

**RE DA 58347/2020 No. 011.2020.00058347.001, PPTY: 2C Amethyst Avenue, Pearl beach**

To whom it may concern,

1. I write regarding the above development application.
2. I am a son of the owner of a neighbouring property to 2C Amethyst Avenue, Pearl Beach ("**the proposed development**"). Our property is located at 19A Diamond Rd ("**our property**"), which is the property immediately to the west of the proposed development. Our family bought the property in 2001. We did so because Pearl Beach is a peaceful, quiet, and private place which we utilise to escape city life and to gather for family events. These are important longstanding amenity and lifestyle benefits which we are concerned will be adversely impacted by the proposed DA. I have a close knowledge of the site as I have been going to our property regularly since we bought it as a family in 2001, and to Pearl Beach my whole life. It is our second home. My mother, like the new owner of the proposed development, is also semi-retired and uses the property regularly. I have also on a few occasions previously stayed in the current dwelling located at 2C Amethyst Avenue (subject of the current DA) for a few days at a time, as we knew the former owner well. I therefore have a good appreciation of the site under consideration.
3. It is appreciated that the council must balance the interests of the community and the reasonable expectations and rights of the applicant. Our interests as the proposed developments immediate westerly neighbour include the observance of the planning controls applying to Pearl Beach and the continuation of the quiet enjoyment, amenity and privacy we have experienced over our long standing 19-year use of the property. The applicant it is accepted has a legitimate interest in pursuing, within the allowable rules to which the applicant was subject when the land was acquired, alterations and additions to the land. For this reason, this objection seeks where possible to propose alternatives to the current development application which better balance these interests.
4. We note that our family only became aware of the proposed development a short time before the exhibition period was due to expire. The applicant had not made contact with us, or to our knowledge any of the neighbours in the new community into which he was moving, at any time after buying the property or before lodging the DA to discuss the plans or to address any of the obvious problems the plans were likely to create for the neighbours. The first contact made with the applicant was initiated by us on our suggestion, in what was a bona fide attempt by our family to introduce ourselves to the applicant and to try and discuss the matter, raise our concerns, and see to what extent we could reach some agreement on the issues. Whilst it is accepted that as a result of that preliminary meeting and discussion the applicant agreed to make some amendments to the plans which go some way to improving the initial proposal, to a large extent the proposed amendments create

different issues which are discussed below, and are unfortunately unable to resolve the competing interests of the parties, especially with respect to the bulk and scale of the project, the breach of the planning controls (see below), and the desire to have a large elevated deck and 5.3m west facing windows, which are simply too far apart to resolve by discussion. In other words, the attempts initiated by us and made by the parties to discuss the DA, genuine as they are, are not capable of addressing our concerns as noted below, including in particular non-compliance with applicable planning controls, noise problems and loss of privacy and amenity. Accordingly, we consider we have no option but to lodge a submission.

