



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	25-047
Appellant:	Chris and Dani Clout
Respondent/ Assessment manager:	Noosa Shire Council
Site address:	11 Crusoe Court, Castaways Beach Qld 4565 and described as Lot 98 MCH 807481 – the subject site

Appeal

Appeal under section 229 and schedule 1, section 1, table 1, item 2(a) of the *Planning Act 2016* against the decision of the assessment manager to refuse a request for a minor change to a development approval over the subject site.

Date and time of hearing:	10.00am 20 February 2026
Place of hearing:	The subject site
Tribunal:	Dr Christopher Robertson—Chair Marie-Anne Ammons—Member
Present:	Chris Clout—Appellant Jack Lewis—Town planner, Appellant’s agent Nadine Gorton—Council representative

Decision

The Development Tribunal (‘the Tribunal’), in accordance with section 254(2)(c) of the *Planning Act 2016* (PA) overturns the decision of Council, allowing the Minor Change to the approved additions to the detached house based upon the following conditions:

- (A) The construction complies with plans presented at the hearing. These include plans identified as Plans: C0.0 dated 08.08.25; C1.0 dated 08.08.25, C2.0 dated 08.08.25, C3.0 dated 08.08.25; C4.0 dated 08.08.25; C5.0 dated

08.08.25; C6.0 dated 08.08.25; C7.0 dated 08.08.25; C7.1 dated 08.08.25; C8.0 dated 08.08.25; C9.0 undated

- (B) A copy of the abovementioned plans are to be lodged with the Council
- (C) Plans are to be amended to be clearly labeled and provided with required details and measurements to demonstrate compliance with the Low Density Residential Zone Code, Noosa Plan 2020 in particular Acceptable Outcomes A07.1, A07.2, A08.1, A08.2, A09.1, A09.2 and A09.3.
- (D) Plans are to disclose the depth of the front pool especially in relation to the lower basement to ensure and demonstrate compliance with ceiling height.

Background

1. The subject site is 1224 sqm in size and runs in a west-east direction between Crusoe Street and David Low Way. The adjacent property to the north has no construction upon it.
2. On 25 October 2019, Council approved changes to the residence on the subject site under application DBW19/003. This appeal is based upon refusal of a minor change to this approval under application DBW19/003.03.
3. Correspondence from the Council dated 18 July 2025 advised the Appellant that:

This Further Advice letter is the final advice Council Officers will be asking for the proposal to comply with the Noosa Plan. If not addressed adequately through this process, the proposal may not be supported.
4. In response to the Further Advice Request on 18 August 2025, the Appellant revised the application, making a number of proposed changes and explanations involving:
 - (a) Addressing front and side setback issues through redesign and changed proposals.
 - (b) Redesign of the structure including definitive site cover, including ensuring the definition of a storey is complied with and site cover percentages.
 - (c) Redraft of the proposal within the definition of what is a storey, within the proposed storeys.
 - (d) Area that is covered by 40% site cover.
 - (e) Scale of the development with surrounding area.
5. A subsequent Decision Notice was sent to the Appellant dated 27 November 2025 providing a refusal of the Minor Change application based upon the following elements that were not demonstrated in the application and subsequent material:
 - (a) Proposed changes are contrary to Acceptable Outcomes AO7.1 and AO7.2 of the Low Density Residential Zone Code Noosa Plan 2020 as the dwelling house does not achieve 8m in height and exceeds the accepted two storeys.
 - (b) The proposed changes are contrary to the acceptable outcomes AO8.1 and AO8.2 of the Noosa Plan 2020, Low Density Residential Zone Code, as the development does not achieve 40% site cover at all levels and exceeds the accepted 500m² in gross floor area.
 - (c) The proposed changes are contrary to the acceptable outcomes AO9.1, AO9.2 and AO9.3 of the Noosa Plan 2020 Low Density Residential Zone Code as the development is proposed within the front and side boundary setbacks.

- (d) The proposal does not comply with Overall Outcomes 6.3.1.2(2)(b) and (c) of the Low Density Residential Zone Code Noosa Plan 2020 as the development does not make a positive contribution to the desired character of the existing low density residential neighbourhood.

Jurisdiction

- 6. Section 229(1) of the PA identifies that schedule 1 ('the schedule') of the PA states the matters that may be appealed to the Tribunal.
- 7. Table 1 of schedule 1 of the Act states the matters that may be appealed to the Planning and Environment Court or the Tribunal subject to (in the case of the tribunal) the preconditions stated in section 1(2) of schedule 1.
- 8. The Tribunal has jurisdiction to determine this appeal under section 229(1)(a)(i), schedule 1, section 1, table 1, item 1(a), and schedule 1, section 1(2)(g) of the Act.

