



## Building and Development Dispute Resolution Committees—Decision

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### *Sustainable Planning Act 2009*

<b>Appeal Number:</b>	25-17
<b>Applicant:</b>	Jenny Phillips
<b>Assessment Manager:</b>	John Dunn, John Dunn Building Approvals
<b>Concurrence Agency:</b>	Sunshine Coast Council
<b>Site Address:</b>	10 Mona Vista Court Coolum Beach described as Lot 7 on RP 211306 – the subject site

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### Appeal

Appeal under section 527 of the *Sustainable Planning Act 2009* against the decision of the Assessment Manager to refuse a Development Application for Building Work to construct an attached secondary dwelling at a location of which conflicts with the acceptable siting measures of the regulatory framework at the direction of the Concurrence Agency.

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<b>Date and time of hearing:</b>	11.00am, Thursday 3 <sup>rd</sup> August 2017
<b>Place of hearing:</b>	The subject site
<b>Committee:</b>	Mr James McPherson – Chair Ms Debra (Debbie) Johnson – Member Mr Don Grehan – Member
<b>Present:</b>	Mr John Dunn – Assessment Manager and Applicant’s representative Mr Steve Rosenius – Council representative Mr Peter Chamberlain – Council representative

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### Decision:

The Building and Development Dispute Resolution Committee (Committee), in accordance with section 564(e) of the SPA and, with the consent of the Applicant, **varies** the application and approves the proposed attached Secondary Dwelling subject to the following conditions and directions as considered appropriate:

### Conditions:

1. The proposed Secondary Dwelling must be constructed in accordance with the architectural plans prepared by Baden Design & Drafting, Reference number 17124 marked BDDRC 25-17, Pages 1 to 8 (**attached**).

2. The proposed Secondary Dwelling is approved with a reduced clearance to the western (road) boundary of 4960mm to the outer most projection of the secondary storey (the fascia),
3. The proposed Secondary Dwelling is approved with a reduced clearance to the southern (side) boundary of 600mm to the outer most projection of the unroofed stair,
4. The proposed Secondary Dwelling is approved with a reduced clearance to the southern (side) boundary of 1127mm to the outer most projection of the secondary storey (the fascia).
5. The roof and walls of the Secondary Dwelling must maintain a non-reflective finished surface in natural colours compatible with the existing dwelling;
6. All building work shall comply with the *Building Act 1975* (BA) and the Conditions of this Decision, including any amendments or conditions subsequently imposed by the Assessment Manager. All conditions must be satisfied prior to the issue of a Form 21 - Final Inspection Certificate.
7. Unless noted otherwise, the Condition Time, requisite stages of inspection, requisite certificates of design, compliance or aspect together with any specific elemental conditions and details of any applicable self-assessable codes or further development approval required are to be nominated in writing by the Assessment Manager prior to the commencement of work. Such details are to be provided to the Applicant, Builder and Council.

#### **Directions:**

- (a) The Applicant must provide the Assessment Manager with the Building Certifiers copy of the QBCC Home Warranty insurance documentation prior to the commencement of works.
- (b) The Applicant must provide the Assessment Manager with evidence of payment of the Q-Leave Levy (if applicable) prior to the commencement of works.
- (c) The Applicant must submit engineering specifications, including but not limited to framing, bracing and tie-down details together with details of the requisite fire rated construction to the Assessment Manager for approval prior to the commencement of works.
- (d) The determination of building classification and fire separation are the responsibility of the Assessment Manager.
- (e) The Applicant and Council are reminded that the Conditions of this Decision are the Conditions of a Development Approval for Building Works and attach to the land binding the owner, the owner's successors in title and any occupier of the land.

#### **Background**

The Assessment Manager refused a Development Application for Building Works to construct an attached secondary dwelling, of which the siting would result in side and road boundary setbacks that were contrary to the acceptable siting measures of the regulatory framework following receipt of a Concurrence Agency Response from the Council.

The Council, directing the refusal, considered that the proposed development did not comply with, and could not be conditioned to comply with the Performance Outcome PO3 of the Dwelling House Code of the Sunshine Coast Planning Scheme.

