



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	25-008
Appellant:	Brayden John Andreassen
Respondent (Assessment manager):	Cian Corcoran
Co-respondent (Concurrence agency):	Gympie Regional Council
Site address:	31 Curlew Court, Tamaree Qld 4570 described as Lot 5 on SP198590—the subject site

Appeal

Appeal under section 229 and schedule 1, section 1 and table 1, item 1(a) of the *Planning Act 2016* against the decision of the assessment manager, as directed by the concurrence agency, refusing a development application for a development permit for the construction of a shed.

Date and time of hearing:	Monday, 26 May 2025 at 10.00am
Place of hearing:	The subject site
Tribunal:	Mark Chapple—Chair Marie-Anne Ammons—Member Richard Hurl—Member
Present:	Brayden Andreassen—Appellant Angela Andreassen—Appellant's support Cian Corcoran—Appellant's agent Courtney Sharpe—Appellant's agent Andrew Parker, Paul Hay and Shane Adamson—Council representatives

Decision:

1. The Development Tribunal (Tribunal), in accordance with section 254(2)(d) of the *Planning Act 2016* (PA), sets aside the decision of the assessment manager to refuse the application and orders the assessment manager to:
 - a) remake the decision within 25 business days of this decision, as if the concurrence agency had no requirements; and
 - b) in the event that the assessment manager then decides to approve the application, to include the following conditions in the resultant building works development permit:

- *That before a Form 21 Final inspection certificate is issued with respect to any works the grounds of the subject site be landscaped and remain landscaped in accordance with the Element Design drawings attached to the appellant's response to Council's comment (dated 22 July 2025) from ED 25142 LA-01 to ED 25142 LA-06 (all Issue C) dated June 2025 and those landscape works be maintained in accordance with reasonable industry practices.*

Background

2. The appellant is an owner of the subject site. The subject site is a rural residential lot with an area of 7188m² and described as Lot 5 on SP198590. The lot contains the appellant's dwelling house and associated outbuildings, including a partially constructed substantial shed that is the primary focus of this appeal. The subject has direct frontage to the northern end of Curlew Court where the roadway terminates. The subject site is located within the Gympie Regional Council local government area. The immediate vicinity of the subject site is characterised by rural residential land uses.
3. Based on the material before the tribunal, the subject site is included within the Rural Residential Zone under the Gympie Regional Council Plan 2013, being the current and applicable planning scheme for the subject site ('the planning scheme'). Building works on the subject site are subject to the design and siting provisions of the Rural Residential Zone Code ('zone code') and Council's Adopted Amenity and Aesthetics Resolution 2023 (A&A).
4. On 17 January 2025, a referral was made to Council for a design and siting assessment and an A&A assessment for the referral agency response.
5. Council issued an information request on 22 January 2025 identifying that the size and bulk was excessive (12mx28m with a GFA 336m² and height of 5.3m) with rear setbacks at 1.2m. Concerns were raised about the scale and intent of the proposal and its incompatibility with the surrounding residential area. Council advised it was unlikely to be supported in its present form.
6. Project BA responded initially on 17 February 2025 with a letter of consent from the rear property neighbour (58 Lydon Drive). On 27 February 2025, the site plan was updated with an increased rear setback to 4m and details of the proposed storage use. Combined gross floor area (GFA) was updated to include the carport on 12 March 2025.
7. Council issued a referral agency response dated 8 April 2025, directing refusal of the application. The grounds for this decision were stated to be that the proposed shed would have an extremely adverse effect on amenity or likely amenity of the locality and would be in extreme conflict with the character of the locality. It was stated that the shed did not comply with Performance Criteria (PC) 5, 6 and 7.
8. On 29 April 2025, the assessment manager duly issued a decision notice refusing the application.
9. The appellant lodged this appeal with tribunal registrar on 2 May 2025.
10. A site inspection and hearing were held on the subject site on Monday, 26 May 2025 at 10.00am.
11. During the hearing, a Council representative advised Council would be prepared to consider landscape design drawings addressing PC5, PC6 and PC7.
12. Following the inspection and hearing, the tribunal issued the following directions on 5 June 2025:

The Appellant to provide to the Tribunal and all parties within 5 business days from the date of this direction:

- 1. The Statutory Declaration with respect to letters of support and proposed use of the shed referred to by Cian Corcoran at the hearing on 26 May 2025.*
- 2. The Decision Notice refusing the application inclusive of the stamped drawings making part of that decision.*

The Tribunal allows the Appellant 15 business days from the receipt of this direction to submit landscaping drawings addressing the area within the blue line and the additional vegetation screening in green on the attached drawing, prepared by a registered Landscape Architect with the Australian Institute of Landscape Architects (AILA) demonstrating the following:

- 1. A proposed site plan encompassing the existing site features including class 1A residence, driveway, existing vegetation and significant trees (species, heights and diameter) with proposed class 10 shed, circulation/vehicular manoeuvring entry and exit for each roller shutter, retaining walls, proposed materials for new hardscape elements (including new access driveway and pathways), new soft landscaping (including appropriate species, pot size and maturity) as a buffer/screening/shielding to ameliorate the bulk, scale and form of the shed against assessment benchmarks PC5, PC6 and PC7;*
- 2. East, south and west elevations of the proposed shed including the existing and proposed features described under item 1; and*
- 3. Any proposed changes to cladding colour of the shed to visually integrate and reduce the appearance of the visual height and bulk of the proposed shed.*

Council is to advise the Tribunal and all parties within 5 business days of receipt of this direction of Council's preferred plantings to be included in any such a plan including species and pot size of plants.

