roof terrace accessible via external stairs from the main bedroom on the first floor.

2. The appellants wish to improve accessibility to the roof terrace from the ground floor, particularly for elderly relatives, by installing a lift in an existing central courtyard of the house. As proposed, the top of the lift structure would exceed the Low Density Residential Zone Code's acceptable height solution of 8 metre by 1.5 metres.
3. The alternative height of 9.5 metres proposed would require referral to council as concurrence agency. Consequently, the appellants applied for an early referral agency response for the increased height.
4. Council issued a 'further advice' letter on 10 October 2025, requesting verification of ground level to confirm the actual height of the structure as well as a reduction in height.
5. The further information provided in response sought to justify the proposed alternative height without a reduction and Council directed refusal of the application for the following reasons:
 1. *The proposal does not comply with Overall Outcomes 6.3.1.2 (2) (c) of the Low Density Residential Zone Code as the development does not make a positive contribution to the streetscape and does not maintain the low density and low scale character of the zone.*
 2. *The proposal does not comply with Acceptable outcomes AO7.1 and corresponding Performance Outcome PO7 of the Low Density Residential Zone Code as:*
 - a. *The proposed lift structure and associated building elements height of 9.5 metres (measured from 2.5m AHD) is not consistent with development within the surrounding area nor does it complement the landform of the site. The encroachment worsens the perception of building height and scale when viewed from the neighbouring and low-rise character of the surrounding area;*
 - b. *The application failed to demonstrate compliance with PO7 of the Low Density Residential Zone Code. The applicant did not reduce the lift structure height or provide clear delineation of natural ground and finished floor levels, preventing accurate assessment of building height, bulk, and scale.*
 - c. *The design does not respond to site landform or contribute positively to the streetscape. The lift shaft and massing appear as a vertical addition out of scale with surrounding dwellings.*
 - d. *The massing and lift structure do not respect the scale of surrounding vegetation and would interrupt the vegetated skyline characteristic of the locality.*
6. The assessment manager (building certifier) accordingly refused the building development application.

Additional evidence tendered at and after the hearing

7. It was emphasised that the lift is limited to 2.5m² in floor area and is made of glass and powder-coated aluminium; it is set back from neighbours on all sides and gives access to all floors; it does not overshadow neighbours and it does not increase the number of storeys.
8. The lift structure was also compared to a chimney, a rooftop structure which is exempt from the code's height limit.

9. With respect to the overall height, the appellants' agent stated that the finished floor level of the house was 2.7 metres but the lift motor room was 200 mm lower, thus at 2.5m.
10. Council pointed out that the house was approved before the 2006 planning scheme, under which a 'prohibition' on roof terraces was introduced into the planning scheme [by way of an Acceptable Outcome]. Thus, 'no particular standards' now apply to roof terraces because [pursuant to Acceptable Outcome AO 16.2] 'entertainment decks' are not envisaged by the scheme. Council's view is that in this case, better access to the existing roof terrace should be achieved 'within the scheme limits'.
11. In response, the appellants' agent stated, firstly, that the elevator was the smallest available and that the house could not be approved for short stay accommodation as it is not in a 'party zone'.
12. Finally, Council pointed out that there was no clear ground height reference on the plans, thus the overall height of the lift structure could not be verified.
13. The tribunal directed that the appellants provide further information to verify ground height as well as photomontages and perspectives showing the appearance of the rooftop lift structure from vantage points in Wyuna Drive inspected by the tribunal during the hearing.
14. In addition to the required further information, including original house plans which were intended to demonstrate the natural ground level as defined by the planning scheme, the plans were amended to demonstrate landscape screening on the terrace and to incorporate a planter and landscaped trellis structure around three sides of the lift and courtyard void at the rooftop. Although not dimensioned, the trellis structure would measure between three and four metres in length and width and would be slightly lower than the lift structure.
15. Along with council's responses, this information was assessed in the determination of this appeal.

