

NORTHERN BEACHES COUNCIL

Application for Building Certificate

Environmental Planning & Assessment Act, 1979 (as amended)

Section 149A, B, C, D

Effective from 1/7/16 till 30/6/17

RECEIVED MONA VALE
28 NOV 2016
CUSTOMER SERVICE
Office Use - BC No: B00130/16

Please Note: Details provided on this form and documents provided will be made public both at Councils Office and via Application Tracking on Councils website. The information will be kept by Council and will be disposed of in accordance with the Local Government Disposal Authority. You are entitled to review your personal information at any time by contacting Council.

Property Description	
Number: <u>15</u>	Street: <u>Jubilee Avenue</u>
Suburb: <u>Warriewood</u>	
Lot: <u>202</u>	DP: <u>1019363</u>
Applicant	
Applicants Name: <u>Turnbull Planning International Pty Ltd</u>	
Postal Address: <u>2301 / 4 Daydream St</u>	
Suburb: <u>Warriewood</u>	Postcode: <u>2102</u>
Phone (02) <u>9979 4922</u>	Daytime Contact No (02) <u>9979 4811</u>
Mobile () _____	Fax () _____
Email: <u>Ishara@turnbullplanning.com.au</u>	
You can apply for a building Certificate if you are: (Please tick the appropriate box)	
<input type="checkbox"/> I am the owner of the building	
<input checked="" type="checkbox"/> I have the owners consent to lodge this application (see below)	
<input type="checkbox"/> I am the purchaser under a contract for the sale of the property	
<input type="checkbox"/> I am the owner's or purchasers solicitor or agent	
<input type="checkbox"/> We are a public authority which has notified the owner of its intention to apply for the certificate	
Signature: <u>[Signature]</u>	Date: <u>21 / 11 / 16</u>
For access to the building please contact: <u>Lee Richards</u>	
Phone: <u>02 9910 5230</u>	Mobile: <u>04 1962 6608</u>

Owners Consent

Owner/s Name/s: Owners Consent is attached

Postal Address: _____

Suburb: _____ Postcode: _____

Phone () _____ Mobile () _____

Email: _____

I/We consent to the lodgement of this application and permit Council authorised personnel to enter the site for the purpose of inspections:

Signature: _____

Certificate Type

- Whole Property
- Whole Building i.e: _____
- Part Building i.e _____
- Pool , Fencing & Access _____
- Unauthorised works Ten (10) concrete pads on the site (Refer to DA N0316/16)

Processing Fees

Fee Description	Detail	Code	Fee
Class 1 & 10 (& class 2 buildings with only 2 dwellings)	✓ \$250	FHEA	\$250
Class 2-9 buildings - floor area less than 200m ²	\$250	FHEA	
Class 2-9 buildings - floor area > 200m ² to 2000 m ²	\$250 + \$0.50 per m ² > 200 m ²	FHEA	
Class 2-9 buildings - floor area > 2000m ²	\$1165 + \$0.75 per m ² > 2000 m ²	FHEA	
For unauthorised works, one of the above certificate fees will apply in addition to the following:			
Development Application, Construction Certificate and Notification fees OR CDC fees apply based on the cost of works	✓ \$860	FHEA	
Notification (required for unapproved works)	✓ \$280	TADV	\$280

Accompanying information to be submitted with Application		
Checklist	Documents Required	Office Use
	A detailed survey prepared by a Registered Surveyor clearly showing the location of the structures and/or works on the site. The date of the survey is irrelevant in so far as the information contained therein is still current.	
	Where the property is identified on either Councils Geotechnical Risk Management Map 2003 and/or Costal Hazard map 97-003 as being Bluff Management Areas A geotechnical Engineers report prepared in accordance with Councils Interim Geotechnical Risk management policy is to be provided, together with completed form 4 pursuant to that policy	
When this application relates to unapproved structures or works the following information is required:		
✓	A detailed survey prepared by a Registered Surveyor clearly showing the site & location of the structures on the property and any nearby structures on adjacent properties together with floor levels, finish surface levels and the like.	X
✓	1 set of Works as constructed plans. These plans should be prepared by a suitably qualified professional e.g. Architect/Draftsman and clearly annotate the unapproved structures and/or works as to their compliance with the relevant Council Development controls.	X
✓	12 x A4 reduced copies of works as constructed plans for neighbour notification.	X
✓	Certification as to the structural adequacy of the structures and/or works as built. <ul style="list-style-type: none"> all built structures will require certification as to their structural integrity by a qualified Structural Engineer, all earthworks and foundations will require certification by a qualified & experienced Engineer as to their adequacy. 	STRUCTURAL CERTIFICATE X
N/A	Where the property is identified on either Councils Geotechnical Risk Management Map 2003 and/or Costal Hazard map 97-003 as being Bluff Management Areas A geotechnical Engineers report prepared in accordance with Councils Interim Geotechnical Risk management policy is to be provided, together with completed form 4 pursuant to that policy	
	Certificate by an appropriately qualified person that the structures and/or works comply with the Building Code of Australia and appropriate Australian Standards.	
	Council may require additional information to enable appropriate assessment and determination of the Building Certificate.	
Office Use		
Receipt No: <u>405015</u> Date: <u>1/12/16</u>		

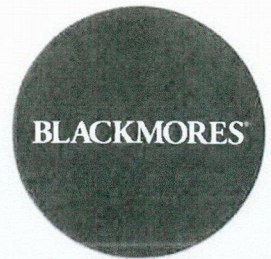
Privacy and Personal Information Protection Notice

This information is provided under the Environmental Planning & Assessment Act 1979 voluntarily by the applicant and is collected for the assessment of the application. Failure to provide this information will prevent Council processing your application and may lead to your application being rejected. This information is intended only for Officers of Northern Beaches Council and will be stored in accordance with Northern Beaches Council's compliant Records Management System (ECM) and the State Records Act 1998 (NSW). This information may be accessed by Council Officers or by requests under the Government Information (Public Access) Act 2009 (NSW). You have a right to access your personal information under the Privacy and Personal Information Protection Act 1998 (NSW) by application to Northern Beaches Council and to have that information updated or corrected.

Blackmores Ltd
ABN 35 009 713 437
20 Jubilee Ave (PO Box 1725)
Warriewood NSW 2102, AUSTRALIA

P +61 2 9910 5000
F +61 2 9910 5555
Naturopathic Advisory Service
1800 803 760

Blackmores.com.au



17 October 2016

The General Manager
Northern Beaches Council
PO Box 882
Mona Vale NSW 1660

Building Certificate Application 15 Jubilee Avenue Warriewood

Dear General Manager,

This letter will serve to authorise Turnbull Planning International Pty Limited lodging a Building Certificate Application in respect of the subject property and undertaking all matters incidental thereto.

