

3 July 2023

Ms Stephanie Gelder
Northern Beaches Council
via Planning Portal

Dear Stephanie

DA2023/0689
Property: 7 New St East, Balgowlah Heights

We understand that submissions were made in relation to the development application and we would like to offer a response.

Our response consists of 2 parts:

Part A – response to submission from 9 New St E, Balgowlah Heights, and
Part B – response to submission from 5 New St E, Balgowlah Heights

PART A – RESPONSE TO SUBMISSION FROM 9 NEW ST E, BALGOWLAH HEIGHTS

The submission related to concerns with visual privacy amenity of 9 New Street, located to the West of the subject site.

We make the following comments:

1. The proposed Alfresco and main living area relate to a ground floor level.
2. The proposal meets the numerical fill control (1m). In this respect, the floor levels and Alfresco are not elevated.
3. The proposed Alfresco will not be in the same position as the existing “walled in porch” as described in the submission. The Alfresco will be sited beyond the rear building line of the house at 9 New Street and is offset to any of the windows and the Alfresco area at that property.
4. The Alfresco will be recessed into the side of the dwelling, being a privacy measure referenced in the privacy controls.
5. The DCP recommends architectural or landscape screens. The owners of the subject site would prefer the latter to enable a natural outlook yet avoid overlooking other properties. Furthermore, the owners desire privacy themselves and wish to avoid overlooking into their living rooms and private open space.
6. The property owner of the subject site has tabulated comparative levels which we have appended to this letter. Generally, it demonstrates that the proposed floor and alfresco levels will be lower than the existing dwelling levels.

In our opinion, the proposal is reasonable in terms of achieving privacy amenity objectives. However, the owners of the subject site are prepared to make the following revisions to address concerns expressed in the submission:

1. Lower the level of the proposed house/alfresco/driveway and rear patio by 100mm (and adjust landscaping to suit). New FFL for house of 44.91
2. 1 Tree as depicted opposite Alfresco on the Landscape Plan to be an advanced plant
3. Addition of 2 advanced bushes (approx. height 2m), one each side of the tree opposite the Alfresco

To facilitate the compromise, it is requested that the floor levels be conditioned rather than arranging revised plans which will unreasonably add delay and cost to the project, taking into account it is a voluntary revision.

PART B – RESPONSE TO SUBMISSION FROM 5 NEW ST E, BALGOWLAH HEIGHTS

The following part is provided by the owners of 7 New St E, Balgowlah Heights.

“The submission relates to concerns with visual and acoustic privacy, changes to retaining walls and walls without articulation, glare from solar panels and erosion concerns of 5 New Street, located to the East of the subject site.

In response to the specific points raised:

1.0 Excavation

The Excavation Plan shown on page 13 in the architectural plan set demonstrates that there is no excavation required along the majority of the Eastern side of the proposed residence except for a short section at the front of the garage and a short section to the rear.

The intention is to retain the existing brick wall (2 – 3 bricks courses high within the boundary along the full length of the existing house) during construction.

As neither an excavation plan nor a landscape plan was included in the 5 New Street DA package final levels on their side of the boundary following their extension are unknown.

However, we the owners of 7 New Street have noted the concerns raised by the owners of 5 New Street and propose to lower the Finished Landscape RL to the east of the proposed residence by 100mm to 44.75 which is approximately the height of the existing brick wall. Consequently, it is expected the existing brick wall will not be required after construction.

1.1 Retaining walls

Given the minimal excavation and Finished Landscaped RL to the east of the proposed residence it is envisaged that if any retaining walls are required at the front or rear of the eastern boundary, they would only be low. This won't be able to be determined until 5 New Street's finished ground levels are provided or known.

1.2 Excavation and the existing fence

The Excavation Plan shown on page 13 of architectural plan set shows that there is no excavation required along the majority of the eastern side of the proposed residence except for a short section at the front of the garage and a short section to the rear. The small sections of excavation to the front and rear are unlikely to impact the existing fence. At this stage there is no intention to replace the existing fence as it is already a non-combustible material as required in a bushfire prone zone.

Should the fence need to be replaced it would be located on the boundary as identified by the boundary survey, finishes and materials would need to comply with requirements for bushfire prone land and there would be consultation with neighbours.

2. Windows facing the side boundary

We acknowledge that planned works by the owners of both 5 New Street and 7 New Street result in a number of non-compliant windows that face the boundary (as they are less than 3m away from it).

