

The General Manager
Northern Beaches Council
PO Box 882
MONA VALE NSW 2103

Attention: Development Assessment
Mr Matthew Edmonds & Ms Rebecca Englund

Mod2018/0654-N0279/16/R -AMENDED PLANS.
Lot 6 DP 553660 41 Marine Parade Avalon Beach
Section 4.55 Application

Dear Sirs,

We are the owners of 37 Marine Parade Avalon Beach neighbouring the Applicants property at 41 Marine Parade. The history of this DA reveals a shameful indictment of the Applicants attitude toward Council and the neighbourhood spanning almost three years.

On 05 December 2018 we recieved notification that the Applicant has submitted an application for modification. We replied on the 18 January 2019 in accordance with the extended deadline. We wish that submission to be read in conjunction with this one, as our concerns still stand. We will establish the reasons for this below.

Subsequently, on 27 March 2019 were notified that the Applicant has submitted a further Amended Plans to the application for modification. This submission by us in reply, will show that the latest plans submitted (which purport now to include a privacy "brass fin" are another attempt to not comply with the Panels orders. Once again, the Applicants inability to provide council (and residents) with accurate, dimensioned, legible or properly prepared plans make a mockery of their latest tact that, upon trying to make sense of the various elevations, appear to be a further attempt to thwart the Panel's clear decision and erode our privacy.

It appears now the Applicant wants to construct a "brass fin", (as an alternative to the blade ordered by the Panel), the position of which is not clearly defined. Notations use various and confusing descriptions that appear contradictory. It therefore reads to us as an attempt to erect a non conforming attachment that is not adjacent to the window. It would not provide any privacy erected in any other position than as the panel ordered. Alternative materials to that of the concrete matching the hood, could be subject to degradation, damaged or removed in the future.

We have set out below the relavent points in detail that supports our concerns.

THE PANELS DECISION WAS CLEAR

We once again attach the part of The Panel's conditions directly affecting us, for the erection of a specifically built and positioned privacy blade as a permanent fixture to our future privacy. The structure was clearly spelt out in the following terms as cut and pasted below.....

□ The architectural hood over the western window of that dining room is to be turned down as a vertical blade adjoining and to the full extent of the northern end of that window. That blade is to be no less than 250mm in depth. This is in order to provide additional privacy for neighboring properties at 37 and 39 Marine Parade

THE CONSTRUCTION CERTIFICATE WARNS OF NON COMPLIANCE

This is critically shown on the Constuction Certificate plan view of the dining room level with the denotion IN RED " VERTICAL BLADE" with an arrow showing it adjoining the northern end of the dinng room western facing window. (See enlarged attachment marked **001MCC**). There can be no doubt as to what was required to be built and where it was to be positioned. In fact page 3 of the contruction certificate headed "Important Advice" para. 3 (see attachment **002MCC** and **003MCC**) states in bold and highlighted "NO CHANGES" goes on to express the seriousness of "red" notations and para 4 warns of penalties for "Unauthorised changes". Such penalties should now be applied.

IGNORING THE CONDITIONS OF CONSENT

It appears the conditions on the PCA (Form Building Certifiers) Construction Certificate via his stamped and written warnings have been ignored and he was not informed of the changes to construction. If he was then he made no effort to enforce compliance. After approaching council about apparent numerous non compliance issues we and other residents, were told to contact the builder or certifier. We and others, did both without any satisfactory result or answers, it was a pass the buck exercise. Regularly questionad regarding why the apparent major changes including why the privacy blade was not being constructed in place when concrete was being poured, the builder was evasive and pleaded ignorance. At times when questioned about a range of apparent non compliant issues, he said he was just doing what lhe was instructed to do and told it was OK and legal to do so.

ATTEMPT TO OVERTURN THE PANEL DECISION

In December 2018, the Applicant made the modification application mentioned above. Amongst other things they employed Mr Fish to argue that the Panel's conditional blade was not required in a lengthy self serving submission. Our 18 January 2019 reply submission addressed our concerns and they are still relevant to this latest iteration

Now in March 2019 the Applicant submits alternative plans that appear to propose changes to the Panel's decision regarding the privacy blade. We submit that the applicant never had the intention of constructing the privacy blade in the form the Panel had

designated and made a condition of consent.

