



Pre-lodgement Meeting Notes

Application No: PLM2021/0314
Meeting Date: 2 December 2021
Property Address: 120 Prince Alfred Parade NEWPORT
Proposal: Subdivision, demolition and construction of two dwellings
Attendees for Council: Lashta Haidari – Principle Planner
Ellie Peedom – Planning Officer

General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only.

These notes are an account of the advice on the specific issues nominated by the Applicant and the discussions and conclusions reached at the meeting.

These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority.

A determination can only be made following the lodgement and full assessment of the application.

In addition to the comments made within these Notes, it is a requirement of the applicant to address the relevant areas of legislation, including (but not limited to) any State Environmental Planning Policy (SEPP) and any applicable sections of the Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan, within the supporting documentation including a Statement of Environmental Effects, Modification Report or Review of Determination Report.

You are advised to carefully review these notes and if specific concern have been raised or non-compliances that cannot be supported, you are strongly advised to review your proposal and consider amendments to the design of your development prior to the lodgement of any development application.



PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 (PLEP 2014)

PLEP 2014 can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2014-0320>

Part 2 - Zoning and Permissibility	
Definition of proposed development: (ref. PLEP 2014 Dictionary)	dwelling house means a building containing only one dwelling. (2)
Zone:	W1 Natural Waterways: Lot 9 DP752046 Zone C4 Environmental Living: Lot 34 DP 13457 Zone Lot 35 DP 13457 Zone Lot B DP 391307
Permitted with Consent or Prohibited:	C4 Environmental Living – permitted with consent W1 Natural Waterways – prohibited

Part 4 - Principal Development Standards			
Standard	Permitted	Proposed	Compliance
2.5 Additional permitted uses for particular land – Schedule 1 - 23 Use of certain land in Zone W1 Natural Waterways	Development for the purposes of boat sheds, jetties or water recreation structures is permitted with development consent.	120: N/A 120A: Existing boat shed and timber deck	Refer to discussion below
Whilst the proposal does not physically alter the existing boat shed in the north eastern portion of the existing site, the process of subdivision will bring into question its ownership and subsequently the issue of permissibility as it partially resides on Crown Land. Please refer to the subheading 'Property' under the Specialist Advice section below for further information.			
4.1 Minimum subdivision lot size	C4: Q Minimum 700 sqm W1: N/A	120: 800sqm 120A: 831.6sqm	Yes
4.3 Height of buildings	C4: I Maximum 8.5m W1: B Maximum 4.0m	C4 - 120: 10.25m C4 - 120A: 8m	No Yes



The proposed structure at 120 breaches the height control as shown below in Figure 1.