Jurisdiction

16. Section 229(1) of the PA provides that schedule 1 ('the schedule') of the PA states the matters that may be appealed to a tribunal.
17. Section 1(1)(b) of the schedule provides that the matters stated in table 1 of the schedule ('table 1') are the matters that may be appealed to a tribunal. However, subsection 1(2) of the schedule provides that table 1 only applies to a tribunal if the matter involves one of the matters set out in section 1(2).
18. Section 1(2)(g) provides that table 1 applies to a tribunal if the matter involves a matter under the PA, to the extent the matter relates to the *Building Act 1975*, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission.
19. Table 1 thus applies to the tribunal in this appeal. Accordingly, the tribunal is satisfied that it has jurisdiction to hear and decide this appeal.

Decision framework

20. The onus rests on an appellant to establish that an appeal should be upheld (section 253(2) of the PA).
21. The tribunal is required to hear and decide an appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against (section 253(4) of PA); however, the tribunal may nevertheless (but need not) consider

other evidence presented by a party with leave of the tribunal, or any information provided under section 246 of PA.

22. The tribunal is required to decide an appeal in one of the ways mentioned in section 254(2) of the PA, and the tribunal's decision takes the place of the decision appealed against (section 254(4)).
23. The tribunal must not make a change, other than a minor change, to a development application (section 254(3)).

Material considered

24. The material considered in arriving at this decision was:
 - (a) Form 10 Notice of appeal, grounds for appeal and correspondence accompanying the appeal lodged with the Tribunals registrar on 8 April 2026.
 - (b) 'Further advice' letter from council dated 10 October 2025
 - (c) 'Amended Early Referral Agency Response – Refusal' letter from council dated 27 February 2026
 - (d) 'Decision Notice Refusal' issued by Lateral Certification Group on 27 March 2026
 - (e) Verbal submissions given by both parties at the tribunal hearing on 27 May 2026
 - (f) Observations made at the house and during a site walk along the subject street at the hearing
 - (g) Appellants' amended plans and comments submitted to the registrar on 11 June 2026 including photographs taken on 4 June 2026
 - (h) Council's comments on the amended plans submitted to the registrar on 18 June 2026
 - (i) Noosa Plan 2020 (25 September 2020)
 - (j) The Queensland Planning Act (2016)

Findings of fact

25. The tribunal makes the following findings of fact:
 - (a) While the roof terrace would be more easily accessible from 'public areas' of the house, thus increasing the potential for entertainment activities on the terrace, the appellants' proposed rooftop landscaping somewhat compensates for this change by reducing the useable area of the terrace.
 - (b) The proposed lift structure is located well within the perimeter of the existing house. It is largely screened by established palm trees on its eastern approach. However, it will be visible from the western approach to the house on Wyuna Drive.
 - (c) The proposed overall height of the lift structure would exceed the height of surrounding houses and would be prominent in the streetscape, particularly on the western approach.
 - (d) The original house plans provide no clear ground height reference and thus the overall height of the structure could not be verified.
 - (e) The proposed trellis solution to screen the lift structure increases the horizontal dimensions and therefore the bulk of the additional height and retains a rectangular form.

Reasons for the decision

26. The proposed overall height of the structure from Natural Ground has not been confirmed.
27. The proposed height of the building including the lift structure is not consistent with structures on adjoining and surrounding premises and with the predominant character of the area, as required by Performance Outcome PO7(a).
28. The bulk of the proposed trellis solution does not contribute positively to the desired character of the neighbourhood.

John Panaretos
Development Tribunal Chair

Date: 13 July 2026

Appeal rights

Schedule 1, table 2, item 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.

The following link outlines the steps required to lodge an appeal with the Court.

<http://www.courts.qld.gov.au/courts/planning-and-environment-court/going-to-planning-and-environment-court/starting-proceedings-in-the-court>

Enquiries

All correspondence should be addressed to:

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