5. This submission is based on a reading of the current limited plans available on the Central Coast Council website:
  - a) PUBLIC Part A Application for Approval 2C Amethyst Avenue, PEARL BEACH DA58347 Part 1 12/05/2020
  - b) PUBLIC BASIX Certificate 2C Amethyst Avenue, PEARL BEACH DA58347 Part 1 12/05/2020
  - c) PUBLIC Notification Plans 2C Amethyst Avenue, PEARL BEACH DA58347 Part 1 12/05/2020
  - d) PUBLIC Waste Management Plan 2C Amethyst Avenue, PEARL BEACH DA58347 Part 1 12/05/2020
  - e) PUBLIC Statement of Environmental Effects 2C Amethyst Avenue, PEARL BEACH DA58347 Part 1 12/5/2020 (“**first SOEE**”)
6. The documents displayed on the council website have changed during the course of the preparation of these submissions. Accordingly, these submissions have also taken into account the following documents:
  - a) PUBLIC Statement of Environmental Effects - DA 58347 - Lot 2 DP 838892 2c Amethyst Ave Pearl Beach - Part 1 - 25/05/2020 (but only provided to us on 23/6/2020)
  - b) PUBLIC Amended Plans Notification Plans 2C Amethyst Ave Pearl Beach - Part 1 24/06/2020 (“**second SOEE**”)
7. Several documents are labelled “part 1” in circumstances where no “part 2” is available. Some of the documents refer to diagrams or plans which were not initially/are not included anywhere in the available documents. After making contact with the applicant we were given on 16 June 2020 a set of shadow diagrams. Further, we were made aware for the first time on 23 June 2020 that the first SOEE has been substantially amended by the second SOEE. The second SOEE appears to now be accessible on the council website via a link with the date ascribed to it of “25/5/2020”, despite it appearing to have been uploaded at a time significantly after that date (in just the last few days). It appears as though at least some submissions received by council have been referring to the old document. As we have submitted to Council in recent days, it may be worth clarifying the upload date for the second SOEE and ensuring that Council has all the applicable documents from the applicant and has uploaded all of them for public exhibition prior to renotification, so that procedural fairness can be ensured for all participants in the process. Even at this

stage despite having raised this concern with Council on multiple occasions we have not been given any assurance that all relevant documents have been provided or exhibited. Where possible these submissions will seek to respond to the second SOEE as well as the first SOEE, however it is submitted these documents are inconsistent in some important respects, which inconsistencies are not explained, and so it is not entirely clear which is accurate. It is otherwise assumed however that the above listed documents represent the full range of documents available at this time. It may be that some more detailed, complete or accurate documents might address or clarify some of the issues raised below. I note the recent decision of Wayne Herd, Section Manager, Central Coast Building Certification – South, to renotify the current DA due to the deficiencies in the original SOEE and other concerns relating to the adequacy of the documentation and plans lodged with Council. Despite the fact that the current DA will be re-notified to adjoining owners and the general public, we have been requested by Council to lodge this submission in response to the current DA. If the re-notified plans, documents and any further amended SOEE raise additional points of concern, then we may add a further submission during the second period of exhibition.

8. Our objections in short are:
  - a) The proposed development as set out in either the first or second SOEE exceeds the allowable floor space ratio (FSR) and is of excessive bulk and scale when compared against the planning controls applying to the Pearl Beach locality. The second SOEE is inconsistent with the first SOEE in relation to what is said about allowable FSR, and whether or not the proposed DA breaches the FSR requirements under either the Gosford LEP or the more stringent Pearl Beach Residential DCP. The first SOEE states that the DA has an FSR of 0.52 (page 3) and seeks to argue why a breach of the Gosford LEP is justified (page 13-15). It makes no reference to the Pearl Beach DCP. By contrast the second SOEE claims an FSR of 0.467 (page 3) (or 0.45 – see page 15), which it says complies with the Gosford LEP (page 15), but then seeks to argue why the breach of the more stringent Pearl Beach DCP is justified (pages 15-16). It is unclear why those calculations have changed between the two documents, and whether this discrepancy relates to changes to the plans or previous errors in the calculation in the first SOEE. It is therefore unclear if the FSR calculation is even now correct. However, it appears clear that on either document the application does not comply with FSR rules.
  - b) In the first SOEE, the breach of allowable FSR is sought to be justified on the premise that it would be “impossible” to achieve “full compliance” with the allowable FSR because of the owners intended subjective use of the property (see “clause E4.6 Justification on page 14 first SOEE). The second SOEE goes further, asserting compliance with the Pearl Beach DCP would be “unreasonable” and “unnecessary” (page 16 second SOEE). This approach is not valid for the reasons explained by Tony Moody in his submission to council, by reference to *Davies v Penrith City Council* [2013] NSWLEC 1141 especially at [120]. Personal needs are not a valid justification for breach of Council Planning Controls. This approach also does not represent a reasonable approach to the balancing exercise required to be undertaken by Council. The application seeks to turn what was to our understanding formerly a repurposed garage and outhouse

