SUMMARY OF SERIOUS CONCERNS OF MR & MRS GIGG: (OWNERS LOT 9)

Proposed construction of home upon adjoining wowned by M



ESC Consent no. 136116 dated 7/10/15; Approved Plan no. 16/13 6

- 1. After we had already obtained a Development Consent for the construction of our home upon Lot 9 in 2014, our engineer, Mr Metzler. advised us that we would have to modify and change the position of our home so as to avoid a serious water "run off" problem created by the drains within the adjoining Council Reserve located to the south of our Lot 9. Brad Campbell from Involve Design our draftsman sent us an email on 12.01.15 saying that Department Manager Angelo agreed to forgo the DA modification fee of \$700 and to keep on file the reasons why if any DA application was to be lodged for Council had created the problem of us having to move our house. Council staff, including Ms Rebecca Ireland told us that if we relocated our house site (to assist Council in solving its water "run off" problem) to its current position (6.6 metres from our northern boundary) then she would ensure that any dwelling to be built upon the adjoining would not only be built 10 metres from our adjoining boundary, but such a dwelling on be located no less than 20 metres from the position of our home this meant that any DA submitted would have to be a minimum of 15 metres from the boundary line, she told us that this would accord with current set back rules applicable to such rural properties in our Shire. We then obtained the necessary Modification of Development Consent.
- 2. We subsequently built our home in the modified position and then spent some \$30,000 constructing drains near the southern boundary of our Lot 9 and the Council Reserve.
- 3. When the Owners of lodged their Application for Development Consent with Council in 2015, we received NO notification whatsoever from Council concerning the proposed development on which adjoins our property. We were not invited to make submissions to Council or raise any objections before Council made any decision on the

Application. This is not lawful. Council has now proceeded to approve the Development Consent no. 136116 on 7th. October 2015 in respect of without giving us, as adjoining Owners of Lot 9, the right to make any submissions or raise objections to the proposed development. We consider this serious omission to be a breach of natural justice as well as a breach of the Government Regulations and Ordinances.

- 4. The approved Development Consent no. 136116 in respect of shows the position of the dwelling to be 16.65 metres from our home on Lot 9. This will not only cause us a loss of privacy but will also create a serious water "run off" problem. It also significantly contradicts what we were told by Council's Planning Department Manager Angelo and officer, Ms Rebecca Ireland, who promised us the position of the home on would be no less than 20 metres from our home.
- 5. On 29th September 2015, after we were shocked not only to hear that a Development Application for a home on had been lodged but also that it was going to be approved by Rebecca Ireland with no notice whatsoever to us, we contacted Ms Rebecca Ireland to voice our concerns. She clearly recalled what she had told us in 2014 and then promised to immediately speak with Mr Seidel, the draftsman engaged by the Owners of and request him to agree to modify the Council Approved Plan and shift the position of the home on to be 15 metres from the boundary line not the regulation 10 metres from our home on Lot 9. Both Rebecca Ireland and Mr Siedel agreed this could be done causing no problems. Rebecca should not have asked but made it a condition in approving the DA as was promised to us therefore eliminating a key problem for us now. Most regretfully, the Owners did not agree to the requested change in the position of the home on and Rebecca Ireland approved the DA application fully aware of the repercussions it would cause for us.
- 6. The Owners of have now made preparations to build their home 16.65 metres from our home on Lot 9. The Council Approved plans for the construction of a home on allow for "cut and fill" from the Natural Ground Level ("NGL"). The Owners of have now arranged

for earthmoving contractors to come onto some is well and truly above the Natural Ground Level. We estimate the level of where the home site is to be built to be 2 to 3 metres above the Natural Ground Level of single level dwelling being 7.827 in height from the NGL is the height of a two storey house, looking down onto a single dwelling house. (refer to my current site plan of some single dwelling house)

7. If Council allows the Owners of to proceed to build their home some 16.65 metres from our home upon the elevated filled home site currently existing on them we will suffer a significant and serious water "run off" problem as well as a loss of the privacy promised to us.