The Applicant, dissatisfied with the refusal, lodged an appeal with the Committees Registry on the 8<sup>th</sup> of June 2017 against the Decision of the Assessment Manager

### **Material Considered**

The material considered in arriving at this decision comprises:

1. 'Form 10 – Appeal Notice', grounds for appeal and correspondence accompanying the appeal lodged with the Tribunals Registrar on 08 June 2017.
2. Plans for the proposed works prepared by Baden Design & Drafting of 9 Craven Place Mountain Creek Qld 4557, Ref. No. 17124 drawings BR.2 to BR.10, dated 02 May 2017.
3. Sunshine Coast Council refusal in letter dated 29 May 2017 – Concurrence Agency Response – Building Development Application for Building Works (Design & Siting).
4. Development Permit for Building Works – Refusal Decision Notice – Form 6 – BA170133 to the Appellant, Jenny Phillips from John Dunn Building Approvals, dated 07 June 2017.
5. The *Sustainable Planning Act Planning Act 2016*. (SPA)
6. The *Building Act 1975*. (BA)
7. Queensland Development Code M.P. 1.2. (QDC MP1.2);
8. Sunshine Coast Planning Scheme 2014, Dwelling House Code Performance Outcome PO3.
9. Verbal submissions from the Applicant at the hearing.
10. Verbal submissions from Council representatives at the hearing.
11. Amended Plans for the proposed works prepared by Baden Design & Drafting of 9 Craven Place Mountain Creek Qld 4557, reference number 17124 drawings BR.2 to BR.10, dated 12 August 2017.
12. Email Correspondence from the Council dated 16 August 2017
13. Email Correspondence from the Applicant 30 August 2017.

### **Findings of Fact**

The Committee makes the following findings of fact:

- The subject site is a 608m<sup>2</sup>, non-uniform rectangular shaped allotment that faces west south west to Mona Vista Court and falls steeply to the east north east towards the ocean.
- The subject site is zoned Low Density Residential under the Sunshine Coast Planning Scheme 2014.
- An existing single detached Class 1a dwelling is centrally located on the subject site with an attached double garage located forward of the dwelling towards the south west corner of the property. The siting of the garage has been previously varied by Council

and has a reduced road boundary clearance of 5008mm to its outermost projection. The setback to the attached garage is 1540mm from, and parallel with, the southern side boundary.

- The Applicant proposes to construct an attached secondary dwelling over the existing garage which would result in a road setback of 4510mm and a southern side boundary setback of 1547mm additionally, the access stair to the secondary dwelling, which exceeds 1.0m in height above ground level, would be located 600mm from the southern side boundary.
- The proposed road boundary setback of the secondary dwelling is contrary to Acceptable Outcome AO3 of the Dwelling House Code of the Sunshine Coast Planning Scheme 2014.
- The proposed side boundary setback of the secondary dwelling and access stair is contrary to Acceptable Solution A2 of QDC MP 1.2.
- In relation to the jurisdiction of the Concurrence Agency, the relevant aspects of the specified Codes are:
  - (1) Performance Outcome PO3 of the Dwelling House Code of the Sunshine Coast Planning Scheme; and
  - (2) Performance Criteria P2 of the QDC MP 1.2.
- The Assessment Manager requested Council's response to the siting of the proposed building works as a Referral Agency (Concurrence) for assessment against the relevant aspects of the specified Codes on the 17<sup>th</sup> of May 2017.
- Following exchange of correspondence, including an Information Request and subsequent response, on the 1<sup>st</sup> of July 2017 Council issued a Concurrence Agency Response (Ref. No, RAB 17/0320) directing the Assessment Manager to refuse the application.
- In deciding the Referral Agency Response, Council considered that the proposed development did not comply with and could not be conditioned to comply with the following aspects Sunshine Coast Planning Scheme 2014.

Performance Outcome PO3:

*Where located in the residential zone, the dwelling house is set back from any road frontage so as to:*

*(b) create a coherent and consistent streetscape, with no or only minor variations in frontage depth;*

- On the 7<sup>th</sup> of June 2017, the Assessment Manager issued a Decision Notice refusing the Development Application for Building Work solely at the direction of the Concurrence Agency.
- At the time of the Hearing, alternative design concepts were discussed with the Applicant and Council representatives and, by mutual consent, it was agreed that an amended plan be prepared and submitted to the Committee for its consideration.
- On the 15 of August 2017 the Committee received amended drawings prepared by Baden Design & Drafting, Reference number 17124 marked BDDRC 25-17(**attached**) illustrating the revised design which had been discussed at the Hearing.

- The amended drawings were accepted and agreed to by Council in an e-mail dated 16 August 2017, conditional upon the roof and walls of the Secondary Dwelling maintaining a non-reflective finished surface in natural colours compatible with the existing dwelling
- The amended drawings and the Council's condition relating to wall finishes was agreed to by Applicant in an e-mail dated 30 August 2017.