Decision framework

- 9. The Appellant as the recipient of the decision notice must establish that the appeal should be upheld (under section 253(2) of the PA).
- 10. The Tribunal is required to hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision the subject of this appeal (under section 253(4) of the PA).
- 11. Section 249 of the PA provides the Tribunal with broad powers to inform itself in the way it considers appropriate when hearing a tribunal proceeding and the Tribunal may seek the views of any person.
- 12. The Tribunal is required to decide the appeal in one of the following relevant ways set out in section 254(2) of the PA:
 - (a) confirming the decision; or
 - (b) changing the decision; or
 - (c) replacing the decision with another decision; or
 - (d) setting the decision aside and ordering the person who made the decision to remake the decision by a stated time.

Material considered

- 13. The following material was considered in arriving at this decision:
 - (a) Form 10 Notice of Appeal, including grounds for appeal and correspondence accompanying the appeal lodged with the Tribunals registrar on 2 January 2026/01/2026 January 2026.
 - (b) Additional materials (plans) supplied by the Appellant at the hearing on the 20 February 2026.
 - (c) The Noosa Plan 2020 including the Low Density Residential Zone Code.

Findings of fact

- 14. The Tribunal makes the following findings of fact:
 - (a) The northern site property adjacent to the subject site has no structure, residential or otherwise, upon it; thus, to both sides of the subject site, the streetscape character of Crusoe Court is not yet established.

- (b) The David Low Way frontage is effectively screened by vegetation and fencing, preventing any meaningful views into the subject site from the road corridor.
- (c) The applied for proposed minor change to the subject site requires alterations to the residence but still complies with the definition of a 'minor change' under schedule 2 of the PA. The intended use remains unchanged and no referrals are triggered.
- (d) Definition of storey—The *Noosa Plan 2020* defines storey as meaning a space within a building between two floor levels, or a floor level and a ceiling or roof, other than—
 - i. a space containing only a lift shaft, stairway or meter room; or*
 - ii. a space containing only a bathroom, shower room, laundry, toilet or other sanitary compartment; or*
 - iii. a space containing only a combination of the things stated in subparagraphs (i) or (ii); or*
 - iv. a basement with a ceiling that is not more than 1m above ground level; and includes—*
 - 1. a mezzanine; and*
 - 2. a roofed structure that is on, or part of, a rooftop, if the structure does not only accommodate building plant and equipment.*

Reasons for the decision

14. The appellant has proposed a number of changes to the design which address the concerns raised by Council in a practical context. In particular:
- (a) Setbacks—Front and side setbacks area, in particular the car lift location within the 6m front setback—The only visible element is the safety surround that rises when the lift is used and is not a permanent fixture behind the fencing and gates. Further, the removal of the approved pavilion and construction of the carport facilitates greater opportunity for vegetation screening for the northern side and frontage. Additional plantings are to be put in the front, with the carport.
 - (b) Screening—Revised landscaping beds around the base of the building on the lower level floors have been installed to ensure ground levels meet the natural ground surface. It is envisaged these will also provide for deep buffer landscaping between the built form and neighbouring dwellings.
 - (c) Site cover—The revised design proposes renovation to the approved existing building. Building height is not to exceed 8m or to exceed two storeys. The revised plans supplied at the Tribunal hearing demonstrated the proposed works reduces the storeys of the structure to two and the structure to a maximum projected height of 8m by reducing the function of what each storey will contain, based upon use, in compliance with the definition of storey as defined by the *Noosa Plan 2020*. In practice the removal of the cinema, and making it into a car park, presents two storey levels within what is defined as a storey within the *Noosa Plan 2020*. These levels now include:
 - (i) Living space (level 1) ;
 - (ii) Garage extended to include/replace the approved cinema (this level also has laundry, bath and gym) (level 2); and
 - (iii) level 3 (basement), which holds water tanks, plant room and other services.

Proposed plans disclose no level exceeds 40% in site cover at all levels.

The redesign of the residence has made it comply with the definition of a two storey residence.

- (d) The Noosa Plan 2020 Low Density Residential Code limits the height of a structure to two storeys, not exceeding 8m in height or two storeys (AO7.1 and AO7.2) and the revised proposal complies with this requirement.
- (e) Side setbacks are located with the site structure boundary.
- (f) The location of the car lift in the front setback has minimal impact as it is located below ground and only retains the safety barrier when in use and visually is behind the fence and gates. It does not remain a permanent raised fixture.

Dr Christopher Robertson
Development Tribunal Chair

Date: 8 April 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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