CONFUSING PLANS REVEALS THE DEVIL IN THE DETAIL

Proper and careful inspection of the new amended plans, requires one to considerably enlarge the type enough to be legible. On various elevations, arrows point from wording purporting to be referring to what the Panel determined be the privacy blade. However this is where inconsistency and confusion raises important questions.

The North and South elevations show a drawn protrusion from the western external wall, These can be seen on our enclosed enlarged attachments **004MCC** and **005 MCC**. The description reads "250 BRASS FIN PER COUNCIL". We assume that is meant to be read as being in accord with the Panel's orders.

However, they are NOT "PER COUNCIL" at all and, it would seem, attempt to introduce a different alternative design and position to that clearly defined by the Panel.

This particularly becomes apparent in regard to the positioning when one looks at the critical Western Elevation. See attachment **006MCC** and enlargement **007MCC** which are from the Western elevations as provided. The reference to Council is dropped with now the description being "250 BRASS FIN FROM SILL TO HOOD" with an arrow points to an undefined position behind a drawn tree.

Even more strangely, the actual position of the "brass Fin" is not drawn on that elevation, yet the end of the window (where the Panel ordered the blade to be) is clearly visible. and devoid of any such drawn image of a blade. Why is their "Brass Fin" not drawn in the position adjacent to the window? And why has "PER CONCIL" been dropped?

The arrow points behind the drawn tree trunk and drops the reference to "PER COUNCIL", leaving us to conclude that the tree has been deliberately included to hide or cover up the intended position of the so called "BRASS FIN". Our suspicions are founded on numerous examples of their previous supposed oversights dogging this DA and causing us grief and frustration.

Unless, as the Panel said, **"a vertical blade adjoining and to the full extent of the northern end of that window"** is erected, any alternative position northward along the brick wall, would be totally useless in providing any privacy and make a mockery of the Panel's decision.

We respectfully submit in the spirit of what the Panel decided and read in good faith, the instructions are clear. The panel describes an **"architectural hood"** being **"turned down as a verticle blade adjoining and the the full extent of the northern end of that window"**. The applicant designed and constructed the "hood" made of reinforced formed concrete. Therefore one would naturally assume the Panel (by their descriptive language), intended the "vertical blade" to be of matching profile, colour and material therefore to be formed in reinforced concrete. Obviously it should be constructed to match the hood, so as to maintain the architectural integrity of the blade and for it to be retained as a permanent feature of the design not later to be removed. Any alternative or construction method would not be permanent.

The Panel placed that condition after lengthy consideration and submissions as mitigation for our loss of privacy the applicants imposed upon us via their imposing design. It was much less than what we would have liked but accepted the panels decision as a compromise. It would appear the applicant holds no such respect for the Panel's decision, evidenced by their actions to date, ignoring all protocol and just doing want they want. This is a further attempt to thwart the Panel.

The Applicants time and money wasting tactics to thwart the Panels should be rejected in the strongest terms. Likewise any other of the numerous breaches that do not accord with the construction certificate.

We implore Council in the strongest terms to uphold the decision the Panel ordered. Only if this is built in concrete and made a permanent fixture will the spirit of the Panel's conditional decision be fulfilled in respect to helping protect our privacy in perpetuity.

Yours Faithfully
Yvonne & Bill McCausland

IMPORTANT ADVICE

Due to changes in planning laws, (Sect. S81A (2)C of the Act), **the critical stage inspections are mandatory and must** be inspected by the PCA or the final certificate (Occupation Certificate) may not be able to be issued (causing complications and delays when selling/refinancing etc). **The critical stage inspections are listed on the Notice of Commencement part of this document.**

It is the responsibility of the Applicant to arrange with the PCA a **final inspection** as soon as works are completed so that the Occupation Certificate can be issued within a reasonable time frame. Failure to do so may result in additional fees and/or refusal to issue an Occupation Certificate.