### **Reasons for the Decision**

- With reference to the amended plans for the proposed works prepared by Baden Design & Drafting, Reference number 17124 marked BDDRC 25-17(attached), the Committee is satisfied that:
  - (i) the building, when erected, will not have an extremely adverse effect on the amenity or likely amenity of the building's neighbourhood; and
  - (ii) the aesthetics of the building, when erected, will not be in extreme conflict with the character of the building's neighbourhood.
- With reference to confirmation emails received from the Applicant and Council, the Committee is satisfied that the amended design fulfils Performance Outcome PO3 of the Dwelling House Code of the Sunshine Coast Planning Scheme 2014 and Performance Criteria P2 of the QDC MP 1.2.

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**James McPherson**  
**Building and Development Committee Chair**  
**Date: 19/10/2017**

## **Appeal Rights**

Section 479 of the *Sustainable Planning Act 2009* provides that a party to a proceeding decided by a Committee may appeal to the Planning and Environment Court against the Committee's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Committee or
- (b) that the Committee had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Committee's decision is given to the party.

## **Enquiries**

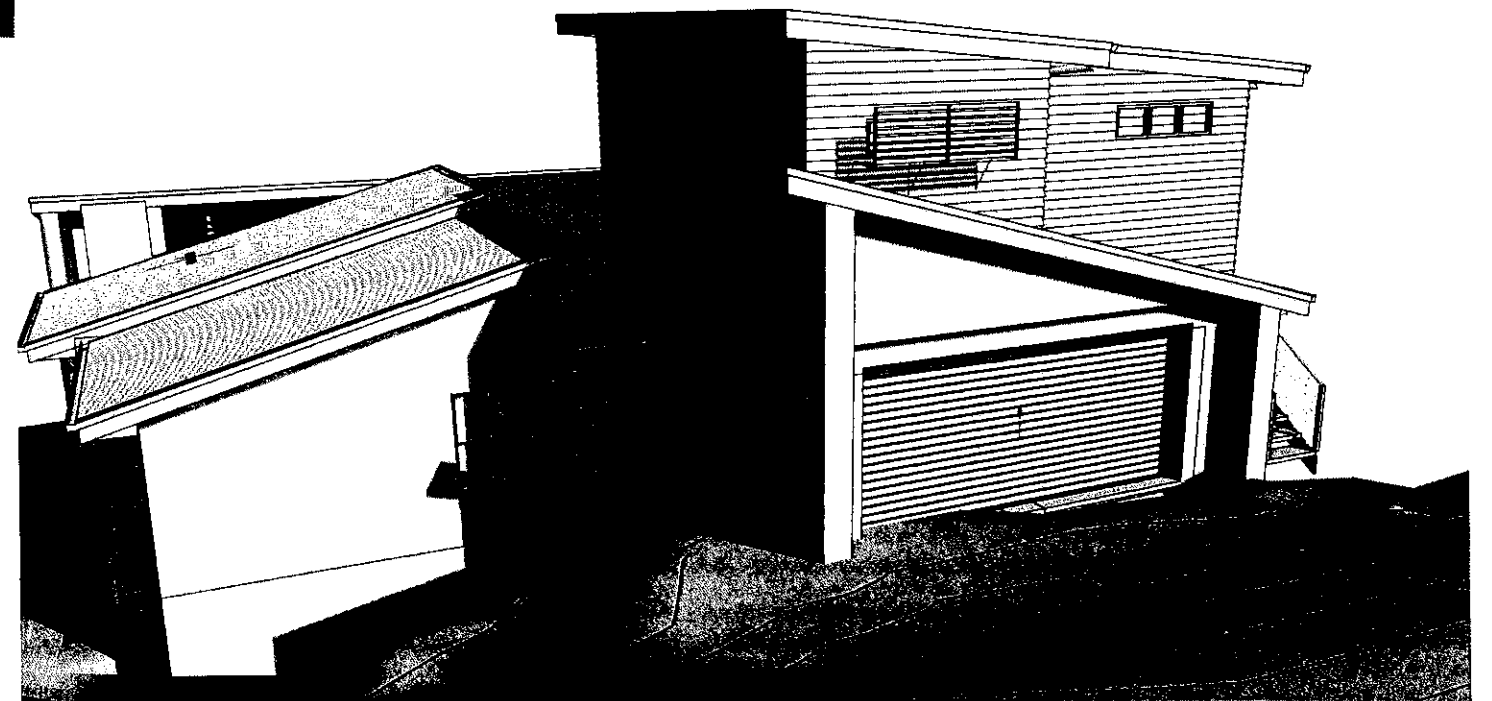
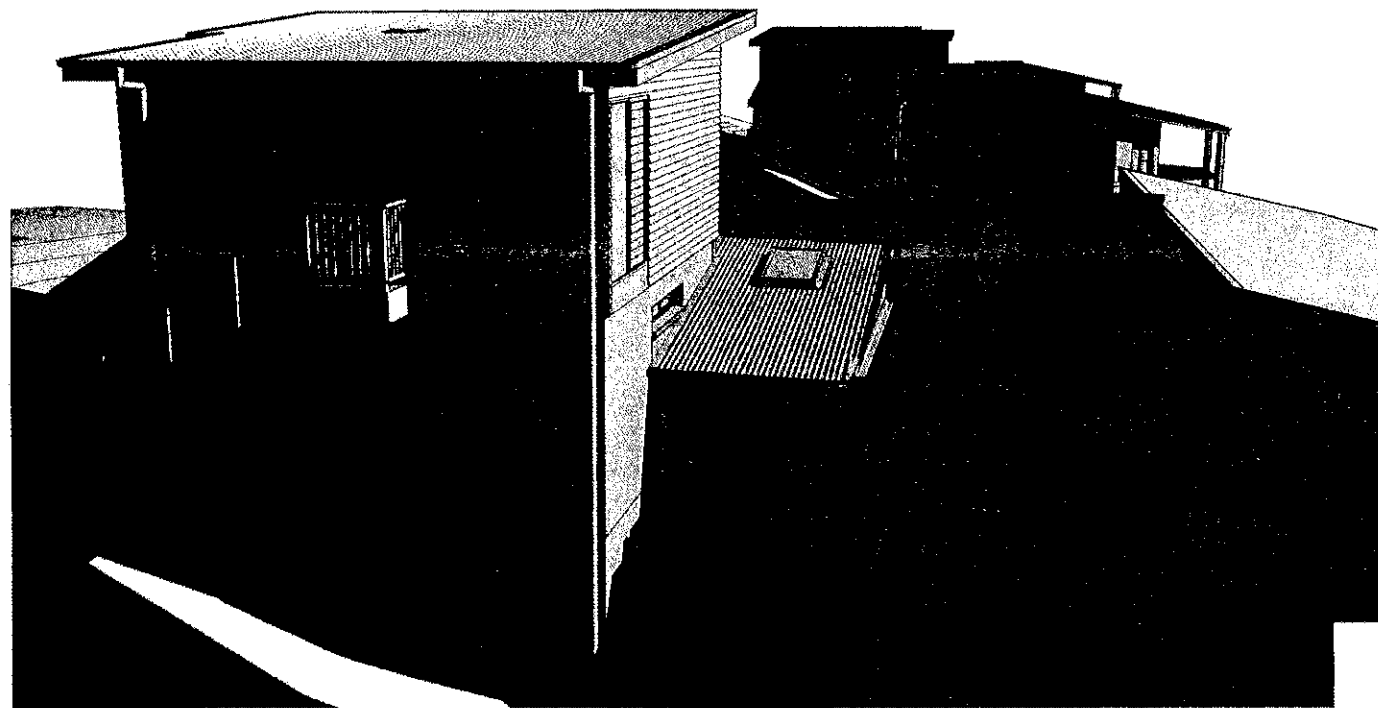
All correspondence should be addressed to:

The Registrar of Building and Development Dispute Resolution Committees  
Building Codes Queensland  
Department of Housing and Public Works  
GPO Box 2457  
Brisbane QLD 4001  
**Telephone (07) 1800 804 833 Facsimile (07) 3237 1248**

# Phillips Residence

Ms. J. Phillips

10 Mona Vista Crt Coolum Beach Qld 4573



**FLOOR AREA**

**PROPOSED SITE COVERAGE**

EXISTING DWELLING	127.41m <sup>2</sup>
PROPOSED HABITABLE ADDITION	12.39m <sup>2</sup>
EXISTING DECK	27.94m <sup>2</sup>
PROPOSED PORCH	1.61m <sup>2</sup>
EXISTING GARAGE	42.45m <sup>2</sup>

