

**Response to Developer Response Re. Comments of DA2023/0689 Re. Comments  
from 5 New St E, Balgowlah Heights**

Att: Stephanie Gelder, Planner,  
Development Assessment Team  
Northern Beaches Council

From: Mr. & Mrs. M.& S. Crebar [REDACTED]  
Address: 5 New Street East. Balgowlah Heights. N.S.W.  
Date: 16th July, 2023

**Re. side set backs and windows:**

**For 5 New St:**

- non-habitable rooms/dwellings within 3m of the boundary have conditions within the DA of obscure glass to protect privacy of neighbours (even though there is a fence between 5 and 7 New St)
- habitable rooms/dwellings of 5 New St do not have windows within 3m of the boundary as per NBC planning controls... In fact- there are no rooms within 3m of the boundary for 5 New St

- 1 room of 5 New St, although more than 3m from the boundary, also has council imposed conditions of requiring obscure glass for windows facing neighbours of 7 New St - to ensure privacy for both neighbours.
- As per NBC planning controls, Northern Beaches Council Planning Department mandated that all windows on rooms/habitable dwellings for 5 New St be 3m from boundary to protect visual and acoustic privacy of neighbours.

These controls were mandated by council in line with planning controls 'distance from side setbacks'. We presume this was to mitigate future discussions between neighbours re. acoustic and visual privacy.

As per planning controls, the development of 5 New St ensures all windows of habitable dwellings/rooms are the appropriate distance of 3m+ from fences.

For any windows of non-habitable rooms for 7 New St, as per 5 New St DA conditions, we imagine obscure glazing might also be conditioned by NBC.

For acoustic privacy, windows closer than 3m might have conditions of double glazing, obscure windows, and non-opening windows.

While the suggestion from the developer of 7 New St asking 5 New St to consider double glazing a living room window set back 2.5m from the fence to protect the acoustic privacy of a bedroom set back just 1m from the neighbouring boundary of 7 New St seems a reasonable condition - it is not something 5 New St will commit to.

Might moving a bedroom window of 7 New St (currently just 1m from a boundary), or including obscure glass and non-opening controls be a measure 7 New St might consider for their own acoustic privacy?

Or, might council might ask for planning controls to be met, or better managed to accommodate the concerns of both neighbours....

Please also note that 5 New St is an extension, on an existing building line. It is not a new build like 7 New St with more flexibility to control distances from boundaries.

If, however, council are prepared to allow habitable rooms, bathroom and kitchen rooms of 7 New St to be newly built within 3m of the boundary without privacy measures...

Will NBC consider amending the conditions imposed on 5 New St requesting obscure glass of all windows facing neighbours to the west? And rethinking conditions imposed of obscure glass on a 5 New St bedroom 3m+ from the boundary? (a question for council)

Re. the fence currently located on 5 New St, and not on the actual fence line... We appreciate the response re. excavation of 7 New St and the developer putting on file that they will not be disturbing the existing retaining wall on the actual boundary when new foundations are dug and concrete is poured.

However, during construction of 7 New St and during excavation we do think it is likely that the existing footings will be removed or become unstable. We also note that the DA for 7 New St includes a new fence on the boundary.

Please also note that ground levels for 5 New St are not changing except for the driveway and 6m back from the driveway where there is a panel fence on the boundary (and not colourbond). Levels are shown on the DA plans.

Re. all other comments.

We thank the developer for replying to manage our concerns and forwarding some commitments to manage these concerns to the planning portal.

Owners of 5 New St, Balgowlah Heights.