ACTION NOW REQUIRED TO BE TAKEN BY COUNCIL

- A. Council require the Owners of to modify the Development Consent so that the position of their home is no less than 20 metres from our home.
- B. Council require the Owners of to immediately cease construction works upon until the serious issues raised by us are resolved.
 - (i) the level of is not significantly above its Natural Ground Level so as not to cause a water "run off" and a flooding/drainage problem upon our adjoining Lot 9 and
 - (ii) DA to be revoked, resubmitted and reassessed to consider our concerns.
 - (iii) Privacy screens erected at pad level, preventing looking down into indoor/outdoor living areas.
 - (iv) Council to make it a condition that the dwelling be at least a minimum 15 metres or more to alleviate water runoff and privacy issues as the height of this single dwelling is the height of a two storey dwelling and is 5 metres above Lot 9 single dwelling.

CONCLUSION

We come to Council in good faith. We initially worked alongside Council to resolve a serious drainage problem involving our Lot 9 and the adjoining Council Reserve. All we ask now is for Council to deal with the Development Application lodged by the Owner of responsibly and professionally having full regard for:

- the representations made to us by Council staff.
- Council's failure in not providing us with an opportunity to make submissions or respond earlier, prior to the issue of any Development Consent, as required by law and the doctrine of natural justice.

Please take our submission seriously. It is causing us undue stress and worry. We sincerely hope this issue does not end up in the Land and Environment Court and involve costly litigation to us all.

Annette and Stephen Gigg

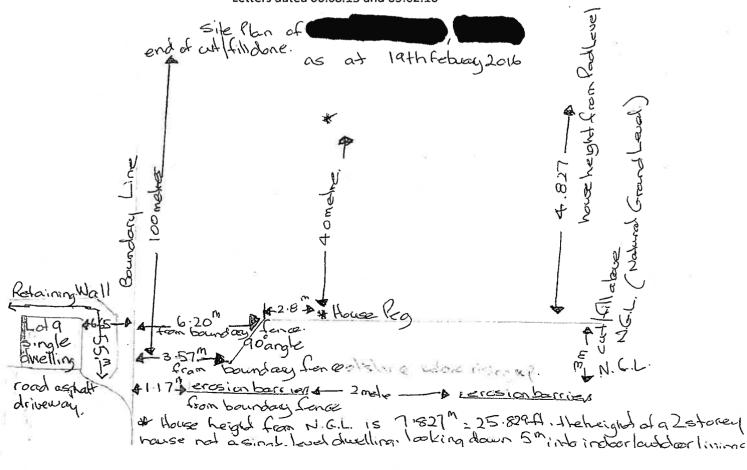
12 February 2016

Attachments: Report of Mr Jack Metzler, Civil Engineer

Plan showing Lots 8 & 9 and the adjoining Council Reserve

Council Approved Plan 136116 for Lot 8

Letters dated 06.08.15 and 03.02.16



Annette & Stephen Gigg 5 Annies Lane ROSEDALE N.S.W 2536.

Eurobodalla Shire Council. General Manager. Dr Catherine Dale.

3rd Febuary, 2016.

I am writing this letter to give you background information on serious issues of concerns to us.

have submitted a DA application for the hard s

We purchased our land 5 years ago and on the land sale plan the designated building sites were shown where the houses were to be built. Privacy is very important to us.

I do not have the best of health and when my health deteriates privacy is a key issue for me.

Jack Metzler local engineer when doing the survey for our house to be built made us

down onto our property, and it is illegal to do so.

Jack advised us to not build where the designated house site was on the plan.

We moved the house and instead of the original DA stating the house would be we moved the house from 11.85 metres from the boundary it would now be 6.6 metre which Council approved on a modified DA submitted.

We wrote to the Council asking if a DA was submited for would they notify us because of the relocation of the house.

We were shocked when told by Council that they do not notify existing property home owners when a DA is submitted therefore not giving them any consultation to make Council aware of serious issues the DA'a approval will impact on already built homes, such as diversion of runoff water causing flooding, loss of privacy, runoff from Garden master waste system 25 metr & then secondary 25 met rununoff staining of drivway from mud from runoff from raised land level.