subdivided from our property in about 1994 into a large two-story home with a significantly expanded FSR to fit a use the block was not intended to accommodate. It is not within the reasonable expectations and rights of the applicant to acquire a block of land with an existing structure on it, with knowledge of the allowable FSR, that is too small for the subjective intended use of the new buyer, and then seek to argue it is “impossible” to achieve that intended use without breaching the allowable FSR, or that it is “unnecessary” to comply with the rules which specifically pertain to Pearl Beach due to its unique character. Those rules are of long standing and are of importance to the local community. They were adopted after intense community consultation. The prospective purchaser is taken to be aware of the allowable FSR and of those rules at the time of purchase and prima facie should comply with them. If, as appears to be the case due to the discrepancies between the first and second SOEE’s, the applicant was initially working on the assumption that the Gosford LEP applied rather than the more stringent Pearl Beach DCP, the neighbours of the proposed development ought not be expected or required to accept a development larger than the rules allow. Nor should they be expected to lose their near two decade long quiet use and enjoyment of their property because the purchaser bought a property and piece of land of an inadequate size to accommodate their own subjective needs, which needs are not in any event a valid consideration according to the observations of the Court in *Davies v Penrith City Council*. The Council ought not as a general principle endorse an approach which allows purchasers to buy land knowing the allowable FSR prohibits the desired use of the site, but which then permits that purchaser to change the rules to suit their desired use of the property and to make their property more valuable than it would otherwise be, at the expense of the neighbours. This would set an undesirable precedent for Pearl Beach and may potentially result in further attempts by other persons to subdivide land into small blocks and then seek DA’s which breach the allowable FSR on the ground that the block is too small for the subjective intended use of the new purchaser or developer.

- c) In our submission the proposed development is misdescribed as “alterations and additions” when it ought be described as a “New Dwelling” based on the Land and Environment Court Planning Principle in *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187 in particular between [55]-[62]. The extent of alterations and additions are so substantial that the proposed development is in our submission appropriately characterised as a “New Dwelling”.
- d) The proposed large outdoor deck is on the second story of the proposed development. This means it will be above the level of our backyard, our own (ground floor) deck in our backyard, our kitchen, part of our living room and one bedroom of our property. The configuration and layout of our property faces east, toward the proposed development. Due to the elevation of the proposed deck, noise will be more easily transmitted outwards across the neighbouring properties, including ours. These issues will significantly alter our longstanding legitimate use of our property, including the ability to sleep privately in the rear bedroom, to peacefully enjoy the living and dining rooms of the property with doors and windows open, and to use our house and backyard without having the potential for people to be looking down into the property from above and/or

creating unacceptable levels of noise. The application does not demonstrate as required by Pt 5.10.15 of the Pearl Beach DCP that the noise level from this proposed deck does not exceed 5dBA above background noise level. These concerns could be met by placing any deck on the ground floor.