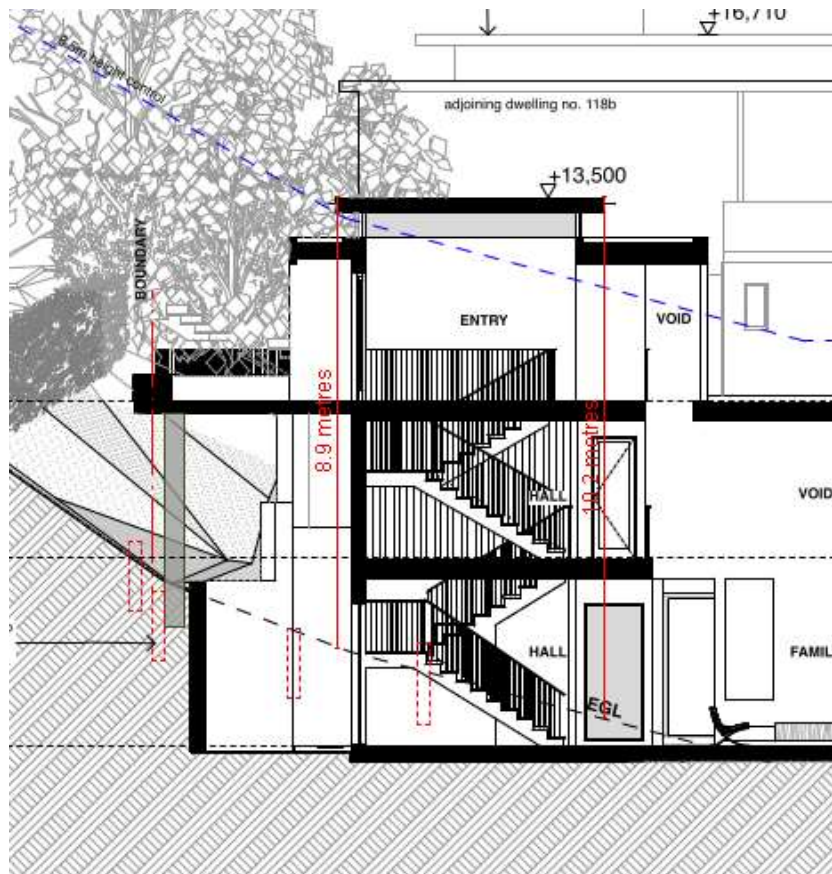


Figure 1. Height control variation as shown on dwg. Section A - No 120.

The height breach of approx... 1.75m enables the development at 120 to achieve 3 storeys in height, mirroring the scale of the adjacent property to the west. It is understood that this layout is an outcome due to the shape of the site (the portion behind the Foreshore Building Line) as well as higher street level access in comparison to 120A, which may or may not necessitate vehicular access from this proposed third storey. Therefore, it must be demonstrated by the applicant in a Clause 4.6 assessment that this variation to the development standard is necessary to achieve amenity, as well as why design alternatives below the height threshold are not feasible. The following objective of this clause is considered critical to the assessment:

(d) to allow for the reasonable sharing of views

It is noted in the preliminary report provided by the applicant for this meeting that clause 4.3 (2A) will be drawn upon for this assessment, however, site 120 is not identified on Councils Flood Hazard Map nor Coastal Risk Map. Only site 120A is proposed to be in flood affected area. Therefore, to draw on this clause additional information from a flood engineer may be necessary.

This variation is considered extensive, and the query stands as to whether or not the clear storey over the entrance can be omitted in the design to avoid the structure coming in to the



Part 4 - Principal Development Standards

south west corner. The applicant will need to thoroughly demonstrate the need for this variation and how it achieves the outcomes of the control.

<p>7.8 development on foreshore area</p>	<p>Limited on (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).</p>	<p>120: Roof overhang on terrace 120A: Roof overhang on terrace</p>	<p>No</p>
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Despite outdoor recreation facilities being conditionally permitted beyond the FBL, the terrace roof in this proposal is attached to the dwelling and could be interpreted as the dwelling extending beyond the FBL which is a prohibited development. See Figure 2 below:

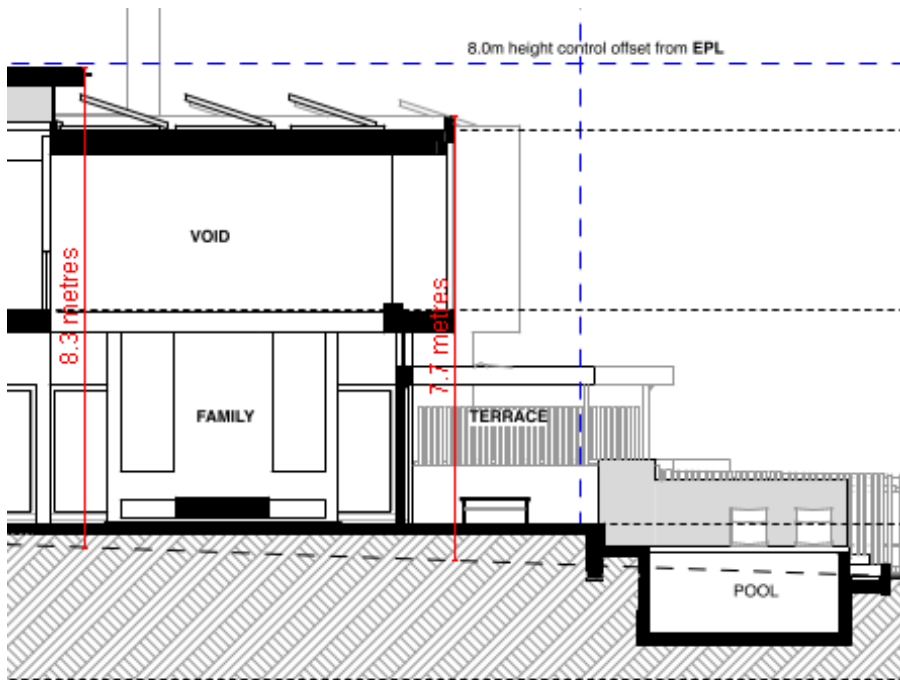


Figure 2: Terrace roof overhang beyond foreshore building line as shown on dwg. Section B- No 120a.

Therefore it must be clearly demonstrated by the applicant that the structure is solely for the purpose of a recreation facility (outdoor) and will not in turn enable the applicant to apply for future development consent to enclose, extend or alter the area under clause (2)(a) of this principle development standard.



PITTWATER 21 DEVELOPMENT CONTROL PLAN (P21DCP)

P21DCP can be viewed at

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Pages/Plan/Book.aspx?exhibit=PDCP>

The following notes the identified non-compliant areas of the proposal only.

Section C1 - Design Criteria for Residential Development		
Control	Permitted	Proposed
C1.3 View Sharing		
The current proposal is compliant with D10.8 Side and rear building line in the Pittwater Development Control Plan. Despite this, a concern regarding the close proximity of the two properties was raised by Council attendees in the meeting with respect to its impact on views from neighbouring properties as well as from roads and public places. The perceived impacts at this preliminary stage led to the preference that the development be redesigned to achieve further physical separation, by increasing the side boundary setbacks or otherwise.		
Section D10 – Newport Locality		
Control	Permitted	Proposed
D10.1 Character as viewed from a public place		
The character of the proposed structures is considered compatible and in keep with the surrounding environment. The applicant must demonstrate in their Statement of Environmental Effects how the design achieves the outcomes of the control.		
D10.7 Front building line (excluding Newport Commercial Centre)	6.5 or established building line, whichever is the greater.	Established building line (min 0.7m)
The proposal for a minimal front setback is considered in keeping with the adjoining properties to the west		
D10.8 Side and rear building line (excluding Newport Commercial Centre)	2.5 to at least one side; 1.0 for other side 6.5 rear (other than where the foreshore building line applies)	Compliant
Please refer to C1.3 View Sharing above for comments.		
D10.11 Building envelope (excluding Newport Commercial Centre)	45 degrees from a height of 4.2 metres above ground level (existing) at the side boundaries to the maximum building height	Maximum 11% breach at 2.5m length of building.
The proposed structure at 120A breaches the building envelope control generally as shown in Figure 3.		