SUB TOTAL 211.80m<sup>2</sup>

Building footprint = 34.8% (212/608)

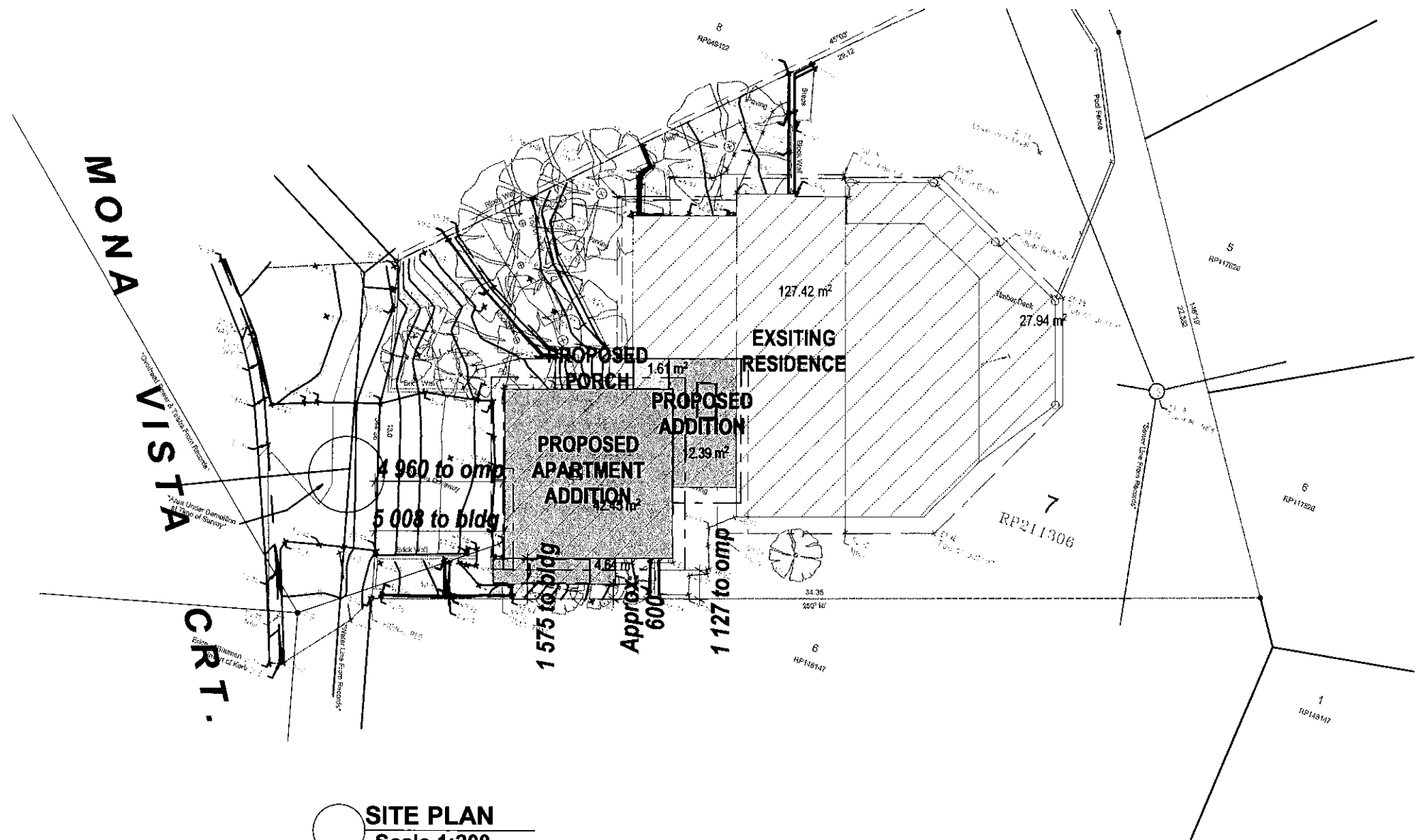
Site Cover calculated as per QDC

**REAL PROPERTY DESCRIPTION**

L7 RP211306  
 PARISH OF CANNING  
 COUNTY OF MAROOCHY  
 LGA : SUNSHINE COAST REGIONAL COUNCIL  
 SITE AREA : 608m<sup>2</sup>  
 CLIMATE ZONE : Zone 2  
 WIND CLASSIFICATION : N3