- e) The proposed development significantly impacts the privacy of our property. The proposed second story features a series of large west facing windows, at least 5.3m in length. These windows appear to span most of the westerly facing wall of the proposed development and would be located in a high use area which is envisaged to contain a master bedroom, study, kitchen and living area. It is accepted that the applicant has following our discussions proposed a solution to address these concerns involving what appear to be horizontal slats. Our submission is that this would be an inadequate solution, and that if the second story is permitted in the current form, either there can be no windows on this wall (in conformity with the large west facing wall of a similar height immediately to the east of the proposed development at **6 Pearl Parade**), that these windows can be significantly reduced in scale and moved to heights (either high or low) which allow for light and airflow but which prevent the privacy problems from arising, or that much more effective screens be employed which are upwards or north facing. In the absence of such actions these windows would look across the entirety of our backyard, directly into one of our bedrooms, into part of the living area, and into the kitchen, as well as onto our own (ground floor) deck, which would require us to keep the curtains to our rear garden facing bedroom permanently closed, and to install blinds and other privacy measures to our living room windows and then keep those closed, significantly impacting our use of the house. We note the proposed development would if the second floor is permitted already have extensive north, east and south facing doors and windows, as well as a "Juliet balcony" on the southern wall facing the street, as well as the proposed north facing deck on the current plans. There can be no doubt the upstairs level would enjoy abundant natural light and airflow without the proposed extensive 5.3m windows. The second floor, were it to be permitted, does not in our submission therefore also need such significant additional windows on the west facing wall, given the significant detrimental impact this would have on our property, for the only marginal extra benefit it may provide to the proposed development.
- f) There was on the original proposed plans a privacy screen for the northern neighbour and for the eastern neighbour, but there none facing west to provide privacy for our property, despite the deck looking straight over our yard and house. From recent conversations with the applicant we understand he is willing to also provide a 1.8m privacy screen facing west to our property, and to update the plans accordingly, proposing horizontal see through slats. Despite these bona fide attempts to discuss this aspect of the proposed development, unfortunately there appears to be little scope to reconcile the opposing wishes and interests of the respective residents about this aspect of the proposal. Such measures even if adopted would only add significantly to visual bulk and scale of the existing building. Our submission is that we do not agree that there should be a large elevated deck of the kind proposed, noting that any screen also cannot prevent the noise problems which a ground floor deck would avoid, and even if some

form of screening were used it would add to the bulk of the building whilst being unable to provide us with any real certainty that our peace, privacy and amenity can be adequately safeguarded.

- g) The proposed development has a negative impact on visual corridors from any possible future developments of our property. The current outlook from our property, which does not currently look into any other windows of adjacent properties, will if the development is approved be negatively impacted because the visual corridor will be filled with a view into the neighbour's proposed windows along the western wall into what appears to be a master bedroom, kitchen, living room, all high use areas. Were the applicant's current west facing windows permitted, the future development potential of our property will be significantly negatively impacted, including our ability to ever seek a second story as the applicant is doing, noting our much larger block size. Proposed privacy screening involving horizontal slats would not address this concern. This could be avoided if the series of windows 5.3m wide on the west facing wall were removed, appreciating that the applicant will already have windows and doors on the northern, eastern and southern walls of the upstairs story, as well as (on the current plans) a deck on the northern side and a "Juliet balcony" on the southern side, allowing for abundant light and air. As already stated, 6 Pearl Parade has a wall about the same height as the proposed western wall of the proposed development, but has no west facing windows at all. Windows might be smaller and located at heights which would prevent persons inside looking out of them or persons in our yard and house looking into them.
  - h) The proposed plans in their currently exhibited form feature a car space requiring access over land which is occupied by very large above ground roots of a mature Norfolk Pine which shares the boundary of the proposed development and our property (estimated to be the same age as those planted at European settlement which abut the beachfront). In our recent discussions with the applicant, the applicant appeared to agree with our suggestion that the current proposal could not work for this reason, however there has been no formal undertaking to abandon this idea, and this aspect of the plan still features in all the plans and has not been withdrawn from the application. We must therefore respond to it. It is currently unclear whether this or any other proposed car space and driveway will actually finally be pursued. Vegetation appears to have already been removed from the top of the roots, exposing the roots. The proposed car space in the current plans also appears to run directly over a piece of land occupied by a smaller, but still mature tree, which it would seem would need to be removed on the current plans. We would suggest that if any new driveway and car space is pursued a root map of the Norfolk Pine be obtained so that we can have some assurance there is no threat posed to this extremely valuable tree.
9. Aside from the above objections, there are several other matters we raise:
- a) The current plans seem to indicate that site coverage is only 30% of the land. It is difficult to understand on the current materials if that number is correct, especially as the calculation of the FSR has changed between the first and second SOEE's. Putting aside the technical definition of "site coverage" which appears to