Also, **NO CHANGES** to the building, as detailed in the plans, can be made without notification to your PCA (some changes will need council consent). **Please take note of any changes made in red to your plans, the builder will have to be provided with a copy of the approved construction certificate plans so that compliance with the Building Code of Australia and Council's DA conditions is achieved first time.**

Unauthorised changes may lead to fines and orders being issued by Council's Compliance Officers and prevent an Occupation Certificate being issued.

To arrange the mandatory inspections please give 48 hours notice by contacting Form Building Certifiers by telephone.

Please do not hesitate to ring me if there are any enquiries in respect of these matters.

Kind regards

A handwritten signature in black ink, appearing to read 'Craig Formosa', written in a cursive style.

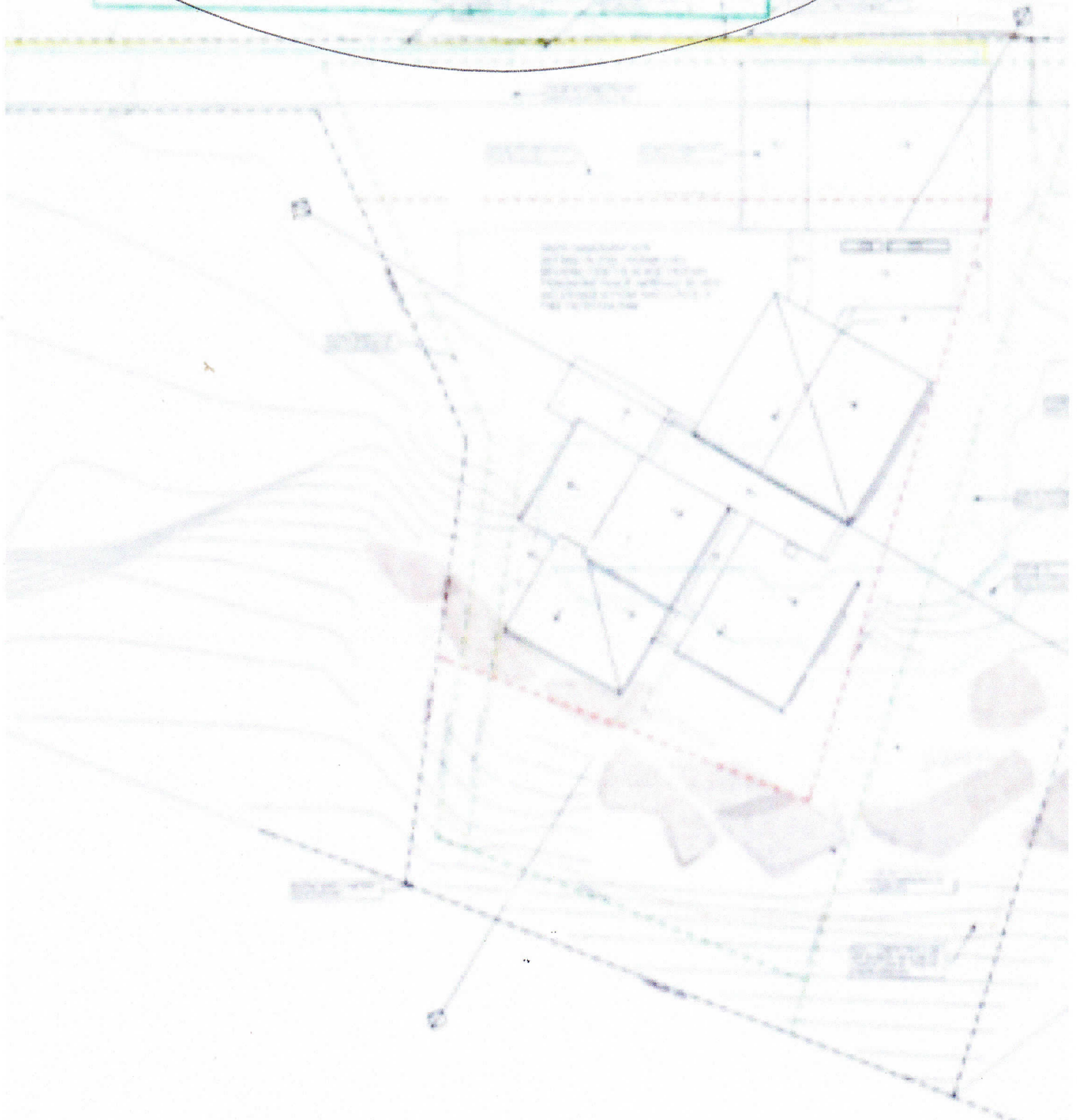
Craig Formosa

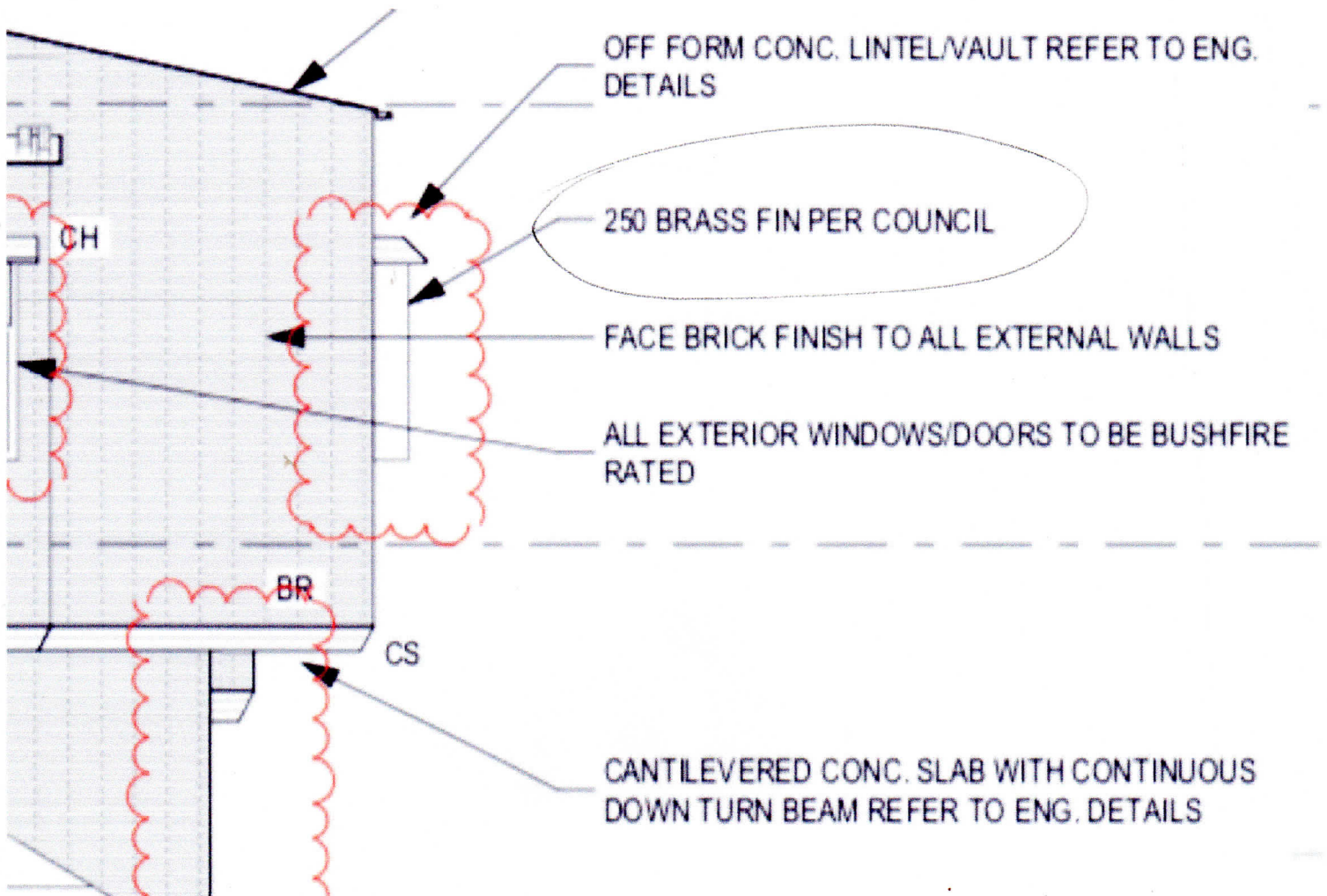
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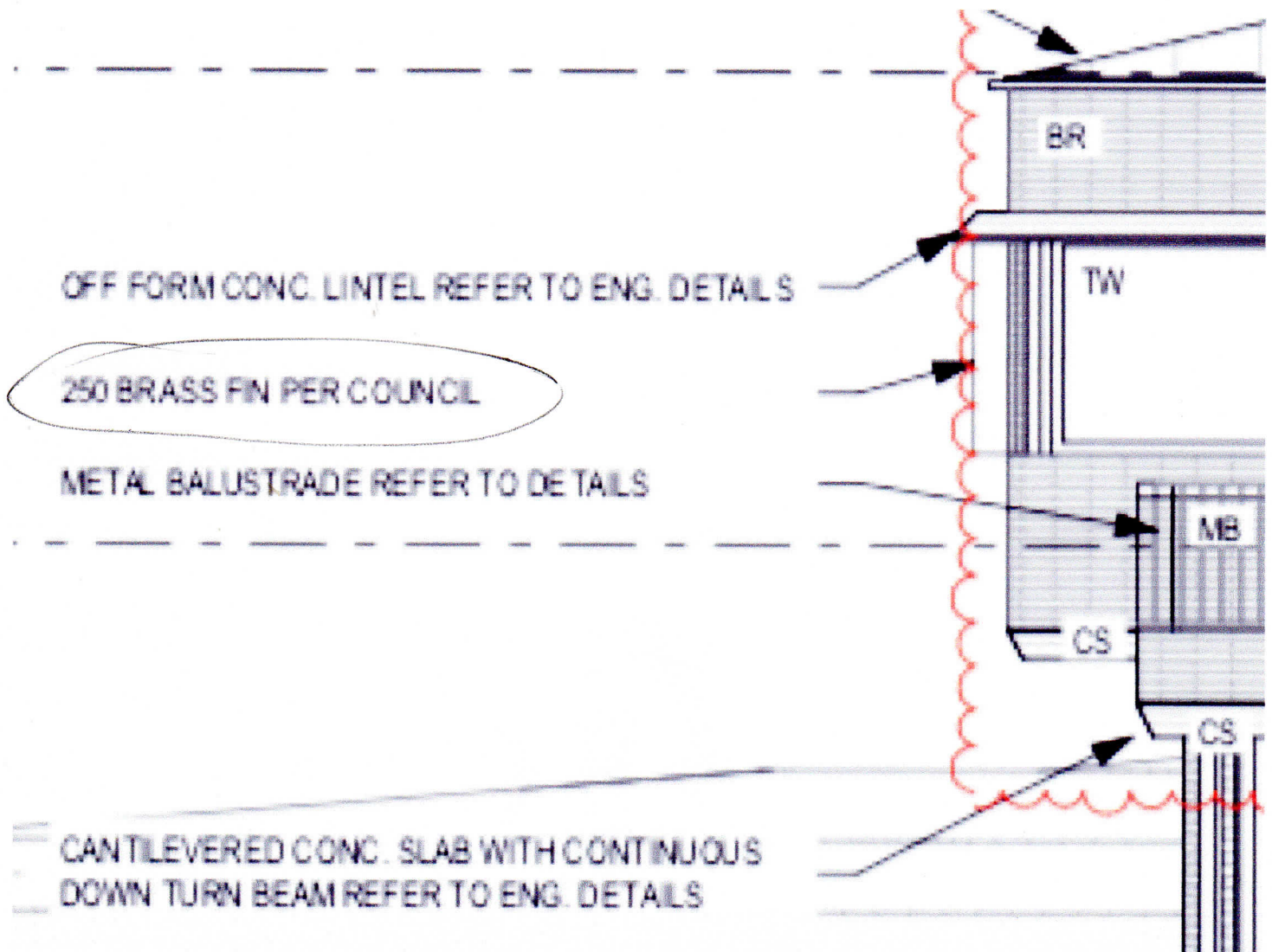
Form Building Certifiers