13. On 5 June 2025, Project BA provided the statutory declaration of letters of support and proposed use, and the assessment manager decision notice with stamped drawings.
14. On 23 June 2025 the Appellant provided Landscape Drawings ED 25142 LA-01 to ED 25142 LA-06 (all Issue B).
15. On 14 July 2025, Council provided a response to the appellant's submission raising the following issues:

Issue 1 - The screening provided in front of the shed does not extend far enough to provide partial screening of the southern wall of the shed when viewed from the road frontage.

Suggested Resolution - The screening located in front of the shed along the Western Elevation consisting of Syzygium Resilience should be continued in a south-easterly direction along the edge of the existing rock batter so as to extend screening past the end of the shed, thus providing partial screening of the Southern Elevation when viewed from the road. This is shown in red on the marked-up plans Sheets 01, 03 and 04 as attached.

Issue 2 - There is no indication of species or spacing for the 'Future Hedge Planting' shown at the rear of the shed along the eastern property boundary.

Suggested Resolution - Plantings for the Eastern Elevation hedge should establish screening using Syzygium Resilience or similar, growing to a height of minimum 1500mm, and extend past the southern end of the shed minimum 4000mm. This is shown in red on the marked-up plans Sheets 01, 03 and 04 as attached;

Issue 3 - There is no indication of timing for the 'Future Hedge Planting' shown at the rear of the shed along the eastern property boundary.

Suggested Resolution - The proposed 'Future Hedge Planting' shown at the rear of the shed along the eastern property boundary should be required to be planted within 6 months to assist with the screening of the shed from the neighbouring property.

16. On 22 July 2025, the appellant provided revised landscape drawings in response to the matters raised by the Council.

Jurisdiction

17. Section 229(1) of the PA provides that schedule 1 of the Act (the schedule), states the matters where there may be an appeal to a tribunal.
18. Section 1(1)(b) of the schedule provides that the matters stated in table 1 of the schedule, (table 1) are matters that may be appealed to a tribunal. However, section 1(2) of the schedule provides that table 1 only applies to a tribunal if the matter involves one of a list of matters set out in section 1(2).
19. 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 which must be decided by the Queensland Building and Construction Commission.
20. Considering the provisions mentioned, the Tribunal is satisfied that it has jurisdiction with respect to the decision to refuse the application made by Cian Corcoran.

Decision framework

21. For this appeal, the onus generally rests with the appellant to establish that the appeal should be upheld (section 253(2) of PA).
22. The Tribunal is required to hear and decide the appeal by way of a consideration of the evidence that was before the person who made the decision appealed against (section 253(4) of the PA). However, the Tribunal may nevertheless (but need not) consider other evidence presented by a party with the leave of the Tribunal and any information provided under section 246 of the PA.
23. The Tribunal is required to decide the 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)).
24. Section 33 of the BA allows a planning scheme to include alternative provisions for single detached Class 1 buildings and Class 10 buildings or structures to the provisions of the Queensland Development Code (QDC) for boundary clearance and site cover with respect to residential design and siting.
25. The Amenity and Aesthetics Resolution adopted by the Gympie Regional Council on 22 February 2023 in accordance with the Planning Regulation 2017 contains alternative provisions to the QDC.
26. The intent of the provisions is to ensure an aesthetically pleasing environment is maintained in cases where development, including a dwelling house (Class 1) or a

domestic building or structure (Class 10), is exempt under the Planning Scheme and may have an adverse effect on the amenity or the future amenity of the neighborhood in which the proposed building is to be erected.

27. The resolution lists three performance criteria relevant to the assessment of the proposed development and the achievement of the intent of the resolution where some, or all, of the acceptable solutions for building area, maximum height and boundary setbacks described in table 2 of the resolution have not been met:

PC5 Buildings or structures are of a size, bulk and form that is in keeping with the character of the area.

PC6 The location of the building or structure provides for an acceptable streetscape and does not adversely impact upon the amenity of neighboring properties.

PC7 Buildings or structures are designed and sited to visually integrate with the dwelling house and avoid dominating the street by minimizing the:

(i) width of the structure; and

(ii) projection of the structure forward of the main face of the dwelling house.