Section C1 - Design Criteria for Residential Development

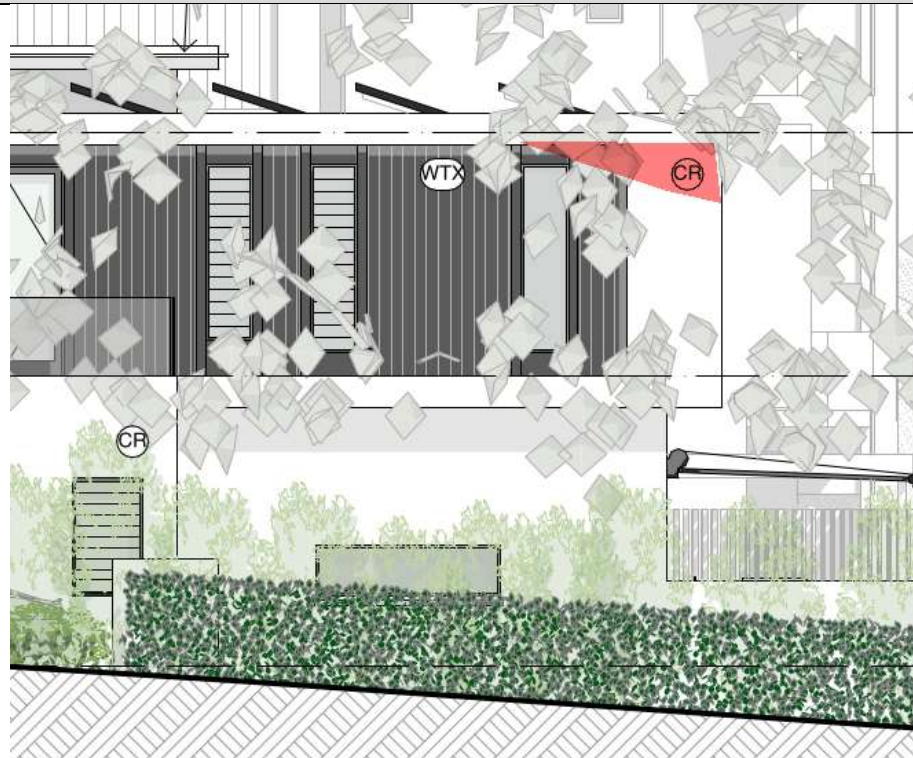


Figure 3. Building envelope breach as shown on dwg. 120a Eastern Elevation

The proposed breach is considered minor in nature. However, it does play into broader issues around the physical separation of the two buildings as well as bulk and scale. The breach could be accepted subject to other design amendments occurring to mitigate these two issues as well as the applicant's ability to demonstrate that the proposal achieves the outcomes of the control.

D10.13 Landscaped Area - Environmentally Sensitive Land	60%	120: 51% - 55%
		120A: 54% - 58%

A new build is expected to achieve full compliance with this control, and a variation will unlikely be supported in consideration to all the proposed non-compliances. It must be noted that in reference to the green roof proposed at 120A, impervious landscape treatments higher than 1 metre above ground level (existing) cannot be incorporated into this calculation. The applicant must demonstrate that the proposal achieves the outcomes of this control.

Specialist Advice

Biodiversity

Councils Biodiversity Officer advised the following:



Specialist Advice

The Coastal Management SEPP 2018 cl. 13 Development on land within the coastal environment area applies to the site and must therefore be addressed for compliance against the objectives and controls of the clause within the SEE.

It is noted that a Preliminary Arborist Report and Concept Landscape Plan have been submitted as part of pre-lodgement documentation. Finalised reports should be submitted with the formal development application.

Coastal

Councils Coast & Estuary Rafiq advised the following:

Coastal Management Act 2016 and State Environmental Planning Policy (Coastal Management) 2018

The proposed development is located within the coastal zone of NSW and is subject to the provisions of the Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP).

Under the CM SEPP the subject site has been included on the Coastal Environment Area and Coastal Use Area Maps. The objectives and requirements of both the CM Act and the CM SEPP must be addressed within the Statement of Environmental Effects (SEE) and the Estuarine Risk Management Report as they relate to development within the coastal zone. Clause 15 of the CM SEPP will also apply to the proposed development.

Estuarine Risk Management

Estuarine Hazards

The subject property has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.10 Estuarine Hazard – Subdivision Controls will apply to any development of the site

Estuarine Planning Level (EPL)

Based on the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.67m AHD has been adopted by Council for the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.0m.

Proposed developments, as per the Master Set, are located above the adopted EPL. Hence, no Estuarine Risk Management Report will be required. However, If new developments are proposed that are located below the adopted EPL, Estuarine Risk Management Report will be needed.