exclude from consideration uncovered decks, the plans appear to take up a significant part of the current site, above 30%. Some more detailed plans or further explanation of how this number has been arrived at might address this concern. Similarly, at page 6 of the first SOEE document it is asserted that “the site coverage is not increased”. The new structure envisaged by the development application, including the addition of a second story and the large deck over the north end of the site, extends the use of the property over two levels to the very northern boundary of the site, on the applicant’s own documents increasing significantly (and breaching) the allowable FSR in the process. Whilst the deck appears to be omitted from the definition of “site coverage” and presumably therefore from the calculation of the FSR, which is already not complied with, the plans appear to envisage the use of a significant amount of the small site.

- b) Page 10 of the first SOEE document (and page 12 of the second SOEE) deals with “views” and “visual privacy”. The document claims there will be no impact on views. This is not correct for the reasons set out above at 8(g). It is further claimed that “the retention of all existing vegetation on site including the mature trees will ensure that privacy to neighbours is maintained. The rear deck will have a green privacy screen at its north end to ensure that no overlooking is possible into the yard of the northern neighbour”. Several things must be said about this statement. It is clear the applicant has already removed significant vegetation from within his own garden, such that it is already not correct to state that “all existing vegetation” has been retained. The statement does not ensure that no overlooking is possible into the yard of the western neighbour (our property) and appears to accept that overlooking will be possible into our yard but (in its current form) provides no mechanism to address this. As already explained above, the applicant has indicated verbally that he is willing to provide a 1.8m screen in some form involving the use of horizontal wooden slats. Whilst this goes some way to improving the initial proposal, it does not overall adequately address our concerns about loss of amenity, lifestyle and privacy from the proposed elevated large deck, and leads to new concerns about increasing an already unacceptable level of visual bulk and scale. The remaining vegetation on site does not provide full maintenance of privacy for our property. The existing hedges along the boundary line are much shorter than the proposed height of the new building and will be useless in preventing lines of sight into our property, and the visual bulk and scale caused by the proposed second story. The existing trees do not cover the length of the boundary between the proposed development and our property. Therefore, the true position is that if the current proposal is approved it is unfortunately inevitable from our perspective that existing privacy will undoubtedly be undermined, not maintained.
- c) Page 10 of the first SOEE states “shadow diagrams demonstrate that there will be no adverse overshadowing to the neighbours. The diagrams confirm that more than 50% of the principal private open area of the dwelling as well as principal private open spaces on adjoining land all receive substantially more than 3 hours of sunlight on 21st June. This is due to the orientation and siting of the subject dwelling and the proposed additions.” We have concerns that a building of 8.1m height will present shadows across our property which may impact on the viability of our mature garden and lawn. We have been provided

with a limited set of drawings on 16 June 2020. They appear to show significant additional shadowing impacts across part of our properties mature garden up to the east facing bedroom window on 21<sup>st</sup> June. It is noted that Pt 5.10.14 of the Pearl Beach DCP requires that development shall maintain a reasonable level of sunlight to neighbours' recreational space between 9am and 3pm during the winter solstice, 22 June. The proposal appears to restrict sunlight quite significantly across a large part of the recreational area of our property at least at 9am on 21 June. More detailed diagrams may help address this concern.

