

Attn: Jordan Davies
Principal Planner

RE: Request for more information
Application No: DA2022/2207

Proposal: **Demolition works and construction
of a dwelling house including swimming pool**

Property: 30 Abernethy Street SEAFORTH

To Jordan,

Please find below written particulars identifying the changes to the **DA2022/2207**

1. View sharing and Building Height/Scale

Thankyou for arranging the height poles to assist with Council's assessment of views. Council has undertaken a review of the view sharing outcomes for the adjoining properties following an inspection from each adjoining site. There are several areas of the proposal that are non-compliant with the built form controls and result in view impacts for the adjoining sites. Of note:

a) The western portion of the pitched roof form exceeds the 8.5m LEP building height and will result in an increased view impacts for the sites to the east, when compared to a compliant design. Whilst it is appreciated the roof form is part of the architectural style of the building, this element is non-compliant with the height control and results in additional view impacts upon water views. There is scope to reduce the height of this roof to mitigate view impacts.

b) The pergola, balustrading and supporting columns of the first-floor deck exceed the LEP height limit and the DCP wall height. The first-floor deck and pergola results in direct view impacts of the city skyline from the living spaces of 36 Abernethy. Whilst this view is across a side boundary, the impact is due to a non-compliant element and the view is considered to be of high value. A design which complied with the height plane would stepped back with the topography of the site and likely retain this view corridor.

Therefore, Council is not satisfied the proposal in its current form meets the view sharing principles as established in Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140.

In considering the Clause 4.6 variation request, Council is not satisfied the following objectives of Clause 4.3 Building Height have been met:

- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
- (b) to control the bulk and scale of buildings,
- (c) to minimise disruption to the following:

- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),

The non-compliance with building height results in direct view impacts. The upper-level design and roof form does not follow the topography of the land and as such, results in an exceedance of the height limit and does not minimise bulk and scale. Whilst it is acknowledged that strict compliance with the building height is difficult to achieve on such a sloping site, the top floor is not adequately stepped back with the topography of the land to follow the height plane to retain view corridors and mitigate building height and scale.

Response – As per the council's request, we have substantially lowered the roof height and decreased the roof pitch to accommodate a reduction in height by 302mm. Furthermore, we have repositioned the first floor and roof footprint by 1500mm towards the front setback, resulting in a substantial reduction in non-compliance. The balcony's depth has also been reduced by 700mm in accordance with the council's stipulations. For a visual depiction of the enhanced outcome, please refer to Figure 1 and 2. Please refer to Clause 4.6 variation request - Height of buildings prepared by BBF town planners. We are of the opinion that these modifications should be deemed suitable, considering the current site grade, and have markedly improved the height plane non-compliance.

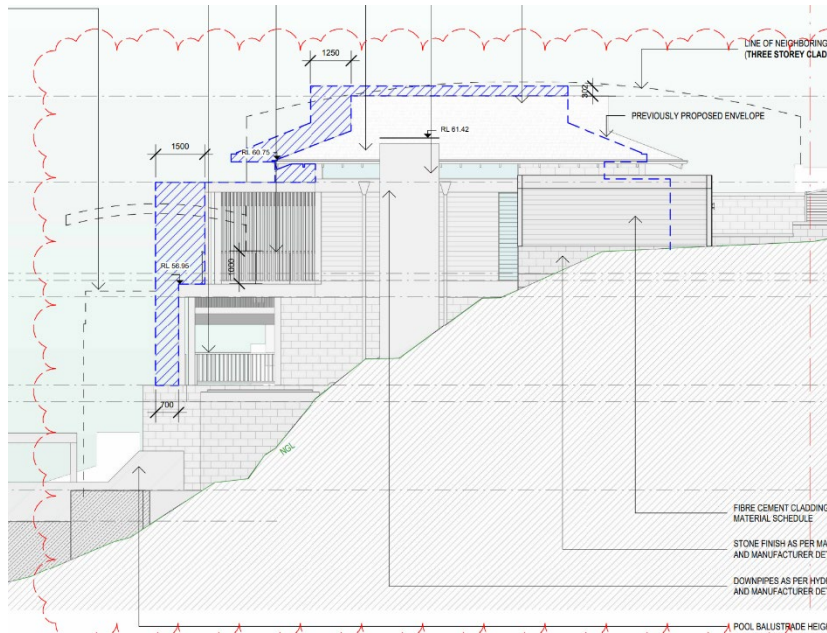


Figure 1.