The Pre-lodgement Report discussed without elaboration of 'cosmetic changes to the existing boatshed'. The requirements of relevant controls under D15. 15 Waterfront Development Controls in Pittwater 21 DCP may need to be considered. Consideration should be given to 'section B3



Specialist Advice

Estuarine Hazard Controls relating to boatsheds'. The minimum floor level for boatsheds shall be in accordance with the B3 Estuarine Hazard Controls.

Development on Foreshore Area

However, a section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. Proposed swimming pool and fences are permissible under the clause. However, the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014 needs to be addressed within the Statement of Environmental Effects (SEE) Report as they relate to development within the foreshore area.

Other Matters

The existing boat shed (in part), a car parking bay and a brick retaining wall with mesh fencing appear to be encroachments on the adjoining Council owned public reserve (Florence Park). The opportunity should be taken to address the public interests and formally resolve this matter as a part of the DA proposal. Otherwise, it is recommended these to be located within the property boundary.

Part of the existing boatshed is permitted in Area 23 in the W1 natural waterways zone with development consent.

Development Engineering

Council's Senior Development Engineer advised the following:

1. Stormwater disposal for the proposal is to be designed in accordance with Pittwater 21 DCP 2014 Clause B5.15 Stormwater.
2. The proposed driveway crossing and internal driveway is to be designed in accordance with Pittwater Council's Pittwater 21 DCP 2014 Clause B6.1 Access Driveways and Works on the Public Road Reserve and B6.2 Internal Driveways.
3. The proposed off street parking is to be in accordance with Pittwater Council's Pittwater 21 DCP 2014 Clause B6.3 Off-Street Vehicle Parking Requirements.
4. A Geotechnical report is to be provided in accordance with Pittwater Council's Pittwater 21 DCP 2014 Clause B3.1 Landslip Hazard.

The proposal includes an elevated pedestrian access for each property. Comments from Council's Road Asset Team must be provided for these structures. Also the applicant is proposing to construct a retaining wall along the boundary and remove the existing wall within the road reserve. This issue must also be addressed by Council's Road Asset Team.

Council's Traffic Team may also need to be consulted with respect to the requirement for a footpath and any safety barriers that they may require for the proposal, as the property is significantly lower than the road.



Specialist Advice

Environmental

Councils Environmental Health Officer Timothy O'Keeffe advised the following:

Acid Sulfate Soils

The proposed development excavation works to be done in Class 1 Acid Sulfate Soils must be investigated for the presence of Potential or Actual Acid Sulfate Soils. The Acid Sulfate Soils Manual 1998 indicates that Council should be informed of works below ground surface level that require an Acid Sulfate Management Plan, which are triggered by either:

- 1 tonne of soil will be disturbed; or
- Any works that are likely to lower the watertable.

Sub-soil contamination

In line with SEPP55, a Detailed Site Investigation is only required if excavation works are likely to expose 'fill' from previous development works. Our discussion concluded that it is unlikely that (contaminated) fill will be uncovered during excavation of the southern portion of the proposed development, but it is pertinent to outline in the Statement of Environmental Effects why this is so, for example, the existing building is raised off the ground, no extensive groundworks had been done prior to its construction.

Flood

Councils Floodplain Planning & Response Team Leader Patrick Stuart has advised the following:

The lots are not affected by the 1% AEP (100 year) flood area. The floor levels are above the Flood Planning Level. Therefore a Flood Management Report is not required with a DA. Subject to conditions, the proposed working plans dated 26/10/21 could be supported by the flood referral body.

Landscape

Councils Senior Landscape Architect Joseph Tramonte has advised the following:

The Statement of Environmental Effects shall include commentary of relevant landscape clauses of the DCP, and in this instance the following:

- B4.22 Preservation of Trees and Bushland Vegetation
- C1.1 Landscaping
- D10 Newport Locality, with reference to relevant controls

Preliminary architectural and landscape plans are provided as well as a preliminary arboricultural report.