- d) Page 12 of the first SOEE (and page 14 of the second SOEE) asserts in its conclusion "In Conclusion the proposed alterations will have no impact on the surrounding build (sic) or natural environment and will contribute positively to the neighbourhood". This is an overstatement as the proposed alternations clearly do have an impact on the privacy of the neighbours and the long-standing use of their properties. This is evidenced by both our submission as the immediately westerly neighbour and the submission of the immediate easterly neighbour at **6 Pearl Parade** (referred to below).
- e) At page 13 and 14 of the first SOEE document, reference is made to Cl 4.4 of the *Gosford Local Environmental Plan 2014* and the assertion is made at page 14 that "the proposed additions are situated and have been carefully designed to achieve the objectives" in that clause. To the contrary, the proposal does not "minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain" as Cl 4.4(1)(c) requires. The proposal creates an elevated deck which overlooks our property and presents new and noise problems that do not currently exist, and a new 5.3m window or set of windows which overlook our property from what appears to be the new master bedroom, kitchen, study and living area of the proposed development. Each of these additions will significantly negatively impact the use and enjoyment of adjoining properties, including especially ours, because of both loss of privacy and transmission of noise from the elevated aspect, as well as shadowing and added and excessive bulk and scale.
- f) It is wrongly asserted at the top of page 15 of the first SOEE document (and page 16 of the second SOEE) that "the proposal does not affect the neighbours in any way and the increase in area only extends over the private garden by an additional 480mm over the length of the West elevation. This does not have any impact on overshadowing or privacy of the neighbouring properties". This again is an obvious overstatement as the proposal clearly effects neighbours in multiple ways. The application concedes this when it proposes privacy screens. It is incorrect to claim there is no impact on privacy of the neighbour's properties. Each neighbour now faces the prospect of a significant loss of privacy. The shadow diagrams, such as they are, reveal overshadowing in fact does occur. The immediately east facing neighbour has expressed significant noise and privacy concerns about the proposed development in his own submission.
- g) The second SOEE claims on page 3 that the proposal does not pose any potential for any privacy issues to arise for the easterly neighbour (**6 Pearl Parade**). However, this appears to be obviously incorrect according to the submission provided to Council by this neighbour (see "eForm Attachment - Redacted - DA Submission DA58347/2020 L2 DP838892 AMETHYST AVE PEARL BEACH

Reference No. 5ef16c26b97b0"). This neighbour clearly states that the proposed second floor will also look into a courtyard at the rear of his property, where there is outdoor furniture, a large spa and windows facing into bedrooms. That neighbour states the noise and privacy impacts would be "totally unacceptable" to him, and he therefore registers his "strongest objection" to the plan. We respectfully agree with him.

- h) The second SOEE refers on page 5 to "maintaining prominence of foliage and vegetation" as part of the justification for breaching the Pearl Beach DCP requirements for maximum FSR. On page 7 the statement asserts "all existing vegetation on the site will be maintained". Such a statement is again made on page 14 of the second SOEE. As noted elsewhere, this statement is simply not true; the applicant has already removed significant foliage and vegetation from his backyard. Whilst the applicant is likely entitled to do this on his own property, we cannot agree that this obviously incorrect assertion should be relied upon as a reason justifying breaching the Pearl Beach DCP. The "small size of the subject allotment" is noted by the applicant (page 5). As stated elsewhere, the fact the allotment is of small size was known at the time of purchase, and the maximum FSR was also known. If, as appears to be the case due to the discrepancies between the first and second SOEE's, the applicant was initially working on the assumption that the Gosford LEP applied rather than the more stringent Pearl Beach DCP, this is not a reason to allow development of an excessive scale and bulk according to the Pearl Beach DCP.
- i) The second SOEE on pages 9 and 10 show photos depicting the proposed second story which omit to display the impact on our property. In order to properly consider the application similar photos should be included depicting the view from our property, and from the neighbour's properties.
- j) The second SOEE on page 12 again clearly again overstates matters when under the heading "sympathetic development" it asserts "privacy and sunlight to neighbouring properties is respected and remains unaffected". Self-evidently the applicant's own plans, involving privacy screens, shadow diagrams demonstrating new shadows, and the objections of the easterly neighbour all indicate this high-level assertion is obviously simply not correct.
- k) The second SOEE refers on page 13 to "noise". It is noted the first SOEE does not appear to refer to this consideration at all. The second SOEE insofar as it discusses noise omits to refer to the obvious noise issues that an elevated rear deck will cause to all neighbours. That the doors opening to the deck face north is irrelevant to the noise that will be created on the deck. Sound will more easily transmit across the neighbourhood. The deck will exist in perpetuity regardless of any stated subjective intended use by the applicant at this time and will result in a permanent problem for all neighbours. Privacy screens will not address this issue, and it is unclear how this issue could be addressed, other than requiring the deck to be on the ground floor.
- l) The application also does not appear to refer to asbestos. It is our understanding the existing structure may be made of asbestos containing material. Investigation ought to be made about this and if there is asbestos which might be interfered with a plan would need to be created to deal with this issue.