Regards,

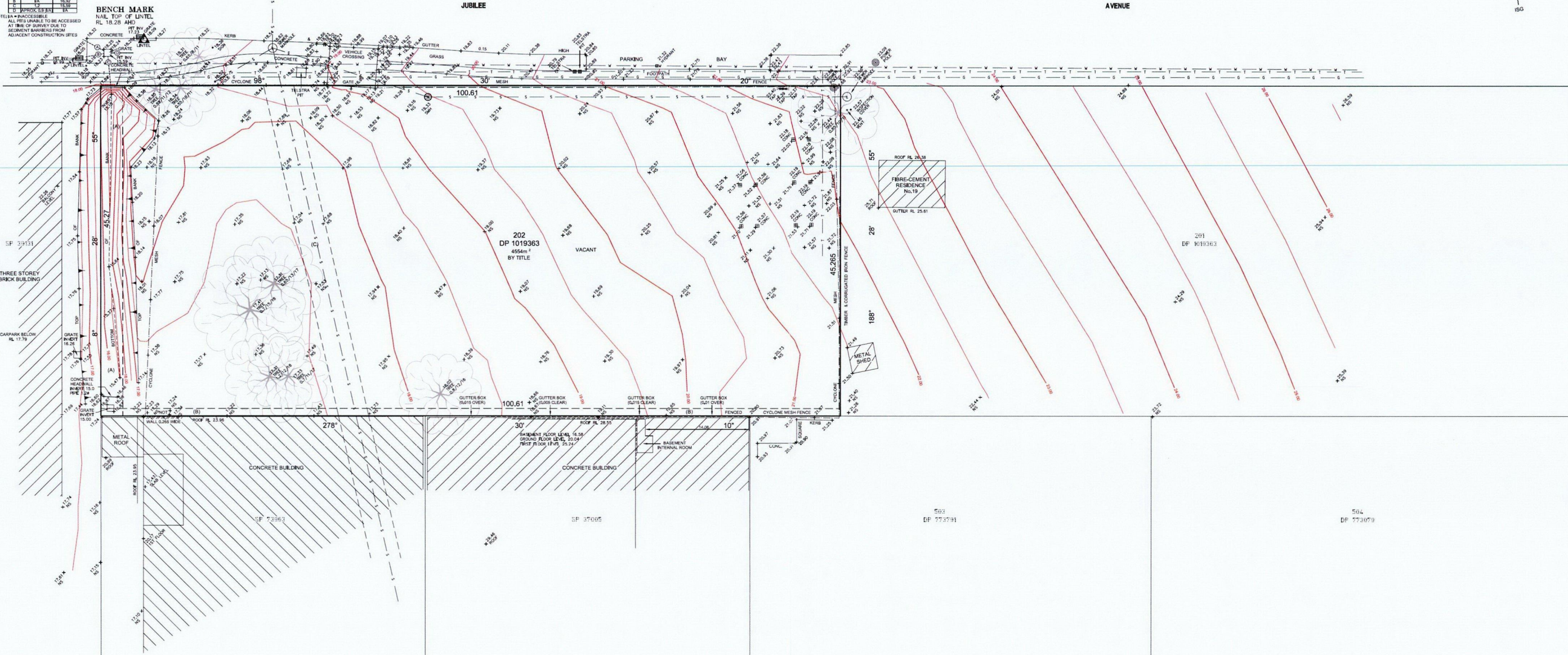


Cecile Cooper | Company Secretary and Director



PIPE (DIAMETER) (mm)	COVER (mm)
150	150
100	100
75	75
50	50

NOTE: * UNACCESSIBLE
ALL PITS UNABLE TO BE ACCESSIBLE
AT TIME OF SURVEY DUE TO
RECENT CONSTRUCTION SITES
ADJACENT CONSTRUCTION SITES



NOTES

LOT AREAS AND BOUNDARY DIMENSIONS HAVE BEEN COMPILED FROM DEPOSITED PLANS AVAILABLE AT LAND AND PROPERTY INFORMATION. NO BOUNDARY SURVEY OR INVESTIGATION HAS BEEN MADE AND NO BOUNDARIES HAVE BEEN MARKED, ACCORDINGLY THE POSITION OF IMPROVEMENTS RELATIVE TO BOUNDARIES SHOWN HEREON IS DIAGRAMMATIC ONLY.

BEARINGS SHOWN ON THIS PLAN ARE ORIENTATED TO ISG NORTH VIDE DP 1019363.

THE BOUNDARY LOCATIONS SHOWN ON THIS PLAN ARE PROVISIONAL AND SUBJECT TO FURTHER SURVEY.

ONLY VISIBLE SERVICES HAVE BEEN LOCATED ON THIS SURVEY.

WHERE THE EXACT LOCATION OF UNDERGROUND SERVICES IS CRITICAL TO THE DESIGN OR CONSTRUCTION THE RELEVANT PARTY SHOULD ARRANGE TO HAVE AN UNDERGROUND SERVICES TRACE CARRIED OUT TO CONFIRM THE SERVICES EXACT LOCATION. IN THIS REGARD ALL PARTIES SHOULD DIAL BEFORE THEY DIG.

TREE DIMENSIONS SHOWN TRUNK(DIA) / SPREAD(DIA) / HEIGHT.

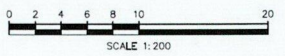
TREE SIZES ARE ESTIMATES ONLY.

CONTOUR INTERVAL 1.0m MAJOR, 0.5m MINOR.



- KEY**
- T — DENOTES UNDERGROUND TELSTRA SERVICE
 - W — DENOTES UNDERGROUND WATER MAIN
 - S — DENOTES UNDERGROUND SEWER MAIN
 - G — DENOTES UNDERGROUND GAS MAIN

- (A) EASEMENT TO DRAIN WATER 3 WIDE (VIDE DP 1019363)
- (B) EASEMENT TO DRAIN WATER 1 WIDE (VIDE DP 1019363)
- (C) EASEMENT FOR SEWERAGE PURPOSES 4 WIDE (VIDE DP 578894) (3951558)



USHER & COMPANY
Surveying & Land Development Consultants
Sub 23, 1-3 Havah Street, Chatswood NSW 2057
PO Box 1199, CHATSWOOD NSW 2057
Phone: (02) 9411 8199
Fax: (02) 9411 8177
Email: admin@usherandcompany.com.au

APPROVED _____

Amendments		PLAN
ISSUE	DATE	DETAILS
1	25/11/2016	

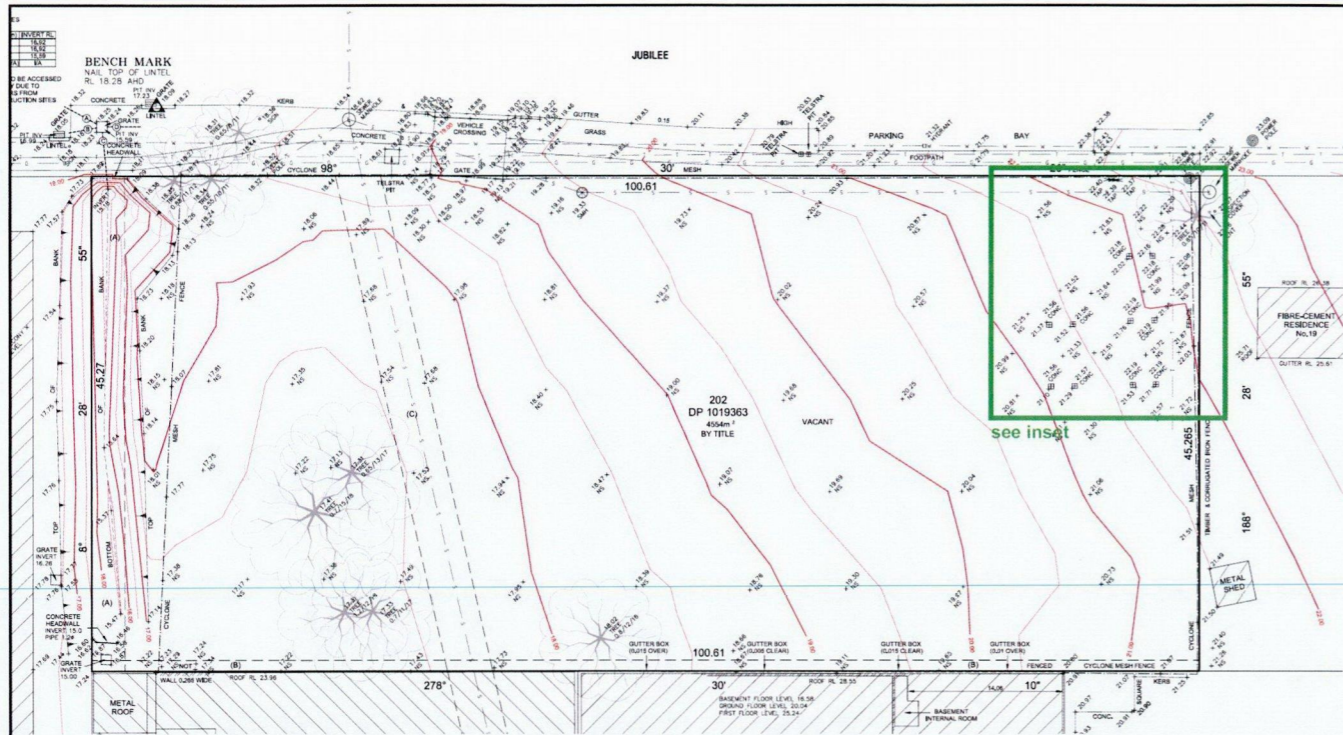
SHOWING DETAIL AND LEVELS AT
No.15 JUBILEE AVENUE, WARREWOOD
BEING LOT 202 IN DP 1019363