**SITE NOTES**

1. ALL LEVELS TO BE CONFIRMED ON SITE PRIOR TO CONSTRUCTION. DISCREPANCIES TO BE REFERRED TO THE DESIGNER FOR WRITTEN DIRECTION.
2. ALL ROOF STORMWATER TO BE DIRECTED TO STREET KERB & CHANNEL, IN ACCORDANCE WITH COUNCIL'S REGULATIONS.
3. WASTE DISPOSAL TO CONNECT TO SEWERAGE SYSTEM IN ACCORDANCE WITH ENGINEERS DESIGN & DETAIL & WITH LOCAL AUTHORITIES REGULATIONS.
4. EXCAVATIONS TO BE IN ACCORDANCE WITH BCA 3.1.1 AND ENGINEERS DESIGNS, DRAINAGE WORK TO COMPLY WITH GEOTECHNICAL ENGINEERS RECOMMENDATIONS AND STRUCTURAL ENGINEERS DETAILS.
5. TERMITE TREATMENT TO BE FMC 'HOMEGUARD' OR \*OTHER APPROVED METHOD IN ACCORDANCE WITH AS 3660 AND BCA 3.1.3 (\*SUBJECT TO DESIGNERS WRITTEN APPROVAL)
6. ALL EARTH WORKS, FOOTINGS AND SLABS TO BE IN ACCORDANCE WITH ENGINEERS DESIGN AND DETAIL.
7. REFER TO ENGINEER FOR ALL STRUCTURAL SITE AND BUILDING ELEMENTS.



**SITE PLAN**  
 Scale 1:200

*[Signature]*  
 12.08.17



The builder shall check and verify all dimensions and notify all errors and omissions to the Designer. Do not scale from the drawings. Drawings shall not be used for construction purposes until issued by the Designer for construction.

Issue	Amendments	Date
BA	BUILDING APPLICATION	12.08.17

building designers association of queensland inc.  
 Member No. 661  
 Eddie Baden Lic. No. 710914  
 Residential Design/Drafting  
 Lic. under Q.B.S.A. Act 1991

**BADEN DESIGN + DRAFTING SERVICE**

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 Mob: 0408769158  
 info@badendesign.com.au

Project  
**Phillips Residence**  
**Ms. J. Phillips**  
**10 Mona Vista Crt Coolum**  
**Beach Qld 4573**

Title  
**SITE PLAN**

Scale 1:200	Sheet A3	Drawn E.B.	Date 12.08.17
Dwg. No. 17124	Sheet No. A1.02	Issue BA	

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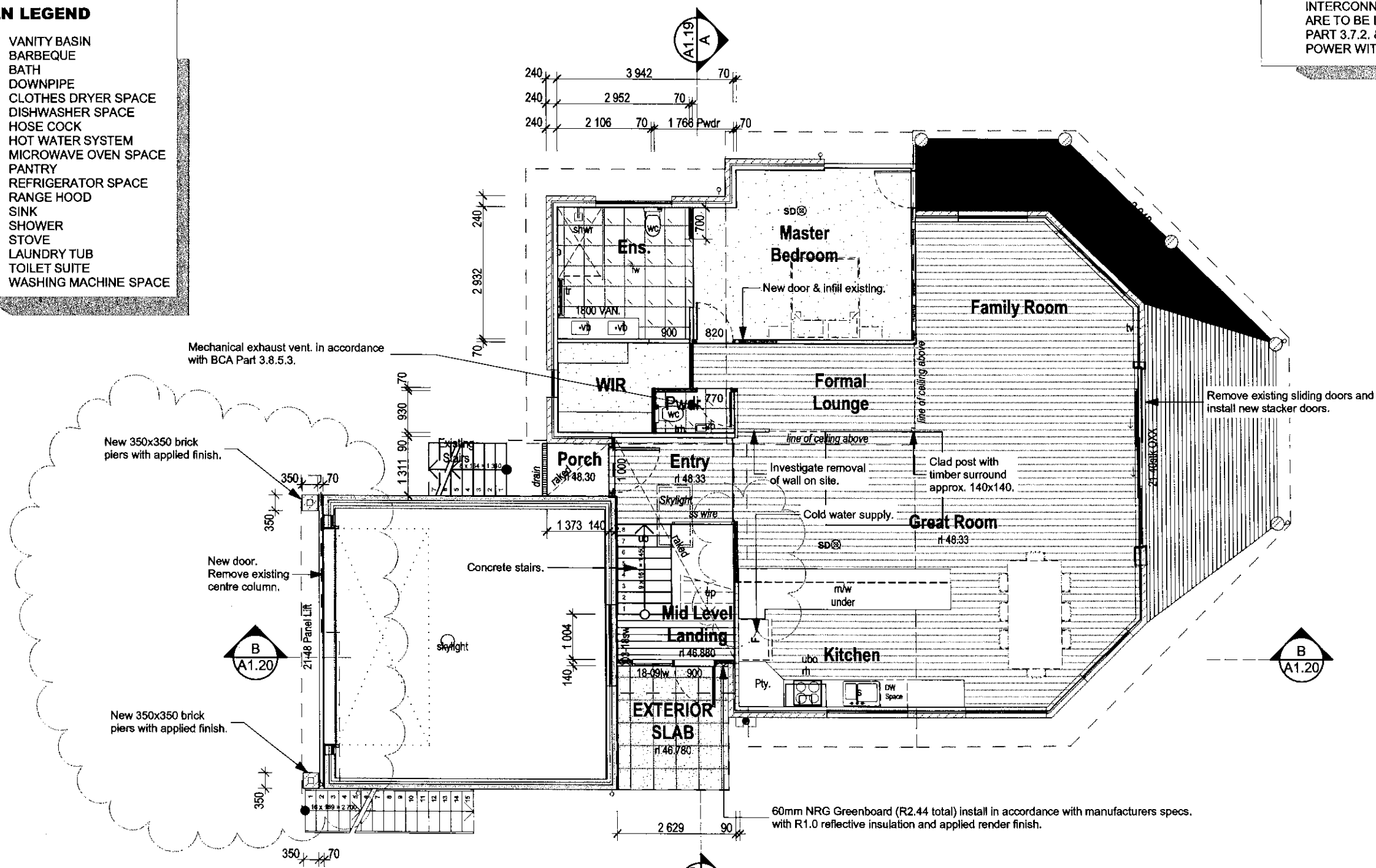
Printed 12/08/2017