We approached Council and an officer came out seen the 130 metre trench which is 1/2wide and 1/2 metre deep in places.

We have placed 8 ton of access cobble to stop the soil being washed away,

to be told "Council has no money to fix the problem but you pay and fix it!! knowing that it is illegal to divert runoff water onto to another persons property.

That was September, 2015 to date no letter or response to us asking for them to fix the problem.

I contacted Rebecca Ireland in the Planning Dept when I heard that a DA for had been submitted and was told that I had no right to see the plans for the DA submitted.

I have never know a Council to adopt such a one sided approach. Rebecca came out on the 29.9.15 as a courtesy and showed us where the house was to be built, the south elevation which showed 3 bedrooms main bathroom ensuite windows to be built the minimum 10 metres from our boundary too close we told her and so many windows looking into our home,invasion of privacy.

I beleived that people could not build overlooking your existing home. Rebecca I beleive was not aware that was raising the land level by 3 metres changing the topography of the land so dramatically and the surveys he submitted were they done on the exisiting topography of the land did he state he was raising the land level by 3 meter at the front and even higher at the back making the runoff problem even worse that it was when the land was clearded and levelled when lied to us saying the 1.8. metre chain wire fence, would stop us seeing windows.

Council caused up to move our house by the diversion of the water runoff from Bevians & George Bass Drive, and bears some responsibility for that. By issuing a DA Modification on the grounds of normal DA have 10 metre on both sides of boundaries to build on telling that the distance is 16.6 and has to be 20 and that raising the land level by 3 metre when not necessary.

said that cost is a big issue then by building his house so close and so high and costing more to do so doesn't make sense.

knows we are very upset and angry with him for telling us lies.

He has asked us how can we resolve these problems . The answer is simple move the house over 5 metres and lower to be built on the same level as our house. modify the DA the house plan wont change and he will save money.

We have included photos which clearly show our concerns are well founded.

We are optimistic that this situation can be resolved by people doing the right thing, not just saying they want to do the right thing.

Planning Department Manager Gary Bruce, Mayor Lyndsay Brown, phoned me to arrange for a meeting on my property.

Jack Metzler was to be present to show the Council people the problems we face.

They have now declined to have the meeting.

Darren Rosa who said he would come, his secretary said they would send someone

to address the waste runnoff also declined saying he has been instruucted not to talk to me about the property next door.

We hope the issues weve raised can be resovived before they turn into bigger future problems.

Your urgent attention would be greatly appreciated before any building commences.

Regards Annette & Stephen Gigg.

adjacent property house location

Annette & Stephen Gigg

5 Annies Lane Rosedale NSW 2536 anatopia@outloook.com.au

6th August 2015

Eurobodalla Shire Council P.O.Box 99 MORUYA N.S.W. 2537 www.esc.nsw.gov.au

Planning Department.

It has come to our attention that the property next to ours has been surveyed for building on.

We wish to advise the Council that when they receive any DA planing and the location of a building site on the block we are contacted as soon as plans are lodged with the Council the reasons being listed as below.

Council is aware that we had to move our house location that, was on the original land layout when we purchased our property, due to water runoff, survey reports and Council recommendations.

Due to these reports/recommendations we moved the house, further down away from the original site location for a dwelling

adjacent property house location

to build on.

Buying a rural block, the main reason for this was that we do not want neighbours being near our home especially our main living/ entertainment areas.

Upon looking and speaking with the Surveyors, it appears that the building area is right on the bounadry line 50 metres from our front door and back entertainment decks.

We value our privacy and for this main reason is why we purchased a rural block so we would not have neighbours near to our home.

This is the reason for this letter so that Council can be aware that when DA plans are submitted they can take into account our objection to having a house being so near to ours taking away our privacy and reason for buying a Rural block so we don't have neighbours taking away our privacy, peace and quiet.

Yours Sincerly

Annette & Stephen Gigg.

Annette & Stephen Gigg 5 nnies Lane. ROSEDALE NS.W.536 anatopia@outlook.com.au 6th August,2015.

Eurobodalla Shire Council.