10. The Pearl Beach DCP requires careful consideration. Among other things:
- a) On page 1 it notes that “Pearl Beach has a special character”. It continues by noting that: “In June 1990, Council, by resolution adopted as policy several of the recommendations made in the Plan of Management, including that: “Council, when considering development applications, have regard to the building bulk of developments as it affects the visual amenity of the street, reserves, neighbours, the general balance between vegetation cover and built form”. This chapter of the DCP which provides specific controls for Pearl Beach enables Council to implement that policy. In the event of any inconsistency between this chapter and any other chapters in this DCP, policies and codes that may apply to this village of Pearl Beach, this chapter will prevail unless otherwise specified in this chapter or in the other chapters, policies and codes.”
  - b) On page 2 it is stated that one aim of the Pearl Beach DCP is to ensure that further development is consistent with the unique qualities and character of Pearl Beach as a significant feature of the Central Coast. Against this backdrop, the DA ought not assert that compliance with the Pearl Beach DCP is “unnecessary” (as it does at page 16 of the second SOEE).
  - c) Part 5.10.8 requires that the size and shape of development is to be compatible with the character and scale of surrounding residential development. It is submitted this development to the extent it seeks a very large open elevated deck overlooking several properties, large 5.3m windows overlooking our property and a significant development on a very small block by Pearl Beach standards does not comply with this part of the Pearl Beach DCP.
  - d) Part 5.10.9(d) requires a dwelling house with a building height of more than 3.8m and any deck that is attached to the dwelling house to have a setback from a side boundary of at least the sum of 1m and an amount equal to one quarter of the additional building height above 3.8m (here  $8.1\text{m} - 3.8\text{m} / 4 = 1.075\text{m}$ ) = 2.075m. It is unclear from the currently exhibited plans whether the setback of the proposed deck from the northern or eastern boundary meets this specification. More detailed plans may address this concern. I note the concerns expressed by Tony Moody in his submission regarding what he says are in his opinion numerous other set back breaches.
  - e) Finally, part 5.10.15 requires development to be designed so that noise levels from outside sources minimise transmission to adjacent buildings. The application does not demonstrate in the application, as required by this part, that the noise level does “not exceed 5dBA above background noise level”. The noise issues from the deck are not sufficiently addressed by the DA, nor are they dealt with by our bona fide discussions with the applicant on this issue. By designing a DA with an elevated deck, noise will unavoidably in perpetuity be transmitted to adjacent buildings, quite likely at unacceptable levels in breach of the Pearl Beach DCP. Placing a deck on the ground floor would comply with the requirements of the Pearl Beach DCP and avoid this problem.
11. Were this proposal permitted in this form our family would in all likelihood be required take our own measures to restore some of the lost privacy and peace we have for almost the last two decades enjoyed. Whilst it would depend on the final form of the DA, this might require us to plant large bamboo plants or to erect other

privacy screens at our own expense to provide shielding from the privacy, bulk, scale and noise issues created by the second story, large windows and deck facing our house. This would be extremely undesirable for both parties and would in any event be an incomplete solution, resulting in a permanent negative impact on our property and family. This could be substantially avoided by making some common-sense fair amendments to the current plans which comply with the rules, which reflect the small block size and which are more considerate of the neighbours' legitimate interests whilst still allowing for improvement of the applicant's structure.