LOCAL: PITTWATER
SUBURB: WARREWOOD
DATE: PM 6873
RL 20.883 AHD
SCMS 29/01/2007

REDUCTION RATIO: 1:200
DATUM: AHD
DATE OF SURVEY: 11-11-2016
SURVEYED BY: AM / DM
DRAWN BY: LL

CLIENT: BLACKMORES
PLAN REFERENCE: 5814-DET

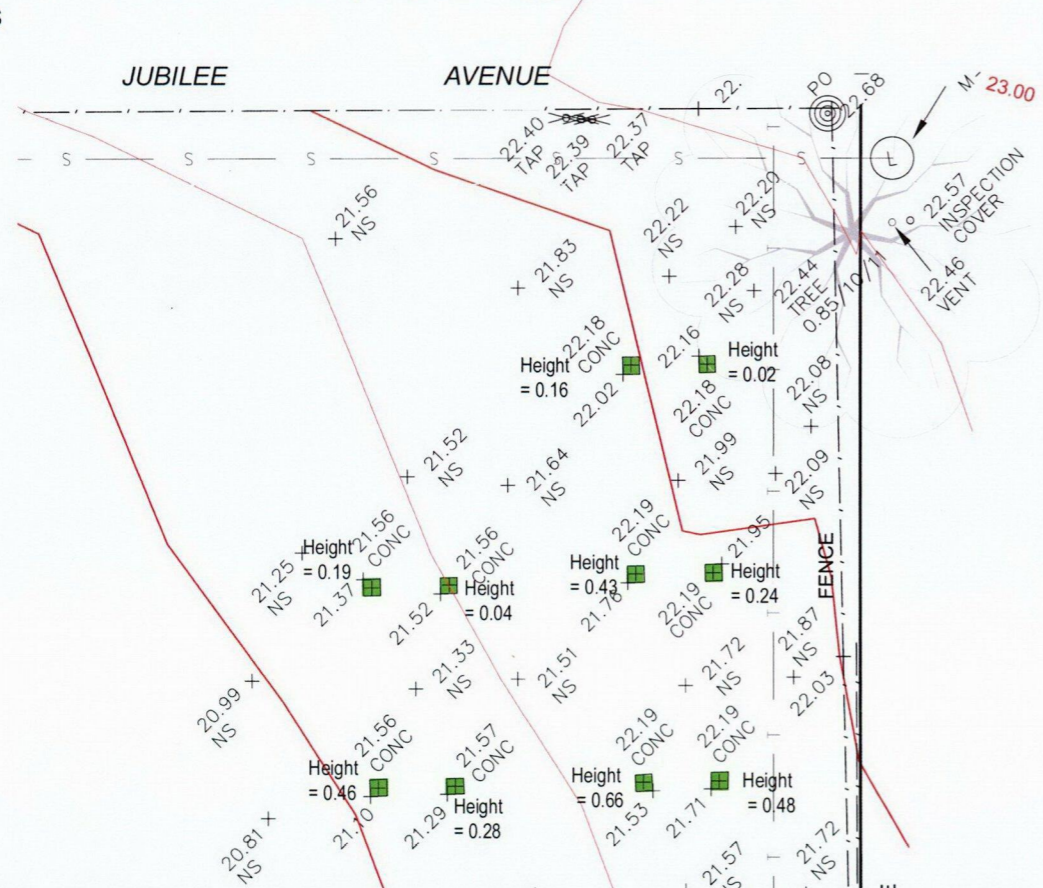
AO
ISSUE: INITIAL



SURVEY OF NO 15 JUBILEE AVENUE, WARRIEWOOD

Extract from Usher & Company Survey_Ref: 5814-DET

NTS

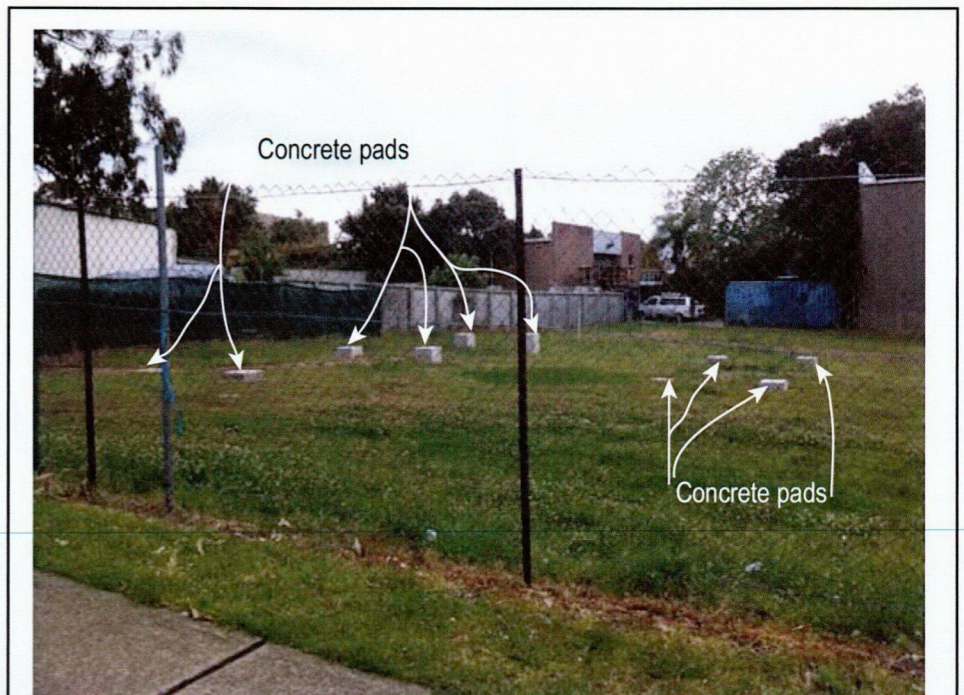
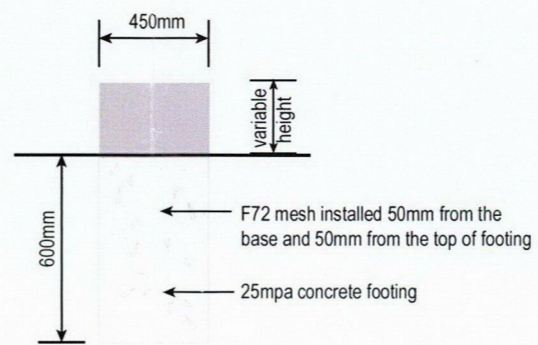
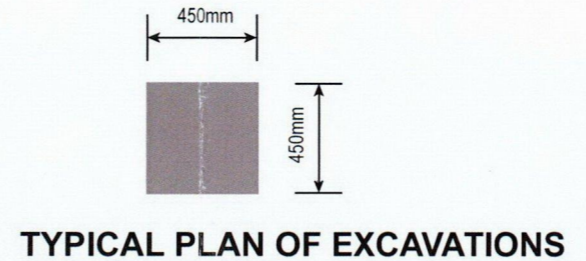


INSET SHOWING LOCATION OF CONCRETE PADS + HEIGHT

NTS

KEY

Height = 0.46 ■ concrete pads and height



PHOTOGRAPHS SHOWING CONCRETE PADS IN NORTH EAST CORNER AT 15 JUBILEE AVENUE



Structural Certificate

Date: 25th November 2016 Job No. 161174
Client: Blackmore Design Group Engineer: RGW
Site: 15 JUBLEE AVENUE, WARRIEWOOD

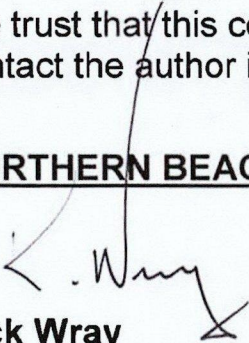
Rick Wray of Northern Beaches Consulting Engineers P/L has reviewed the statutory Declaration of John O'Neil and viewed the photography provided and work as executed plan.

We hereby certify that the construction of the Piers/footings as being structurally adequate to support the design imposed loadings of the containers. In accordance with AS 1170.1, AS 3600.

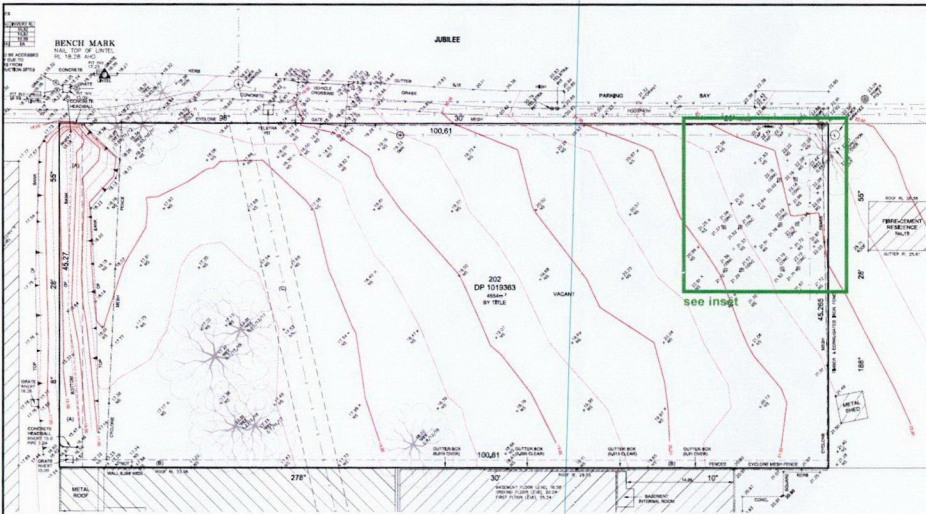
This certificate does not relate to and we assume no responsibility for the certification of any structural or other elements that have not been inspected by the companies' representatives or are not referred to in this certificate.