We are writing this letter to Council requesting that you resolve the water run off roblem from Bevians Road, down onto our property at Annies Lane.

It was pointed out to us by Jack Metzler the Surveyor who discovered this problem when doing the flow survey.

During the heavy rain over the past months it has caused a lot of water to runoff down our property costing us to make exspensive runoff solutions.

It is appaent that Council has made some attempt to resolve the run off problem as there is black meshing and a large number of tree logs have been placed to divert the water flow from our property but this has not been succesful.

We would apprecate your immediate attention to resolve the problem.

Yours sincerly Annette & Stephen Gigg.

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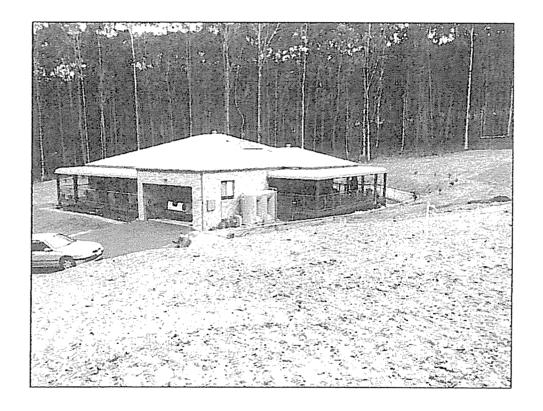
GEOFF METZLER & ASSOCIATES PTY LTD

CONSULTING STRUCTURAL & CIVIL ENGINEERS

ABN 87 002 408 237 SHOP 8, 107-109 PRINCES HWY MILTON NSW 253 p 02 4455 5515 m 0429 318 148 e enquiries@metzler.com.au

ENGINEERING ASSESSMENT

LOT 9 DP 1192679 ANNIES LANE, ROSEDALE, NSW, 2536



CLIENT: ANETTE & STEPHEN GIGG REPORT B3584

GEOFF METZLER & ASSOCIATES PTY LTD

18 FEBRUARY 2016

GMA

CONTEXT

Geoff Metzler and Associates have been engaged by Anette & Stephen Gigg to inspect and assess the engineering impacts of a development on the neighbouring property being



The clients are concerned with the scale of the earthworks involved, the positioning of the proposed development and the potential for stormwater impacts onto their property. Engineering inspection and advice has been requested regarding the suitability of the neighbouring development.

BASIS OF INSPECTION

A visual assessment of the neighbouring development site was undertaken on the 16th of February 2016. The development assessment was based on the earthworks which have been conducted compared to those approved in the development application which has been assessed by Council.

SITE INSPECTION

Cut and fill earthworks have been undertaken on the neighbouring site to create a level pad for building. The fill material at the south eastern corner of the site has an approximate height of 1.8 metres above natural ground. There is a cut of approximately 2 metres on the western side. The construction pad had a north-south distance of approximately 22 metres and an east-west distance of approximately 35 metres.

The natural grades on the property are approximately 11 percent with the neighbouring lot being situated upslope of existing dwelling. Based on an 18 metre offset between the existing dwelling and the proposed neighbouring dwelling, the level difference between the two sites is approximately 2 metres. Allowing for fill earthworks on the neighbouring site and some cut earthworks at the existing dwelling the level difference between the building floor levels is estimated in the order of 4 metres.



Figure 1 – Toe of fill pad at the south eastern corner

DISCUSSION

We have viewed a copy of the stamped development application plans for DP 1192679. The scale and position of the earthworks as shown on the drawings matches the constructed pad. The plans showed a total fill height of 2.0 metres at the southern corner, which is comparable to the 1.8 metres which was estimated onsite.

The proposed building envelope of DP 1192679 has an offset of 10 metres from the southern boundary. Construction plans for Lot 9 show an offset distance of 6.46 metres. Due to the differing alignment of the dwellings, the closest point between the dwellings was approximately 18 metres as measured on site.

The earthworks conducted on needs to consider the potential for increased stormwater runoff during construction. Three are sediment controls in place at the toe of the fill batter.

Our ref: B3584

These need to be monitored to ensure that sediment is effectively controlled for the duration of the construction process.