Material considered

28. The material considered and arriving at this decision was –

- (a) Form 10 – Notice of Appeal
- (b) Decision Notice – Cian Corcoran, Project BA – 19 April 2025
- (c) Concurrence Agency Referral Response – Gympie Regional Council – 8 April 2025
- (d) Screenshot with aerial view of subject site
- (e) Screenshot with dimensions.
- (f) Screenshot with image of truck from Best Sheds
- (g) Screenshot with shed dimensions and details of components
- (h) Screenshot with aerial view showing location of proposed shed
- (i) Screenshot with dimensions and perspective of proposed shed
- (j) Submission from Cian Corcoran
- (k) Referral Assessment Application and accompanying images and drawings
- (l) Information Request – Gympie Regional Council
- (m) Aerial view showing proposed shed location
- (n) Neighbour's statement – Kathleen Turner – 6 August 2025
- (o) Email – Brayden John Anderson to Cian Corcoran – 28 January 2025
- (p) Response to question
- (q) Email from Paul Hay of Gympie Regional Council to Project BA – 21 March 2025

- (r) Email – Project BA to Building Section, Gympie Regional Council – 12 March 2025
- (s) Email – Building Section, Gympie Regional Council to Project BA – 5 March 2025
- (t) Email – Project BA to Gympie Regional Council – 5 March 2025
- (u) Email – Building Section to Project BA – 4 March 2025
- (v) Email – Project BA to Gympie Regional Council – 27 February 2025
- (w) Email – Building Section to Project BA – 18 March 2025
- (x) Email – Project BA to Gympie Regional Council – 17 February 2025
- (y) Email - Gympie Regional Council to Project BA – 23 February 2025
- (z) Referral Agency response – Project BA – 27 March 2025
- (aa) Submission from Gympie Regional Council
- (bb) Statutory Declaration – Brayden John Anderson – 9 May 2025
- (cc) Drawings with site plan and elevation
- (dd) Landscape drawings – Element Design submitted by Appellant
- (ee) Landscape drawings with proposed alterations submitted by Gympie Regional Council
- (ff) Revised landscape drawings- Element Design – submitted by the Appellant.

Submissions of the parties

29. The Council submitted to the Tribunal that –

- (a) PC5 seeks to ensure that new development is in keeping with the character of the area and the Council's view is that the size of the shed was out of keeping with the character of the rural area.
- (b) PC6 intends to protect neighbourhood amenity and streetscape and the Council considered the form and appearance of the proposed shed did not reflect the low density rural residential character of the area.
- (c) PC7 is concerned with visually integrated dwelling houses with associated class tin structures to avoid 'dominating' the street and the Council submitted that the difference in scale between the existing house and the partly constructed shed was visually incongruous.

30. The appellant submitted to the Tribunal that –

- (a) PC5 seeks to ensure that new development is in keeping with the character of the area. The appellant pointed out that many large sheds already existing in the area form part of that character and that the proposed shed was consistent with community expectations.
- (b) PC6 intends to protect neighbour amenity and streetscape. The appellant pointed to letters of support from neighbours. Also, the location of the house on the block, somewhat distant from the street frontage, minimises adverse streetscape impacts. PC6 is concerned with visually integrated dwelling houses with associated class tin structures to avoid 'dominating' the street. The appellant submitted that the location of the house on the block, somewhat distant from the

street frontage, minimises adverse streetscape impacts and also the house does not include an integrated garage and is small by contemporary standards.

31. The appellant further submitted that the implementation of a scheme of landscape works would serve to further ameliorate the streetscape and amenity impacts.

Findings of fact

32. The Tribunal makes the following findings of fact –

- (a) The subject site is at the end of Curlew Court which is a 'no through road/cul de sac' roadway.
- (b) The subject site is within a Rural Residential Area pursuant to the planning scheme.
- (c) The class 10 shed structure at 31 Curlew Court has been partially built without the appropriate development permit for building works.
- (d) A number of large metal-clad sheds exist in the locality of Curlew Court that form part of the streetscape and the character of the area.
- (e) The proposed shed is approximately 70 metres or more from the street frontage.

Reasons for decision

33. The Tribunal considers that the appellant has satisfied the onus of demonstrating the appeal should be upheld.
34. The Tribunal finds that the Council has placed undue emphasis on the size (area) of the proposed building and insufficient emphasis on the location of the proposed building within the lot, the distance to the street frontage, and the screening effect of existing vegetation and potential future vegetation.
35. The distance of the proposed shed from street frontage permits the building to be in keeping with the form of the character of the area.
36. The proposed landscape design arrived at with input from the co-respondent Council and the appellant allows the proposed works to not impact the amenity of neighboring properties, visually integrate with the dwelling house and not dominate the street, in compliance with the intent of the resolution.

Mark Chapple
Development Tribunal Chair

Date: 17 September 2025

Appeal rights

Schedule 1, table 2(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.

Enquiries

All correspondence should be addressed to:

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