We trust that this certificate meets with your requirements. Please contact the author if further clarification is required.

NORTHERN BEACHES CONSULTING ENGINEERS P/L

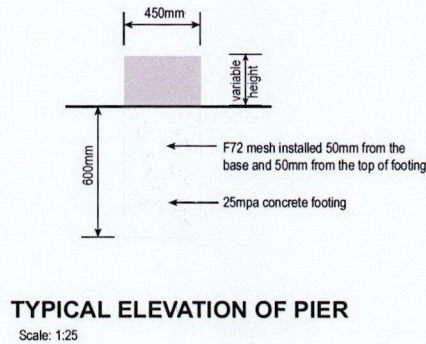
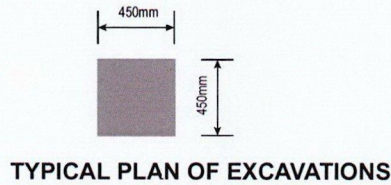
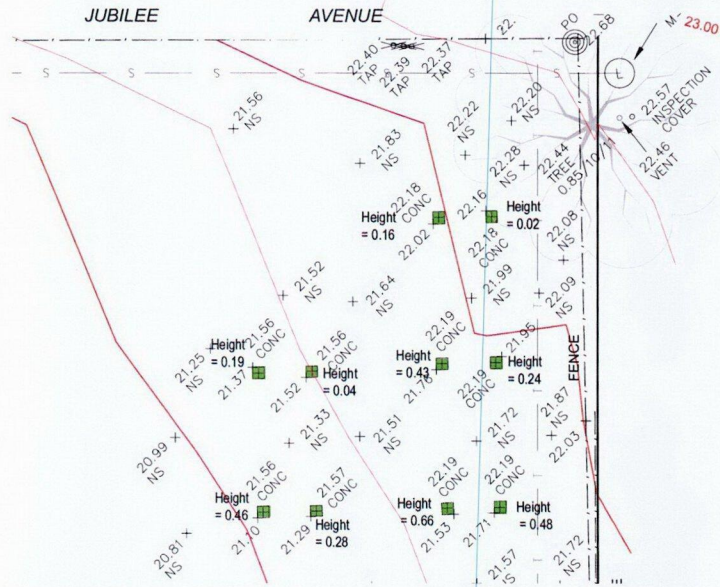

Rick Wray
BE CPEng NER Director

X:\Synergy\Projects\161174 15 JUBLEE AVENUE, WARRIEWOOD\ENG Design\Structural Certificate.dotx



SURVEY OF NO 15 JUBILEE AVENUE, WARRIEWOOD

Extract from Usher & Company Survey_Ref: 5814-DET
NTS

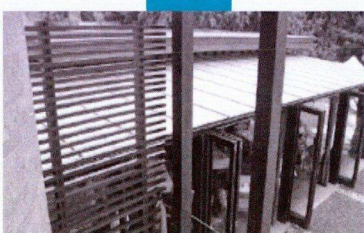
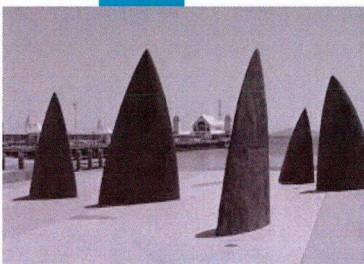
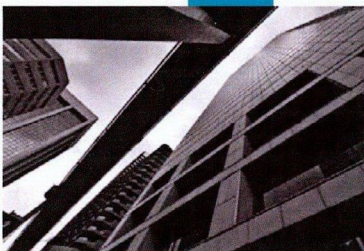
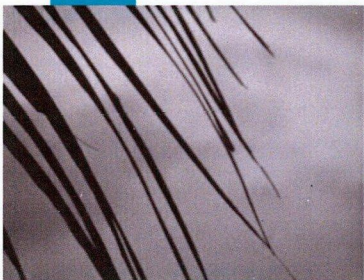
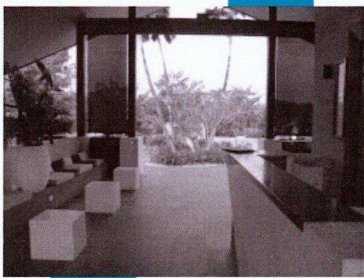
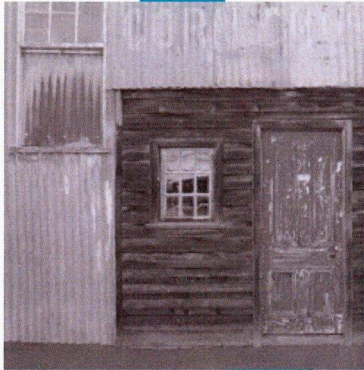
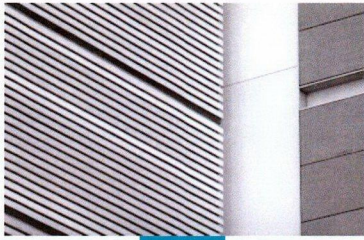


INSET SHOWING LOCATION OF CONCRETE PADS + HEIGHT

NTS
KEY
Height = 0.46 ■ concrete pads and height



PHOTOGRAPHS SHOWING CONCRETE PADS IN NORTH EAST CORNER AT 15 JUBILEE AVENUE

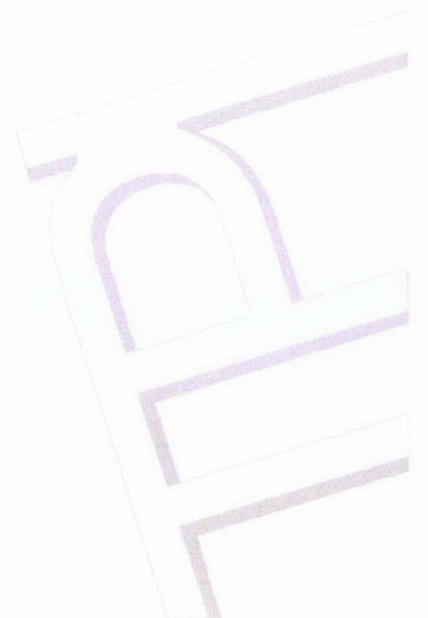


PLANNING SUBMISSION

Prepared in association with
An application for a building certificate

15 JUBILEE AVENUE
WARRIEWOOD

NOVEMBER 2016



planning submission

Submission to

NORTHERN BEACHES COUNCIL

**PREPARED IN ASSOCIATION WITH
AN APPLICATION FOR A BUILDING CERTIFICATE**

**CONSTRUCTION OF CONCRETE PADS IN CONNECTION WITH THE
APPROVED RELOCATION OF TWO (2) SHIPPING CONTAINERS
TO THE SITE AND THEIR USE FOR STORAGE PURPOSES**

15 JUBILEE AVENUE WARRIEWOOD

Submission prepared on behalf of

BLACKMORES LIMITED

Ian Ellis-Jones

BA LLB (Syd) LLM PhD (UTS) Dip Relig Stud (LCIS)

Special Counsel

Pierre Le Bas

BA (Geog) (UNE) LLB (Hons1) GradCertLegP (UTS) MTCP (Syd)
Law Society of NSW Practising Certificate No 28661

Urban Planner Geographer and Lawyer



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Phone: 02 9979 4922
Fax: 02 9979 4811

November 2016

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www.turnbullplanning.com.au

info@turnbullplanning.com.au

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This statement has been prepared having regard to Schedule 7 of the Uniform Civil Procedure Rules 2005 (Expert Witness Code of Conduct) under the Civil Procedure Act 2005 (NSW). The opinions in the statement represent the professional opinions of the authors, based on an assessment of the facts, circumstances and literature as have been cited in the document.



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ANNEXURE 4 - ZONING MAP (EXTRACT FROM PLEP)

**ANNEXURE 5 – COPY OF DEVELOPMENT CONSENT
DA No 316/16 AND APPROVED PLANS**

Whilst every effort has been made to ensure that this document is correct, the publisher disclaims any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.