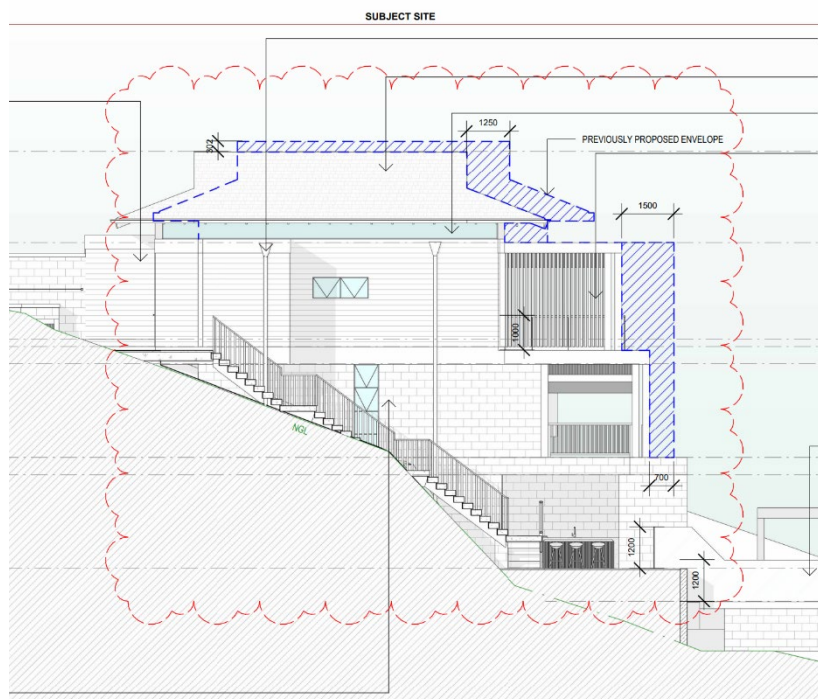


Figure 2.

2. Privacy from first floor balcony

The top floor balcony does not result in a reasonable level of privacy for the adjoining two properties, with overlooking over the side boundaries of concern. It is noted this element is in breach of the height and as such, the resulting privacy impacts are considered unreasonable. If privacy screening along the side elevations were to be introduced, this may increase view impacts and increase the apparent bulk of the building. Whilst upper-level balconies could be supported given the site topography, privacy needs to be further resolved through the balcony design for Council to support an elevated balcony.

Response – A vertical privacy screen set at a 45-degree angle has been incorporated to address privacy concerns. Refer to Figure 3

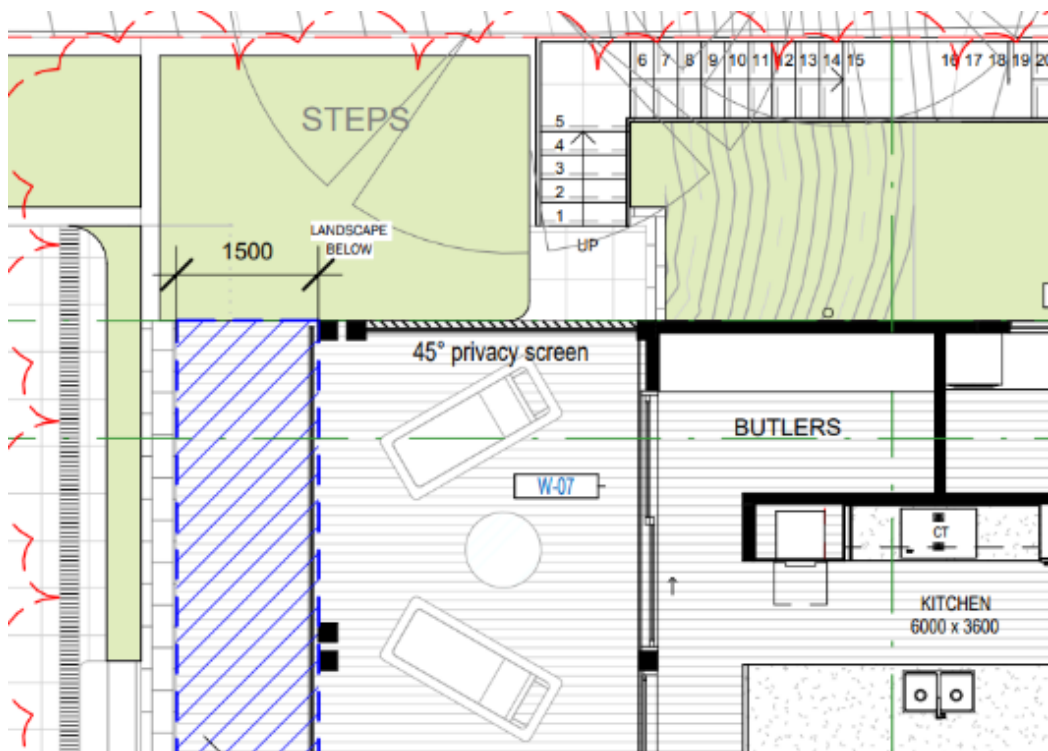


Figure 3.