WARNING

The stamping of this plan by Form Building Certifiers Pty Ltd does not relieve the Applicant, Structural Engineer or other professional of their responsibility to ensure these stamped plans are not only consistent with the Construction/Complying Development documents (including any overmarked plan adjustments) but also the Council issued Development Consent plans & Conditions.

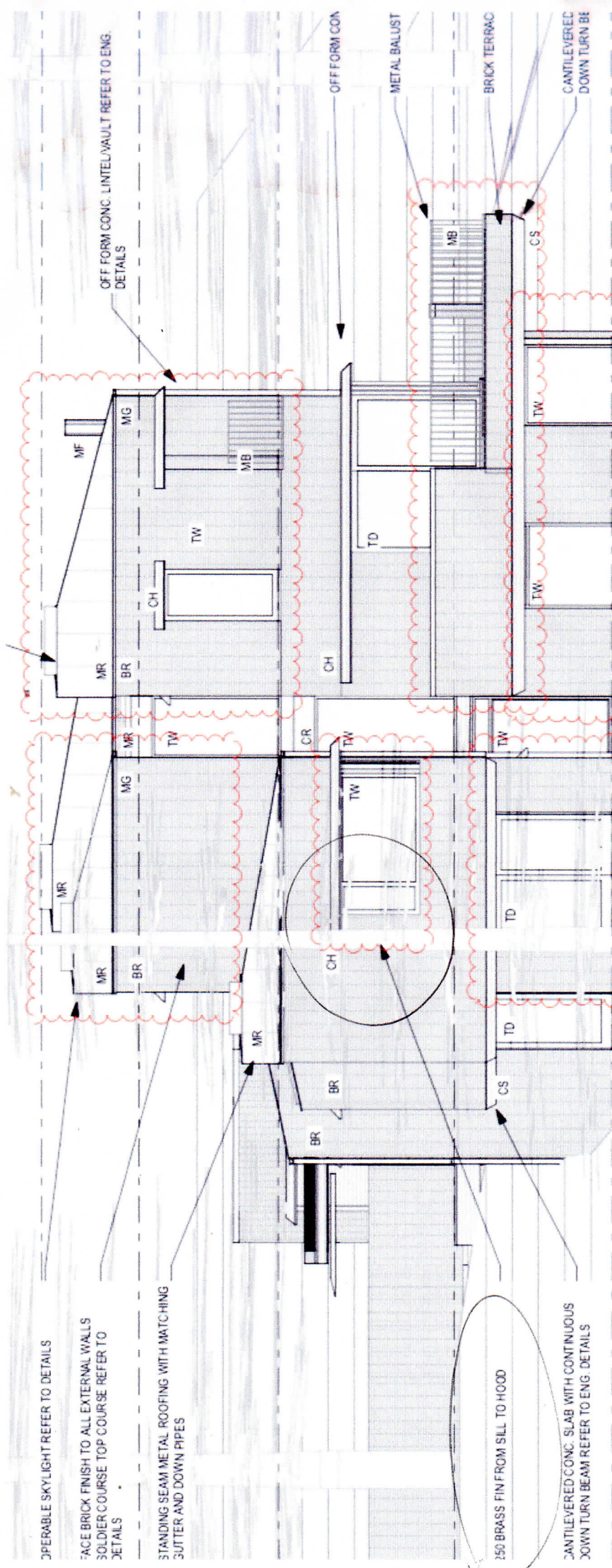






ATTACHMENT 006 MCC

004MCC



ATTACHMENT 007 MCC

005 MCC