1.0 INTRODUCTION

1.1 Building Certificate Application

This submission relates to a building certificate application in respect of the construction, without the prior approval of Northern Beaches Council ('the Council'), of ten (10) concrete pads (the 'pads') -- piers and footings -- on the land known as No. 15 Jubilee Avenue, Warriewood (the 'site').

The pads have been placed in their respective positions in connection with the proposed relocation of two (2) shipping containers (the 'containers') to the site and the use of those containers for the purpose of storage premises.

The containers (one container measuring 6.096m x 2.37m and the other measuring 12.192m x 2.438m) are proposed to be located within the north-east corner of the site and their relocation and use have already been approved by Council (refer Development Application DA N0316/16 ('the DA')).

Annexure 5 contains a copy of the Development Consent and approved plans.

The building certificate application relates to and seeks to regularise the pads.

This report has been prepared on the basis of instructions provided directly by the clients and addresses planning impacts of the works and any environmental impact that has occurred as a result of this.

1.2 Our Clients

Our client's details are as follows:

Name	Address
Blackmores Ltd	20 Jubilee Avenue, Warriewood NSW 2102

2.0 SITE LOCATION AND DESCRIPTION

2.1 Location and Description

The site, of 4,554 sq m in area (based on Council records), is identified as No. 15 Jubilee Avenue, Warriewood, being Lot 202 in Deposited Plan 1019363.

The site is a regularly shaped allotment which slopes gently from east to west, that is, side to side. The front boundary is oriented to



the north and adjoins the Jubilee Avenue road reserve. At present, the site is vacant of development except as regards the recent addition of the pads.

The site is located approximately 3.0 kilometres north east of the Centro Warriewood Shopping centre and enjoys public transport linkages by road to Mona Vale, Chatswood, North Sydney and Sydney City.

The site enjoys road linkages with Mona Vale, Elanora Heights, Narrabeen, Dee Why, Seaforth, Chatswood, North Sydney and Sydney City.

Annexures 1 and 2 provide a Locality Plan and Aerial Photograph of the site respectively.

The surrounding area is a mix of commercial/warehouse built elements with low density residential buildings north of Mona Vale Road and east towards Barrenjoey Road at Mona Vale. There are on the land adjoining the site along the eastern boundary a dwelling-house, a secondary dwelling-type structure and some containers/small sheds that appear to contain an equine business on the site despite its IN2 zoning. (Our searches of Council records has failed to locate any approval in respect of the dwelling-house.)

Blackmores Campus, a large commercial development, is located directly opposite the subject site. Other noteworthy developments in the immediate precinct include the 'Pharmacare' headquarters and a large commercial development known as MVB.

Streets are broad, contain traffic calming devices (roundabouts) and cater to heavy vehicles. Traffic is relatively light in the local feeder roads although does comprise a broad range of vehicle types.

Please refer to the drawings which accompany the building certificate application submitted under separate cover.

2.2 Unauthorised Work

The unauthorised building work comprises the above mentioned ten (10) concrete pads (the 'pads') -- piers and footings -- on the site. **Annexure 3** contains photos of the pads.

Works as executed drawings have been prepared and accompany the building certificate application under separate cover. The drawings highlight the works referred to above.

A structural certification has been issued by Northern Beaches Consulting Engineers Pty Ltd, Engineers, in relation to the construction of the pads. That report is also submitted under separate cover.



3.0 STATUTORY PLANNING CONTROLS

3.1 Relevantly Applicable Legislation EPIs and Subordinate Documents

- *Environmental Planning and Assessment Act 1979 (EPAA);*
- *Environmental Planning and Assessment Regulation 2000 (EPAR);*
- *State Environmental Planning Policy (Infrastructure) 2007 (SEPP1);*
- *State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)*
- *Pittwater Local Environmental Plan 2014 (PLEP);*
- *Pittwater 21 Development Control Plan (PDCP).*

3.2 Pittwater Local Environmental Plan 2014

3.2.1 Zoning

The subject site is zoned IN2 Light Industrial under PLEP. **Annexure 4** contains an extract from the relevantly applicable zoning map under PLEP.

3.2.2 Zone Objectives

The objectives of the IN2 zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To enable a range of compatible services, community and recreation uses.



- To accommodate uses that, because of demonstrated special building or site requirements or operational characteristics, cannot be or are inappropriate to be located in other zones.
- To provide healthy, attractive, functional and safe light industrial areas.

In our opinion, the work the subject of the building certificate application is consistent with the above mentioned zone objectives to the extent to which they are relevantly to the work in question. In particular, the containers, to be supported by the pads, would be consistent with uses typically found in light industrial zones and, as Council's assessing officer stated in his report on the DA:

- there are no elements that would adversely affect industries on surrounding sites, and
- the proposed use would likely support local industries, and would continue to propose a use that would protect the land for future industrial uses.

3.2.3 Permissibility

The pads already constructed are associated solely as piers and footings to be located under the proposed containers. Accordingly, if the containers are themselves permissible with consent on the site then it must follow that the pads are also permissible, for the obvious reason that the pads are reasonably necessary for the proposed relocation of the containers.

The containers are proposed to be used by Blackmores Limited ('Blackmores') for the following commercial purposes as regards their operation at No. 20 Jubilee Avenue Warriewood:

- (i) storage of plant and equipment including mowers, hedgers, blowers, garden products (woodchips bags of soil etc), other small garden machinery as well as a trailer used for gardening/landscaping and garden maintenance in respect of the Blackmores premises at No. 20 Jubilee Avenue Warriewood, and
- (ii) storage of boat parts used by senior Blackmores employees and directors as regards a boat used for 'entertainment' of Blackmores suppliers, customers and affiliates as part of the business operation at No. 20 Jubilee Avenue Warriewood.



The containers will also be used for the storage for small machinery parts, relating to the picking system operated by Blackmores in the dispatch area of the premises at No. 20 Jubilee Avenue Warriewood.

The definition of storage premises from the Dictionary to the PLEP, is as follows:

'Storage Premises means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises **on the same parcel of land** [emphasis added], and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.'

The proposed use of the containers is entirely consistent with the above definition of 'storage premises' as contained in the Dictionary to the PLEP.

In terms of statutory construction:

- As respects the storage of plant and equipment including mowers, hedgers, blowers, garden products (woodchips bags of soil, etc), other small garden machinery as well as a trailer used for gardening/landscaping and garden maintenance in respect of the Blackmores premises at No. 20 Jubilee Avenue Warriewood. Such a use is in law ancillary to the substantive use of commercial premises for which purpose development is being carried on at No. 20 Jubilee Avenue. That is *not* the same parcel of land as No. 15 Jubilee Avenue. Accordingly, both limbs of the main part of the definition of 'storage premises' are fully satisfied.
- As respects the storage of boat parts used by senior Blackmores employees and directors as regards a boat used for 'entertainment' of Blackmores suppliers, customers and affiliates as part of the business operation at No. 20 Jubilee Avenue Warriewood, once again such a use may reasonably be regarded in law as being:

EITHER ancillary to the substantive use of commercial premises for which purpose development is being carried on at No. 20 Jubilee Avenue, or

OR part-and-parcel of the commercial premises use carried on at No. 20 Jubilee Avenue (arguably, the preferred construction).

We submit that constructions are valid, and either one of them will suffice. Once again, No. 20 Jubilee Avenue is not the same parcel of land as No. 15 Jubilee Avenue.



Accordingly, both limbs of the main part of the definition of <storage premises> are once again fully satisfied.

- As respects the storage for small machinery parts, relating to the picking system operated by Blackmores in the dispatch area of the premises at No. 20 Jubilee Avenue Warriewood, such a use is one-and-the same and part-and-parcel of the commercial use at No. 20 Jubilee Avenue Warriewood. Once again, No. 20 Jubilee Avenue is not the same parcel of land as No. 15 Jubilee Avenue. Accordingly, both limbs of the main part of the definition of <storage premises> are once again fully satisfied.

In short, in as respects all three instances of use proposed, the goods and materials, plant or machinery to be stored are used for commercial purposes.

Further, the storage in each case would not be ancillary to any industry, or business premises, or retail premises on the same land parcel, the use would not relate to a heavy industrial storage establishment, and the use would not fall within the definition of <warehouse or distribution centre> under PLEP, as there is no storage of goods to take place, pending sale of goods.

For the above reasons, we are in no doubt that what has already been constructed on the site is permissible with development consent.