3. Solar Access (More detail)

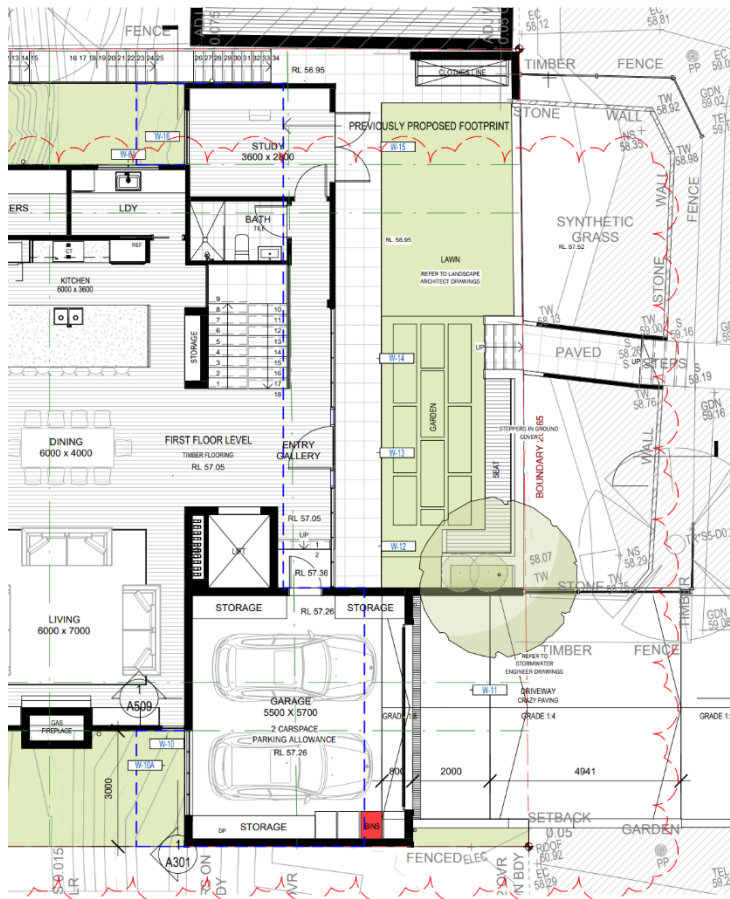
Could you please update the view from sun diagrams to include the solar panels, northern courtyard and north facing windows of No.26 Abernathy so Council can accurately determine the solar outcomes for the adjoining property.

Response – All shadow diagrams have been amended to reflect the neighbor's (No. 26) solar panels, northern courtyard, and north-facing windows, as requested by the council.

Please see the following comments from the Road Asset Engineers:
It is noted there was an agreement made in 2017 between the Northern Beaches Council and the property owner of 30 Abernethy St Seaforth, which allowed property owner to the installation of a timber fence in reference to DA0165/2017. The proposed plan in DA2022/2207 to construct a masonry structure on the public road reserve, does not comply with Section 157 of the Road Act 1993. The Proposed masonry wall is considered a permanent structure and provisions of the Roads Act requires that the structure that are subject of a lease comprises a fence or a temporary structure of a kind that can easily be demolished or removed.

Given the redevelopment of the property involves demolition of the existing dwelling and creation of new private open space between the front of the new dwelling and the property boundary, it is recommended the encroachments on the road reserve be removed, including the private terraced areas, gardens and fencing. Consideration would be given to an alternate landscaping proposal that avoids the privatisation of the public road reserve and provides a wider verge area for pedestrian access.

Response – The front yard has been redesigned as per the council's request. The public land has been retained as is, please refer to Figure 4 and the architectural plans.



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We believe that the additional information provided along with the design constitutes a fair solution to the council's requests and aligns with the objectives of the Development Control Plan (DCP) and Local Environmental Plan (LEP). A Variation Request under Clause 4.6 – Height of Buildings has been provided by BBF Town Planners. This request outlines that the steep topography makes strict compliance with the building height standard challenging in this instance. Additionally, the proposed dwelling maintains consistency with the scale and number of stories in relation to the immediate vicinity's development. Moreover, the impact of view loss is deemed negligible.

We thank council for their assessment, and it is requested that council determine the application favourably.

Kind Regards,

DIRECTOR

Anthony Maiolo

LUXITECTURE