On completion of the building works roof water will be captured and diverted to storage tanks. We have not viewed stormwater plans but we presume that the overflow from the tanks is controlled and is diverted away from the downslope property. The fill batter will divert some runoff towards the downslope property. An earth channel at the toe of the batter is recommended for control of the stormwater which should be diverted north towards the gully line near the driveway.

CONCLUSION

The existing construction pad is comparable to the approved development application plans. The stormwater and sedimentation must be controlled during construction.

Drainage at the toe of the batter is recommended to ensure there is no additional stormwater diverted towards the downslope property.

If you have any queries regarding the report please don't hesitate to contact us.

Yours faithfully

GEOFF METZLER & ASSOCIATES

Jack Metzler

Director B.E.(Hons) MIE AUST, C.P.ENG

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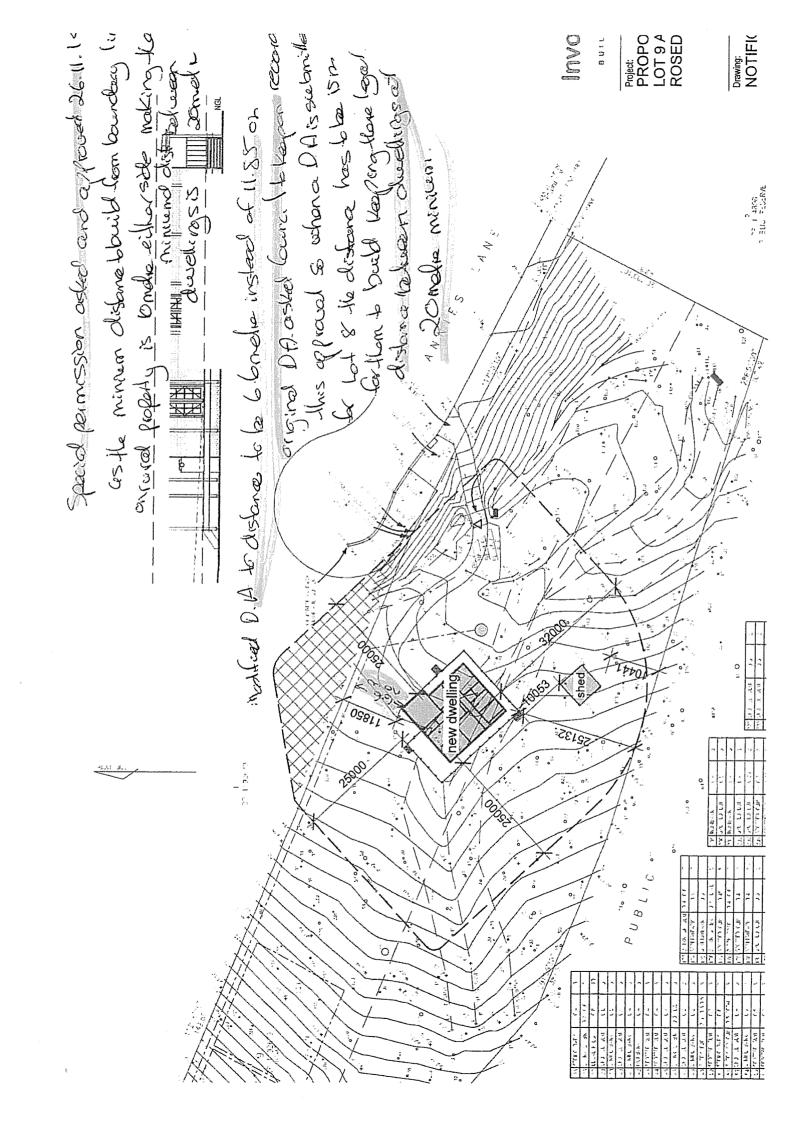
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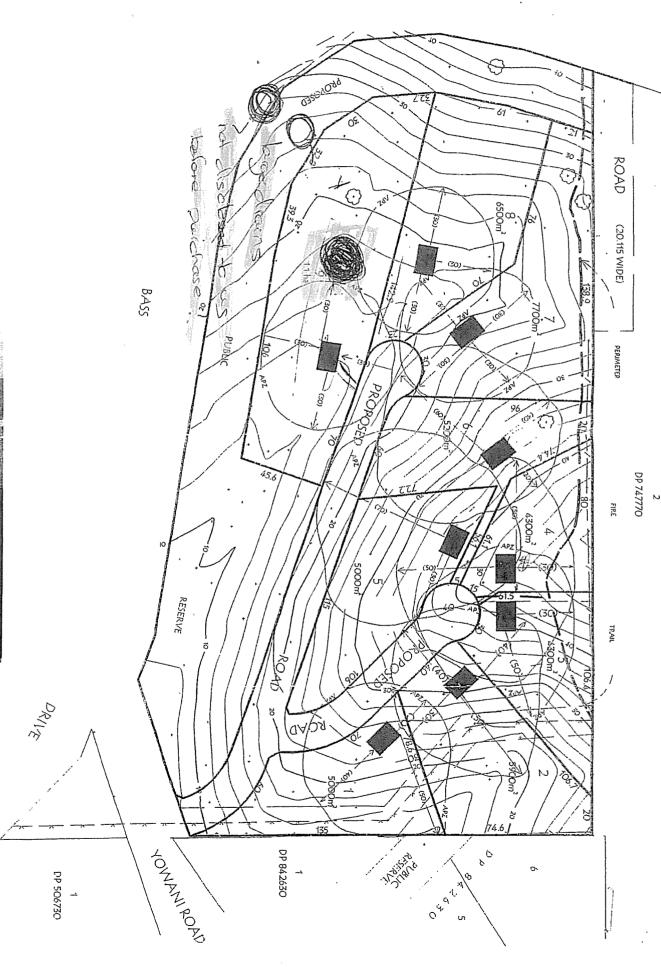