Council, at its Development Unit meeting held on 13 October 2016, granted conditional development consent to the DA for the proposed relocation of the two containers to the site and their proposed use for the purpose of storage premises. Accordingly, Council must be taken to have satisfied itself that the proposed (and now approved) development was permissible with consent.

3.3 Pittwater 21 Development Control Plan (PDCP)

Pittwater 21 Development Control Plan applies to all land within so much of the Northern Beaches the local government area as was formerly within the former local government area of Pittwater.

PDCP focuses on a holistic approach to managing the diverse, interrelated, multidisciplinary issues facing land within the former local government area of Pittwater, rather than any single land use issue (refer Section A2, PDCP).

As a consequence of the minor nature and scale of the building work the subject of the building certificate application, we consider that a detailed assessment relating to PDCP is unnecessary and therefore has not been undertaken.



In our opinion, the development will achieve such of the key objectives of PDCP (refer Section A3.4, PDCP) as are of relevance to the nature and scope of the work carried out the subject of the application.

3.4 SEPII and SEPP 55

As respects SEPII, Subdivision 17 is not applicable as the site is not in close proximity to a classified road. Clause 45 is also not applicable as the site is not in close proximity to electricity infrastructure and does not propose underground power lines. Finally, the works and the proposed development do not qualify as 'traffic generating development', hence a referral to Roads and Maritime Services is not required.

As respects SEPP 55, other than the works the subject of the building certificate application, no development has taken place on the site for many years as it has been vacant for an extended period of time. As Council's assessing officer has stated in his report on the DA, there is no evidence to indicate that the site has been exposed to activities that would result in land contamination. Further, there is no evidence of any such contamination either having occurred. Thus, we submit that the works the subject of the building certificate application as well as the approved development itself under DA N0316/16 satisfy the relevant provisions of SEPP 55.

4.0 MERIT CONSIDERATIONS

4.1 Compliant Use

Under PLEP and pursuant to the land use tables found in Part 2 of PLEP, the work carried out is permissible with the development consent of the consent authority. The pads are part-and-parcel of the proposed storage premises in the form of the two (2) containers.

4.2 Building Work

The work that has taken place has had minimal impact on, and disturbance of, the site when viewed from the street as well as from adjoining land.

As mentioned above, Council has already satisfied itself that:

- the containers, to be supported by the pads, would be consistent with uses typically found in light industrial zones and,
- there are no elements that would adversely affect industries on surrounding sites, and
- the proposed use would likely support local industries, and would continue to propose a use that would protect the land for future industrial uses.



Additionally, the work already carried out has had no impact in respect of compliance with built form controls such as site coverage and setbacks.

4.3 Structural Certification

As mentioned above, a structural certification accompanies the building certificate application and addresses the unauthorised works. The certificate is submitted under separate cover.

4.4 Environmental Risk

The pads and the containers to be located upon them will cause negligible impact in terms of its surroundings and the way the proposal relates to indicia such as visual impact, vegetation loss, streetscape impact, loss of privacy and impact on solar access.

4.5 Amenity Impacts

The proposed development to be carried out on the pads has regard to the existing locality and its predominantly industrial nature as well as the immediate needs, legitimate concerns and amenity of other land uses.

Council has already satisfied itself that what is proposed by way of development on the pads -- the use of the containers for the purpose of storage premises -- is environmentally acceptable in terms of amenity and other environmental impacts.

5.0 CONCLUSION

The construction of the pads has had minimal impact on the existing environment and is necessary as a foundational base for the proposed relocation of the shipping containers.

As respects the issue of a building certificate, section 149D(1) of the EPAA requires a council to issue a building certificate in certain circumstances. Relevantly, a local council must issue a certificate in *either* of the following circumstances:

- in the absence of an entitlement on the council to order the building to be demolished, etc, or to take proceedings for an injunction requiring the building to be demolished, etc; or
- where there is such an entitlement but the council foregoes it.

In addition, a council has a discretion to issue a building certificate in circumstances where the council is not otherwise obliged to issue the certificate, relevantly, where some action has already been taken or proposed to be taken by the council in respect of the work the subject of the building certificate application: see *Ireland v Cessnock City Council*



(1999) 103 LGERA 285 at para 52. However, the latter is not the situation here.

We respectfully submit that in circumstances where:

- there is no doubt about the permissibility of the works the subject of the building certificate application;
- there is no doubt about the structural integrity of those works; and
- Council does not propose to take any action of the kinds referred to above in respect of the works,

a building certificate should, indeed, must issue.

We also respectfully submit that the unauthorised nature of the work – namely, the fact that the prior approval of Council was not sought and obtained – is *not* a relevant factor or matter for consideration in determining whether the building certificate should be granted in respect of the work: see, in that regard, *Kouflidis v City of Salisbury* (1982) 49 LGERA 17; *Ireland*.

We have therefore considered the relevant matters pursuant to section 149D of the EPAA and are of the opinion that the issue of a building certificate in respect of the pads is both lawful and appropriate in all of the circumstances having due regard to the minor nature of the work in question and the merit considerations discussed in this report.

ANNEXURE 1

LOCALITY PLAN



LOCALITY PLAN
Courtesy Google Maps

ANNEXURE 2

AERIAL PHOTOGRAPH



AERIAL PHOTOGRAPH
Courtesy Google Maps

ANNEXURE 3

PHOTOGRAPHS OF PIERS AND FOOTINGS



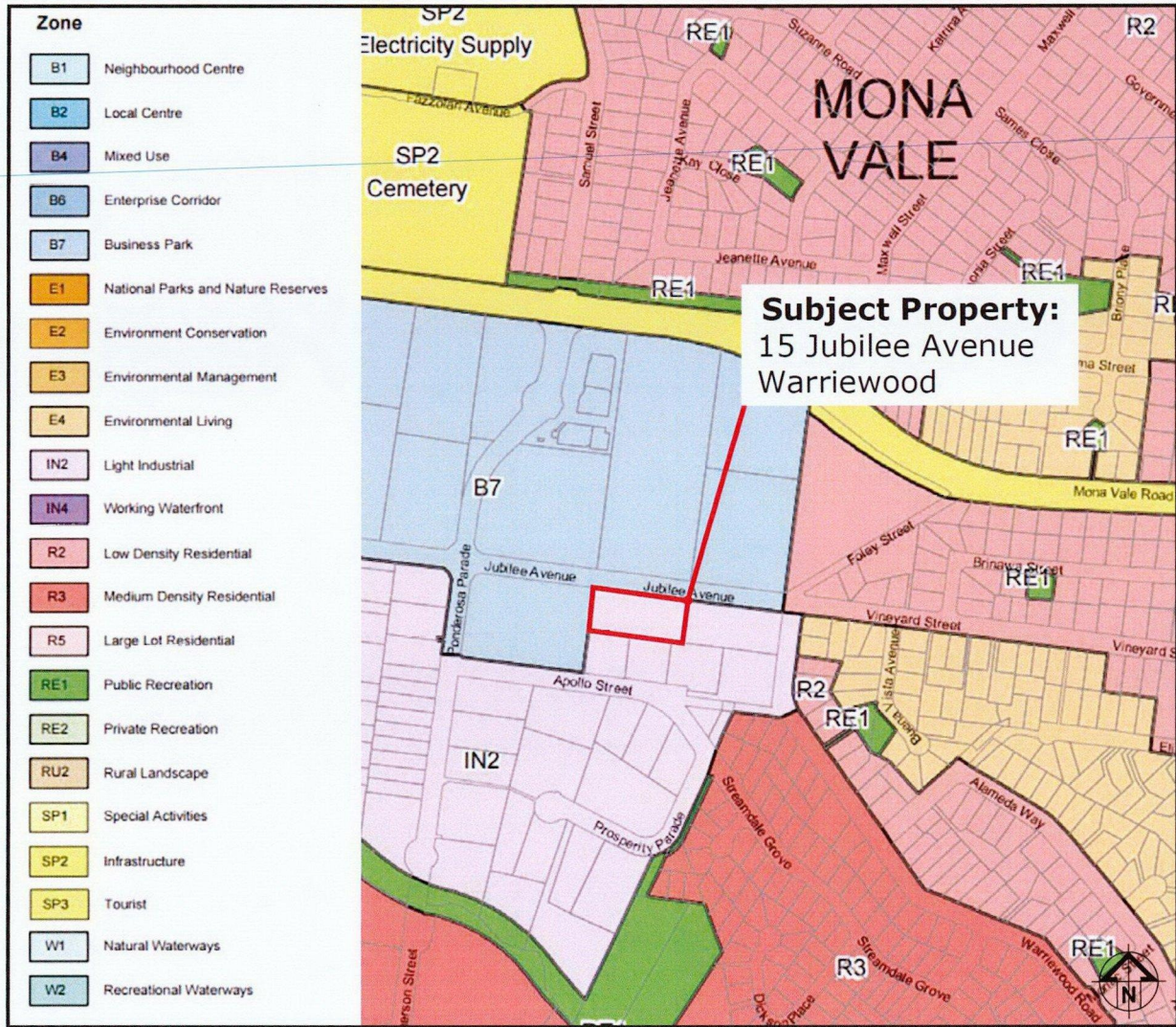
PHOTOGRAPH 1 - Photograph of Piers and Footings in North East corner of site