5 New Street windows facing the side boundary

The approved DA for 5 New Street includes the following windows facing their West boundary:

Window number – Room – Level of building – Distance from boundary

W3 – living room – ground level – 1.91m

W5 – bathroom – ground level – 0.91m

W6 – butler pantry – ground level – 0.91m

W7 – laundry – ground level – 0.91m

W12 – bathroom – first floor – 1.9m

W14 – master bedroom – first floor – 1.9m

Acoustic Privacy from 5 New Street

No window schedule was provided as part of the DA package for 5 New Street, so it is not possible to determine if any measures have been taken to provide acoustic privacy to their neighbours.

1 window in particular is of concern to us:

W3 in the living room of 5 New Street is only 4m from our bedroom 3.

We would appreciate if the living room window W3 of 5 New Street could be double glazed to provide acoustic privacy to our bedroom 3.

Visual Privacy from 5 New Street

The DA for 5 New Street does not include any screen planting between the house and the West boundary.

The only screening provided is the existing steel panel fence.

DA approval conditions require obscure glazing to W6, W7, W11, W12 and W14.

No additional screening was required for W3, the living room on ground floor.

Despite 5 New Street's DA providing only limited consideration for acoustic and visual privacy to our property, Council have approved all of these non-compliant windows.

Our windows facing the side boundary

Our proposal includes the following windows facing the East boundary:

Window number – Room – Distance from boundary

N.B. As it is a single-story home, they are all located on the ground floor

W17 & W18 – Dining Room – 1.54m

W19 & W20 – Kitchen – 1.54m

W21 – Laundry - 1.54m

W22 – Bed 2 – 1.54m

W23 & W24 – Bathroom and WC – 1.09m

W25 – Bed 3 – 1.54m

On average, our ground floor windows are 24% further from the fence line than the ground floor windows of 5 New Street.

Acoustic Privacy from our property

Our proposal includes the following features to improve acoustic privacy to neighbours at 5 New Street:

All windows are double glazed which provides significant acoustic and thermal insulation.

W17 & W18 – Dining Room windows are offset as they are located 8m beyond the rear building line of 5 New Street.

W19 & W20 – Kitchen – windows have fixed glazing.

W21 – Laundry – the closest window in 5 New Street is their laundry window.

W23 & W24 – Bathroom and WC – closest windows in 5 New Street are in the butler pantry and bathrooms on ground and first floors.

W22 – Bed 2 – is opposite 5 New Street laundry and W25 – Bed 3 is only 4m from 5 New Street living room and we request that the owners of 5 New Street consider the acoustic privacy of Bed 3 and provide double glazing to their living room window as mentioned above.

Visual Privacy from our property

Our proposal includes the following features to improve visual privacy to neighbours at 5 New Street:

The Landscape Plan shows there will be Screening Plants between the house and the Eastern boundary from W17 in the dining room to W22 in bed 2.

A narrower garden bed is shown from W22 in Bed 2 to W25 in Bed 3 which will support a creeper.

This will supplement screening provided by the existing steel panel fence.

Additionally:

W17 & W18 – Dining Room – are narrow windows which are offset by 8m from the rear building line of 5 New Street. Also 7 New Street's Finished Floor Level of 44.91 is 1.1m below the adjacent terrace level in the rear garden of 5 New Street.

W19 & W20 – Kitchen and W21 – Laundry are all narrow windows which are also offset from all windows in 5 New Street.

W22 – Bed 2 is opposite 5 New Street laundry and butler pantry windows which are to have obscure glass.

W23 & W24 - Bathroom and WC will have obscured glass as required by code. (This was not noted in the window schedule which was a drafting omission).

W25 - Bed 3 window is offset from 5 New Street living room window.

All of our windows are at ground level, so there is no possibility of overlooking any of the windows in 5 New Street.

However, we have noted the concerns raised by the owners of 5 New Street and therefore, are prepared to lower the RL of the house/alfresco/driveway and rear patio by 100mm (and adjust landscaping to suit). New FFL for house of 44.91 which is just below FFL of 5 New Street at 44.96. This will significantly improve the effectiveness of the existing fence as a privacy screen.

With all of the features to improve both acoustic and visual privacy already included with our proposal listed above, as well as our proposed response to lower the ground floor RL, we request that the council approve the variation to the window set back requirement for the East facing windows.

3.0 Boundary screening for terrace and entertaining area

Privacy and boundary screening are shown on the Landscape Plan.

The Landscape Plan included in the DA submission shows screening by 14 new shrubs from bed 2, past the laundry, kitchen, dining room and further along the western boundary to a tall shrub at the foot of the first retaining wall. Additional planting will be provided in the retaining walled area in the South-East corner of the block as referred to in the Landscape Plan.

All of this planting, in addition to the existing metal panel dividing fence and existing boundary planting on 5 New Street side of fence, will be sufficient to protect the privacy of adjoining properties.