Specialist Advice

The arboricultural report notes trees within the property that can be retained by this development proposal and this is one tree at the rear of the property. Other existing trees are impacted by the development proposal and it is noted the majority of these trees are exempt species. One native tree is lost.

All trees within the adjoining public reserve are noted as not impacted by development subject to tree protection measures and these shall be detailed within the development application Arboricultural Impact Assessment. Likewise no trees or vegetation within the road reserve shall be impacted upon.

The landscape plan retains the one existing tree recommended for retention in the arboricultural report, and includes native palm and fern planting, and other mass planting to the remaining landscape areas.

The remaining landscape areas raise concern as the setback to the frontage will not permit effective landscaping to satisfy the landscape outcome of C1.1 Landscaping.

Of concern is that the landscape areas to the frontage and the side boundary areas include proposed planting in proximity to the buildings. All landscape planting are within 2 metres of the proposed buildings and hence may be conceived as exempt and removable under the 2m exemption rule. It is considered that the proposed landscape is unable to achieve planting that can be established in the long term and the building setbacks should be increased, and in particular the front setback.

The proposed plans additionally propose public road reserve encroachment that cannot be supported under a development application including retaining walling, stairs and landscaping and these elements should be located within the site boundaries.

It is advised that minor encroachment applications are available to be considered by Council, under the Roads Act provisions.

Property

The boathouse appears to encroach upon Florence Park, which is community land under the provisions of the Local Government Act 1993 and managed under the Parks & Playgrounds Plan of Management. This POM does not appear to endorse a lease or licence over the for the purposes of a private boathouse.

Should the Mean High Water Mark (MHWM) extend around the land side of the boathouse, you are advised that you will need to deal with Crown Lands as they administer leases and licences below MHWM.

Regarding the possibility that an agreement existed between the original owners of the site and Warringah Council and that Florence Park may have gifted to Council by this owner, you are advised to conduct your own search of the relevant title deeds and submit any evidence that supports this.



Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects
- Scaled and dimensioned plans:
 - Site Plan;
 - Floor Plans;
 - Elevations; and
 - Sections.
 - Landscape Plan
- Certified Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).
- Quantity Surveyors Report
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan (if any change is proposed to the driveway)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Arborist Report
- Estuarine Risk Management Report (If new developments are proposed that are located below the adopted EPL)
- Geotechnical Report
- Acid Sulfate Management Plan (if 1 tonne of soil will be disturbed; or any works that are likely to lower the watertable)
- Title Deeds or Licence relating to Boat Shed
- Flood Management Report

IMPORTANT NOTE FOR DA LODGEMENT

Please refer to the Development Application Lodgement Requirements on Council's website (link details below) for further detail on the above list of plans, reports, survey and certificates.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/development-application-da-modification-or-review-determination/2060-da-modification-lodgement-requirements-mar21.pdf>

The lodgement requirements will be used by Council in the review of the application after it is lodged through the NSW Planning Portal to verify that all requirements have been met for the type of application/development.

Concluding Comments

These notes are in response to a pre-lodgement meeting held on 2 December 2021 to discuss a proposed subdivision, demolition and construction of two dwellings at 120 Prince Alfred Parade Newport. The notes reference the plans prepared by Philip Corben dated 26 October 2021.

The design of the proposed structures and their character are generally considered to have merit and complement the surrounding environment. The close proximity of the two dwellings however is of significant concern in relation to view loss. It is advised that the design should be amended to achieve greater physical separation as well as increase the ratio of landscaped open space on

**Concluding Comments**

each lot. It is important that any variation sought as mentioned above should be analysed in depth as to how it still meets the outcomes of each control.

Question on these Notes?

Should you have any questions or wish to seek clarification of any matters raised in these Notes, please contact the member of the Development Advisory Services Team at Council referred to on the front page of these Notes.