PHOTOGRAPH 2 - Photograph of Piers and Footings in North East corner of site

ANNEXURE 4

ZONING MAP (EXTRACT FROM PLEP)



ZONING MAP
Extract from PLEP 2014

ANNEXURE 5

COPY OF DEVELOPMENT CONSENT DA No 316/16 AND APPROVED PLANS

Business Hours:
8.00am to 5.30pm, Monday to Thursday
8.00am to 5.00pm, Friday

DA No: N0316/16

24 October 2016

TURNBULL PLANNING INTERNATIONAL PTY LTD
2301/4 DAYDREAM STREET
WARRIEWOOD NSW 2102

Dear Sir/Madam

Development Application for Relocating two (2) shipping containers to the site and using them for the purpose of a storage premises at 15 JUBILEE AVENUE WARRIEWOOD NSW 2102.

I am pleased to advise that this application has been approved and I attach for your assistance a copy of the Development Consent, the conditions of approval and a copy of the approved plans.

If building works are involved, prior to proceeding with the proposal, it will be necessary for you to lodge a Construction Certificate Application with either Council or an accredited Certifier.

I take this opportunity to direct your attention to Section C of the Consent which details the matters to be satisfied prior to issue of the Construction Certificate.

Additionally, for your reference, please find enclosed Information Sheets that will assist in providing information you will need to consider for the processes following on from receiving this consent.

If there are any matters relating to this approval which require further explanation, please contact me prior to commencing work on the site.

Enquiries relating to the Construction Certificate application should be directed to Council's Customer Service or your private certifier.

Yours faithfully

Tyson Ek-Moller
A/EXECUTIVE PLANNER

CONSENT NO: N0316/16
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:
ATTN: ISHARA WARAKAGODA
TURNBULL PLANNING INTERNATIONAL PTY LTD
2301/4 DAYDREAM ST
WARRIEWOOD NSW 2102

Being the applicant in respect of Development Application No N0316/16

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of Development Application No **N0316/16** for:

Relocating two (2) shipping containers to the site and using them for the purpose of a storage premises

At: **15 JUBILEE AVENUE, WARRIEWOOD NSW 2102 (Lot 202 DP 1019363)**

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

Plans:

- Site Plan, prepared by Turnbull Planning International Pty Ltd, Sheet 1/1, Issue A, dated July 2016
- Northern Elevation, prepared by Turnbull Planning International Pty Ltd, Sheet 2/2, Issue A, dated July 2016

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent 13 October 2016

Mark Ferguson
INTERIM GENERAL MANAGER
Per:

Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. A sign must be erected in a prominent position onsite only showing:
 - A. the name, address and telephone number of the Principal Certifying Authority for the work, and
 - B. the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - C. that unauthorised entry to the work site is prohibited.The sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
3. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
4. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. This consent grants approval to the placement of two (2) shipping containers on the site in accordance with the approved plans. The placement of any additional containers and/or the erection of new structures on the site shall:
 - Be subject to a new/modified consent(s); and/or
 - Be undertaken in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

This consent grants approval to the storage of items on the site in accordance with the approved plans and any relevant conditions within this consent. No commercial and/or industrial activity is to be undertaken on the site without consent or unless it is in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

No advertising and/or signage is approved as part of this consent. The erection or installation of any new signage shall:

- Be subject to a new/modified consent(s); and/or
- Be undertaken in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Any outdoor/security lighting must be located, designed and shielded in a manner that does not cause disturbance to surrounding premises.

Any activities on the site that have the potential to disturb surrounding properties are to be limited to the following hours:

- Monday to Friday: 7:00am to 6:00pm
- Saturday: 8:00am to 5:00pm
- Sunday: 9:00am to 3:00pm

To minimise any visual impacts and to ensure consistency with relevant provisions with Pittwater 21 Development Control Plan P21 DCP), the developer is to provide landscape screening within the front setback between the containers and the public road reserve. Any such landscape screening shall:

- Have a mature height of at least 3 metres;
- Be capable of mostly screening the shipping container as viewed from public areas (i.e. the public road reserve to the north of the site); and
- Consist of locally native species that either already grow onsite and/or are selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Council website http://www.pittwater.nsw.gov.au/environment/species_lists.

If not already done, then the shipping containers are to be painted in dark and/or earthy colours that are consistent with Part D16.13 of Pittwater 21 Development Control Plan (P21 DCP).

Large/bulk storage of flammable and/or hazardous material(s) is not permitted on the site without consent.

Items on the site are to be stored within the shipping containers only.

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

The Flood Planning Level is 18.9m AHD.

Storage of hazardous materials, electrical items, items of plant, equipment or stock and any other items which may be susceptible to water damage are to be located above the Flood Planning Level.

All new fencing, which includes boundary fencing, pool fencing, balcony balustrades and accessway balustrades must be constructed to allow for the free flow of flood waters — 75% of fencing must be 'open' to a height of the Flood Planning Level. Only 25% of the fencing below the Flood Planning Level may be 'solid'. For 'open' portions of fencing, more than 50% of the surface area must have minimum openings of 100mm.

All new electrical services, fixtures and fittings must be located above the Flood Planning Level. No electrical equipment or electrical motors are to be located below Flood Planning Level.

No 'Storage Premises' are permitted to be located below the Flood Planning Level for the life of the development

Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.

No environmental weeds are to be planted on the site. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.

In accordance with Pittwater Council's DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.

Any vegetation planted onsite outside approved landscape zones is to be consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Council website http://www.pittwater.nsw.gov.au/environment/species_lists.

Where relevant, development and business operations must comply with the Protection of the Environment Operations Act, 1997, and any relevant legislation.

No water pollution shall result from the operation of any plant or equipment or activity carried out.

Noise from the operation of any plant or equipment at the premises shall not exceed amenity criteria listed in the NSW Industrial Noise Policy, January 2000.

No odour nuisance to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedure carried out at the premises.

No emissions of air pollution shall be created by the operation of any plant or equipment or any procedure carried out at the premises.

The operation of any plant or equipment or any procedure carried out at the premises shall not cause land pollution.

Any new electrical connections are to be carried out using underground cabling.

No large trucks or articulated vehicles are to enter or be permitted to be parked on the premises except for the activity of relocating the containers. Vehicles on site shall be related to the storage premises only.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
2. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - A. after excavation for, and prior to the placement of, any footings, and
 - B. prior to pouring any in-situ reinforced concrete building element, and
 - C. prior to covering of the framework for any floor, wall, roof or other building element, and
 - D. prior to covering waterproofing in any wet areas, and
 - E. prior to covering any stormwater drainage connections, and
 - F. after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

3. Construction works approved by this consent must not commence until:
 - A. Construction Certificate has been issued by a Principal Certifying Authority
 - B. a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - C. at least 2 days notice, in writing has been given to Council of the intention to commence work.
4. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
5. Any external glazing must be of low glare and reflectivity. The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of all external glazing is to have a maximum reflectivity index of 25%. Written confirmation of the reflectivity index of the material is to be submitted with the Construction Certificate. (Note: the reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement. This is to ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development).
6. A Building Certificate is to be issued for any unauthorised building works undertaken prior to the issue of Construction Certificate.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- A. Protection of site workers and the general public.
- B. Erection of hoardings where appropriate.
- C. Asbestos handling and disposal where applicable.
- D. Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

- 3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
- 4. The following facilities must be provided on the site:
 - A. toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - B. a garbage receptacle for food scrapes and papers, with a tight fitting lid.

Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

- 5. If relevant and/or where necessary, waste materials generated through any demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

- 6. The site must be fenced throughout demolition and/or construction works; such fencing must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
- 7. All works within 5 metres of the existing trees to be retained (including neighbouring trees) including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

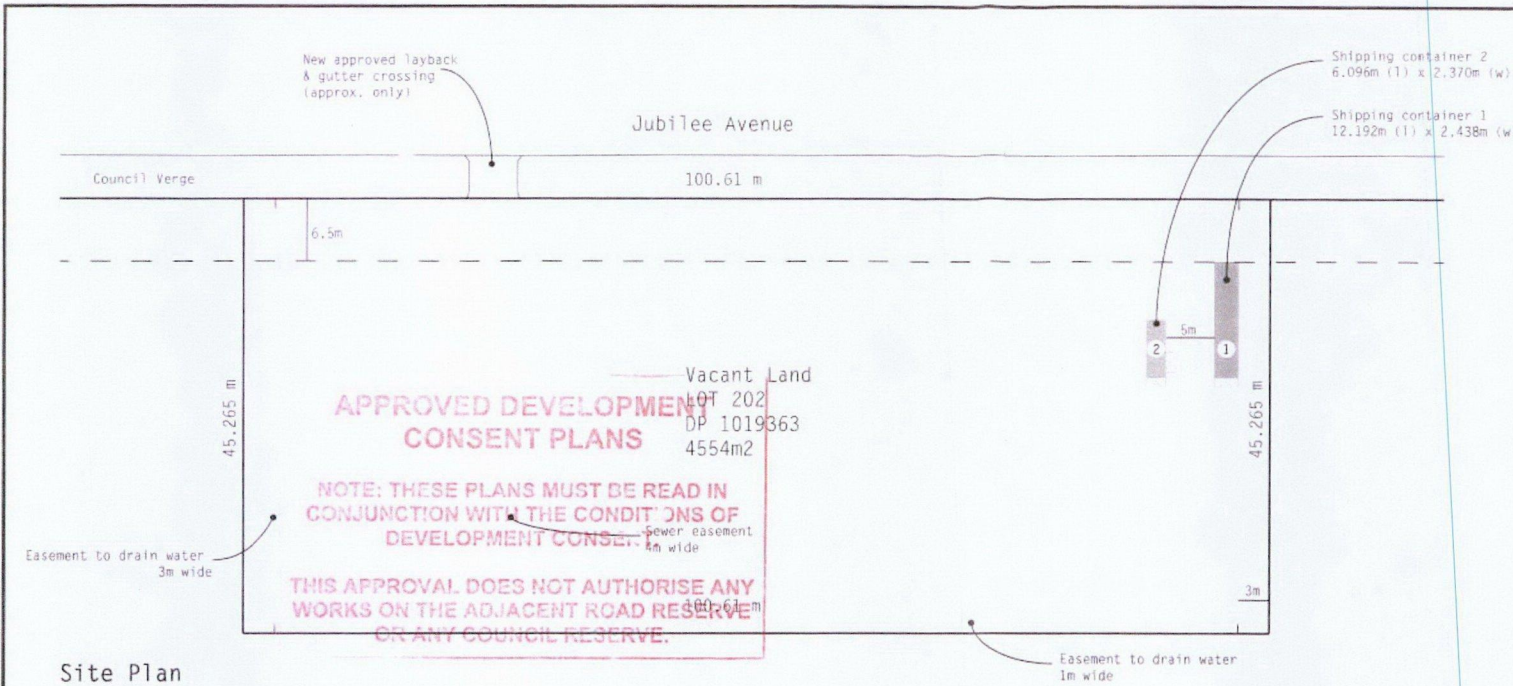
Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au.
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.

7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
9. Portions of the site may be liable to flooding from the 1% AEP and the PMF (Probable Maximum Flood) and effective precautions should be taken by the owner(s) and/or occupier(s) of the building to reduce any potential risk to personal safety and to minimise any property damage to the structure, its fixtures and contents.



Site Plan



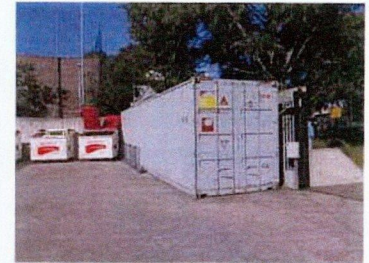
Locality Plan

Figured dimensions to be taken in preference to scaling

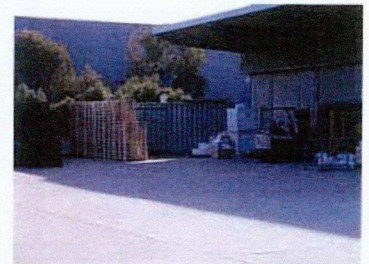
Key:

- — — Required Setback (Pittwater 21 DCP D16.6)
- ① 40ft Standard Shipping Container
- ② 20ft Standard Shipping Container

Photographs



12.192 m Shipping Container



6.096 m Shipping Container



Existing containers on adjoining property to east (19 Jubilee Ave)

A: DA Lodgement



Suite 2301, Quattro Building 2
Level 3, 4 Daydream Street
WARRIEWOOD NSW 2102
P > 02 9879 4922
F > 02 9879 4911
E > info@turnbullplanning.com.au
W > www.turnbullplanning.com.au
ABN 12 061 186 409



Scale
1:500 @ A3
File ref:
A_bla.jub15w_siteplan
DRAWN: hlb

SHEET 1/1

Site Plan
Proposed "Storage Premises"

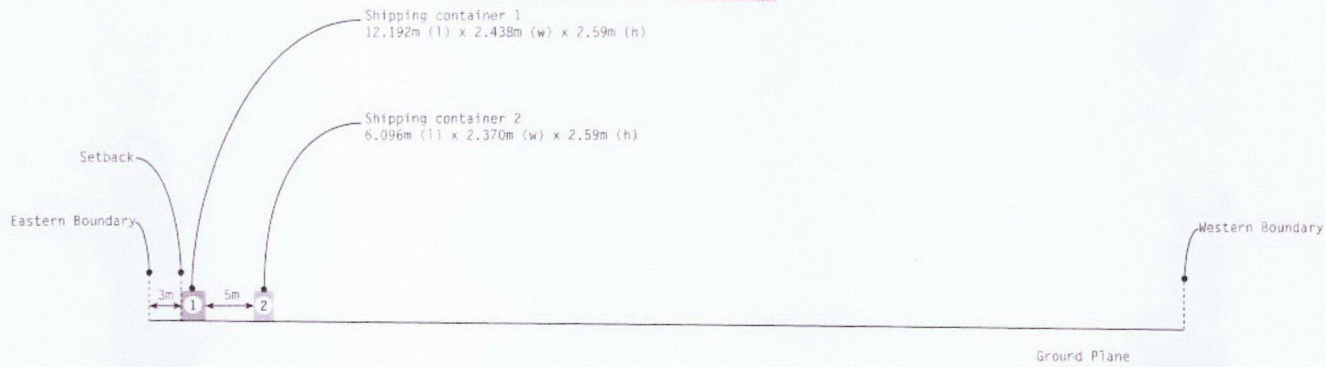
July 2016

15 Jubilee Avenue Warriewood

**APPROVED DEVELOPMENT
CONSENT PLANS**

NOTE: THESE PLANS MUST BE READ IN
CONJUNCTION WITH THE CONDITIONS OF
DEVELOPMENT CONSENT.

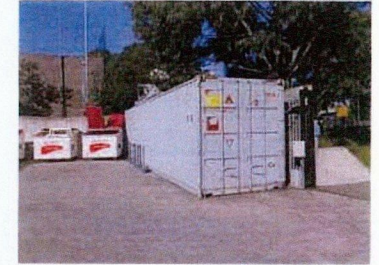
THIS APPROVAL DOES NOT AUTHORISE ANY
WORKS ON THE ADJACENT ROAD RESERVE
OR ANY COUNCIL RESERVE.



Northern Elevation

Figured dimensions to be taken in preference to scaling

Photographs



12.192 m Shipping Container



6.096 m Shipping Container



Existing containers on adjoining
property to east (19 Jubilee Ave)

<p>A: DA Lodgement</p>	<p>Turnbull PLANNING INTERNATIONAL PTY LIMITED TOWN PLANNERS</p> <p>Suite 2301, Quattro Building 2 Level 3, 4 Daydream Street WARRIEWOOD NSW 2102 P > 02 9970 4922 F > 02 9970 4811 E > info@turnbullplanning.com.au W > www.turnbullplanning.com.au ABN 12 061 188 409</p>	<p>Scale 1:500 @ A3 File ref: A_b1a_jub15w_elevation</p>	<p>SHEET 2/2</p>	<p>Northern Elevation Proposed "Storage Premises"</p>
		<p>DRAWN: h1b</p>	<p>July 2016</p>	<p>15 Jubilee Avenue Warriewood</p>