3.1 Articulation

The owners of 5 New Street have raised an issue regarding articulation, however, the proportion of articulation provided along each of the 2 properties is very similar, as follows:

The western façade at ground level of 5 New Street is approx. 20.35m long with an articulation of 3.5m or 17%.

The eastern façade of 7 New Street is 32.1m long with an articulation of 4.5m or 14%.

A difference of only 3%.

We note that the side setback under our proposal exceeds council requirements, however, the ground floor setback for 5 New Street is 10% non-compliant and its first-floor setback is 57.1% non-compliant.

Therefore, it is not reasonable for owners of 5 New Street to suggest any change to the compliant boundary side setback of our property, rather if they are concerned, they should be resolving the significant non-compliance of their own side setbacks.

4.0 Solar Panels glare and reflection

Solar panels are designed to absorb light, and accordingly reflect only a small amount of the sunlight that falls on them compared to most other surfaces. We will utilise high quality PV cells to maximise solar absorption and therefore, minimise reflection and glare. They will create less glare and reflection than the off white rendered wall of 5 New Street.

4.1 Location of Solar Panels

We appreciate the owners of 5 New Street's concern about maximising solar gain. Certainly, their performance would be improved if 5 New Street was required to comply with Council's setback requirements for their first floor. However, the hand-drawn shadow diagram provided as part of the 5 New Street DA submission indicate only a "slight increase" of shadowing to our property, so this indicates the location of solar panels should be fine as shown.

5.0 Air conditioning

The proposed location for our air conditioning unit, between the garages for the 2 properties was chosen to minimise noise to neighbours.

However, we have noted the concerns raised by the owners of 5 New Street and therefore, propose to move the A/C unit 3m north along the garage wall to provide an offset of 3m to 5 New Street living room window W3.

Of course, the air conditioning unit selected for installation for our proposal will be compliant with code requirements.

6.0 Street verge

The owners of 5 New Street can be assured that appropriate measures will be taken to control run off during construction and appropriate landscaping of the street verge will be carried out to control erosion after construction.

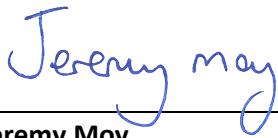
7.0 Private Power Pole

A new Private Power Pole is to be located on the subject site for that site's access to power.

As it is more straightforward to have individual (not joint) responsibility for maintaining this private power pole and associated powerline we will not be pursuing a shared pole."

Should Council require any further information, please contact our office at your convenience.

Yours faithfully



Jeremy Moy
Planning Approvals Pty Ltd | Director

APPENDIX 1 – INFORMATION PROVIDED BY OWNERS OF 7 NEW ST E, BALGOWLAH HEIGHTS

Re: Submission from Kim and Kingsley Green

In light of the submission dated 20th June 2023 from neighbours Kim and Kingsley Green of 9 New Street Balgowlah Heights we are prepared to:

1. Lower the level of the proposed house/alfresco/driveway and rear patio by 100mm (and adjust landscaping to suit). New FFL for house of 44.91
2. 1 Tree as depicted opposite Alfresco on the Landscape Plan to be an advanced plant
3. Addition of 2 advanced bushes (approx. height 2m), one each side of the tree opposite the Alfresco

This minimises potential overlooking and provides improved screening and privacy.

With the proposed lowering of the FFL we bring the following to Council's attention:

Item	Existing house – Walled in Porch	Proposed DA - Alfresco	Comment – Proposed DA vs Existing house
Floor level of house RL	44.97	44.91	Proposed is similar to existing
Walled in Porch/Alfresco at edge RL	44.92	44.70	Proposed is 220mm lower
Adjacent EGL RL	44.12	44.31	Existing Ground Level is 190mm higher adjacent to Alfresco than adjacent to Walled in Porch
Height of Walled in Porch/Alfresco above adjacent EGL	0.80m	0.39m	Proposed is 410mm lower
Position of Walled in Porch/Alfresco from front boundary	17.9m	27.2m	Proposed is 9.3m further back on block
Distance of west facing window from boundary	7.2m	7.6m	Proposed west facing window is 400mm further from boundary
Screening	Breeze block then driveway to boundary. All hard surfaces.	2.5m landscaping depth including 1 advanced tree and 2 x approx 2m high advanced shrubs	Proposed landscaping provides screening with soft landscaping

Position of windows	2 of neighbour's windows opposite Walled in Porch	No neighbour's windows opposite Alfresco	Proposed has reduced potential for overlooking
Offset		Alfresco is offset from neighbour's Alfresco	Proposed has reduced potential for overlooking
Clause 3.4.2			Refers to balconies and terraces on higher floors, not ground floor