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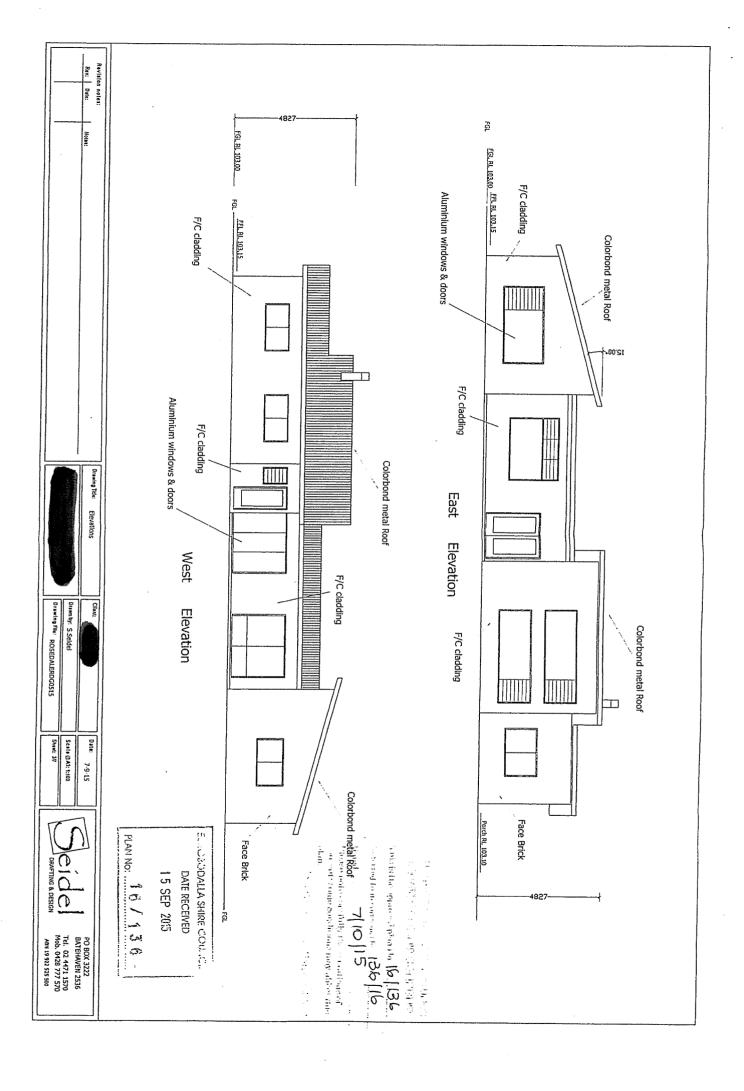
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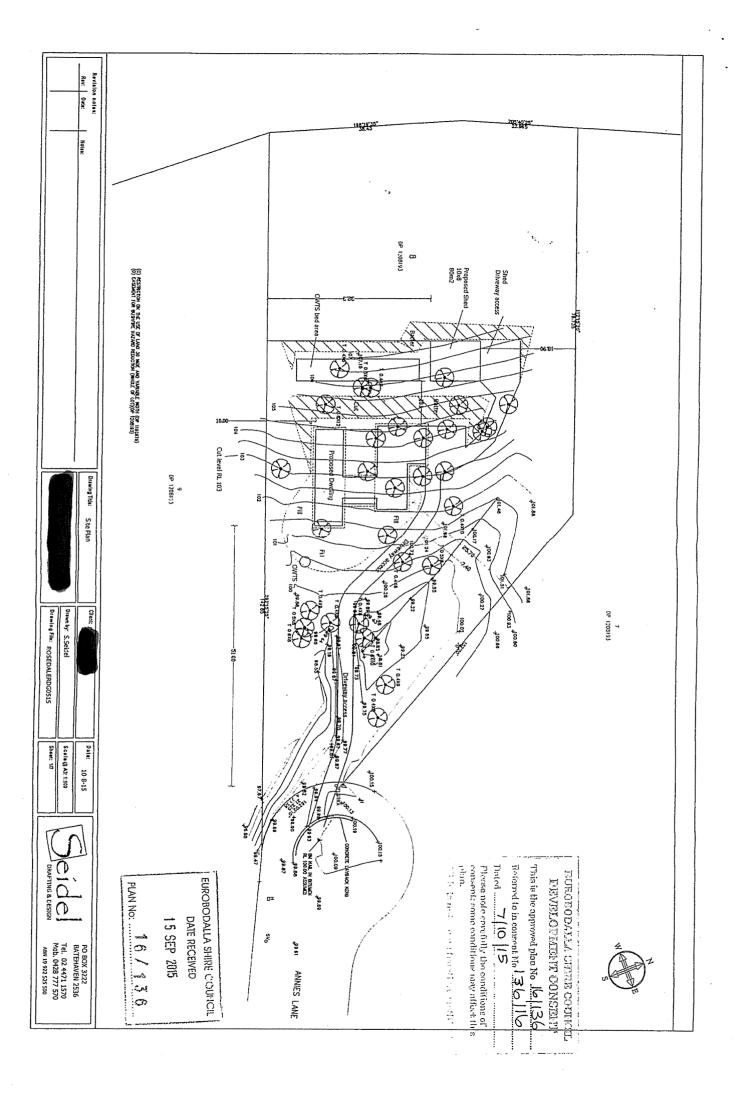
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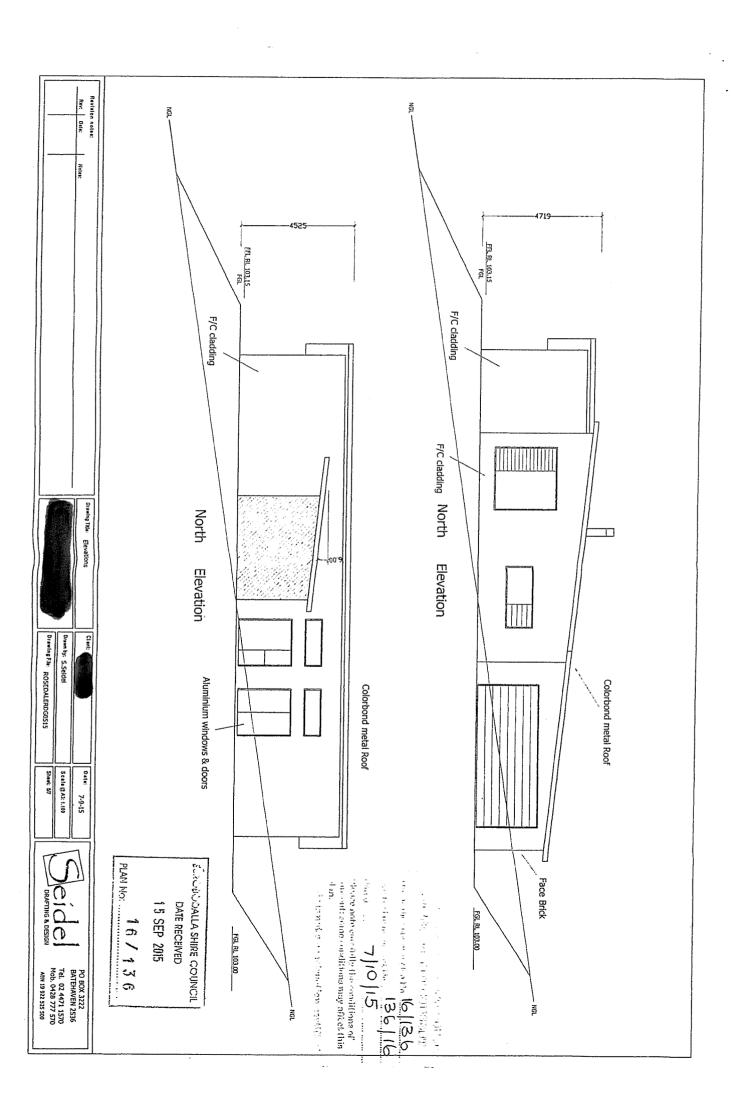
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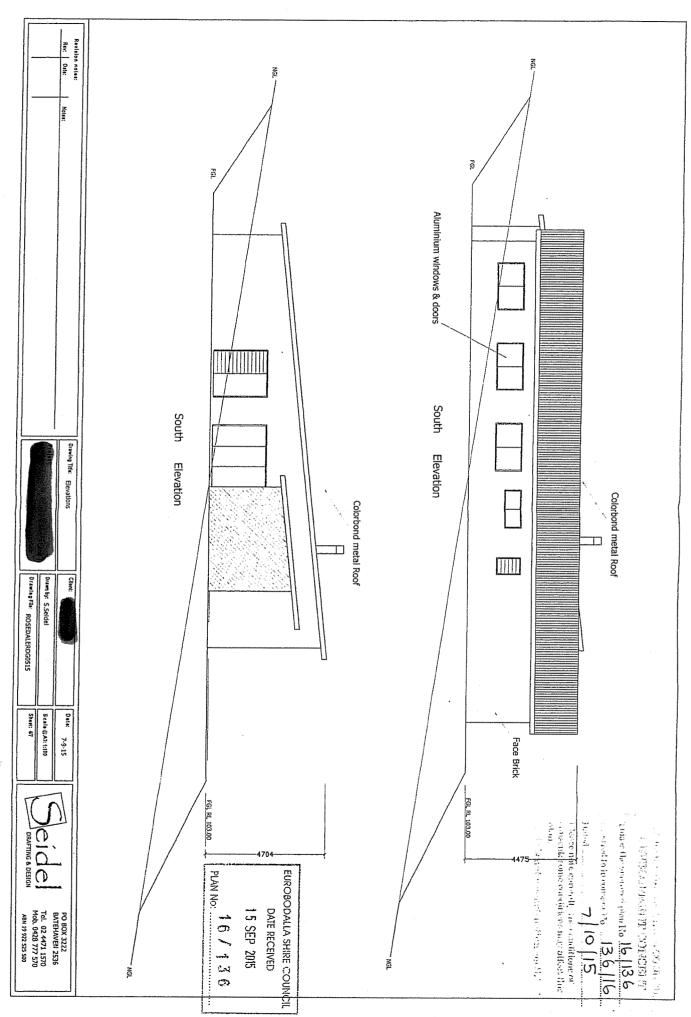












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