**SD@ SMOKE ALARMS**  
 INTERCONNECTED PHOTOELECTRIC SMOKE ALARMS ARE TO BE INSTALLED IN ACCORDANCE WITH BCA PART 3.7.2. & HARDWIRED TO CONSUMER MAINS POWER WITH BATTERY BACKUP.

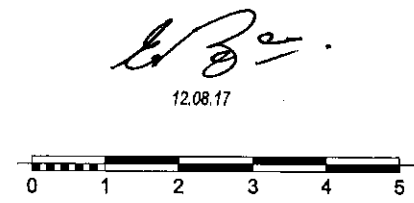
**PLAN LEGEND**

vb	VANITY BASIN
bbq	BARBEQUE
bth	BATH
dp	DOWNPIPE
dry	CLOTHES DRYER SPACE
dw	DISHWASHER SPACE
hc	HOSE COCK
hws	HOT WATER SYSTEM
mw	MICROWAVE OVEN SPACE
ply	PANTRY
ref	REFRIGERATOR SPACE
rh	RANGE HOOD
s	SINK
shr	SHOWER
st	STOVE
t	LAUNDRY TUB
wc	TOILET SUITE
wm	WASHING MACHINE SPACE



1. Remove all tiles including bathroom.
2. Remove existing kitchen.
3. Remove 2 x sliding doors & install new stacker door.
4. Remove existing stairs.
5. Infill stair with floor.
6. New addition to entry & other additions.
7. Install new cabinetry.
8. Lay new vinyl tiles throughout.
9. Install new wet area tiles.
10. Remove existing garage door and centre col. & install new door.
11. All existing external structural fixings to be upgraded/painted as required.
12. All roof fixings to be checked & replace as required.
13. Make good with new wall cladding above roof and new flashings as required.

**UPPER LEVEL FLOOR PLAN**  
 Scale 1:100



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Project

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**Beach Qld 4573**

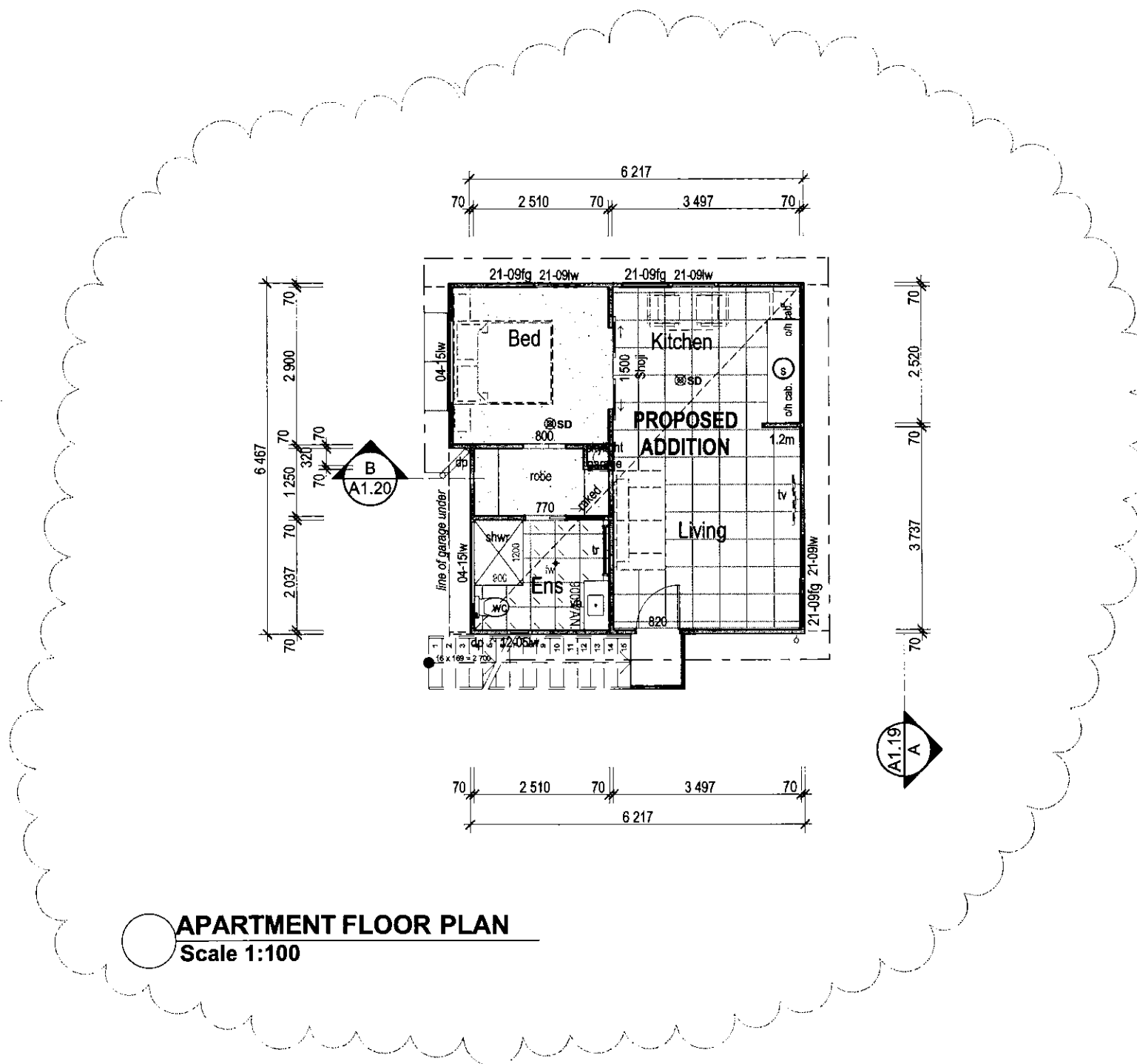
Title

**UPPER LEVEL FLOOR PLAN**

Scale 1:100	Sheet A3	Drawn E.B.	Date 12.08.17
Dwg. No. 17124	Sheet No. A1.06	Issue BA	

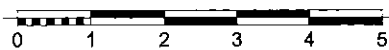
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**APARTMENT FLOOR PLAN**  
Scale 1:100

*E.B.*  
12.08.17



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Issue	Amendments	Date
BA	BUILDING APPLICATION	12.08.17

**baden**  
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Title			
<b>APARTMENT FLOOR PLAN</b>			
Scale 1:100	Sheet A3	Drawn E.B.	Date 12.08.17
Dwg. No. 17124	Sheet No. A1.07	Issue BA	
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**ROOF PLAN LEGEND**

rwo Rain water outlet

es1 Existing Trimdek roof sheeting.

rs1 0.42 BMT BlueScope Lysaght Trimdek® roof sheet in accordance with manufacturers specifications @ 10° pitch.

rs2 0.42 BMT BlueScope Lysaght Trimdek® roof sheet in accordance with manufacturers specifications @ approx. 16° pitch.

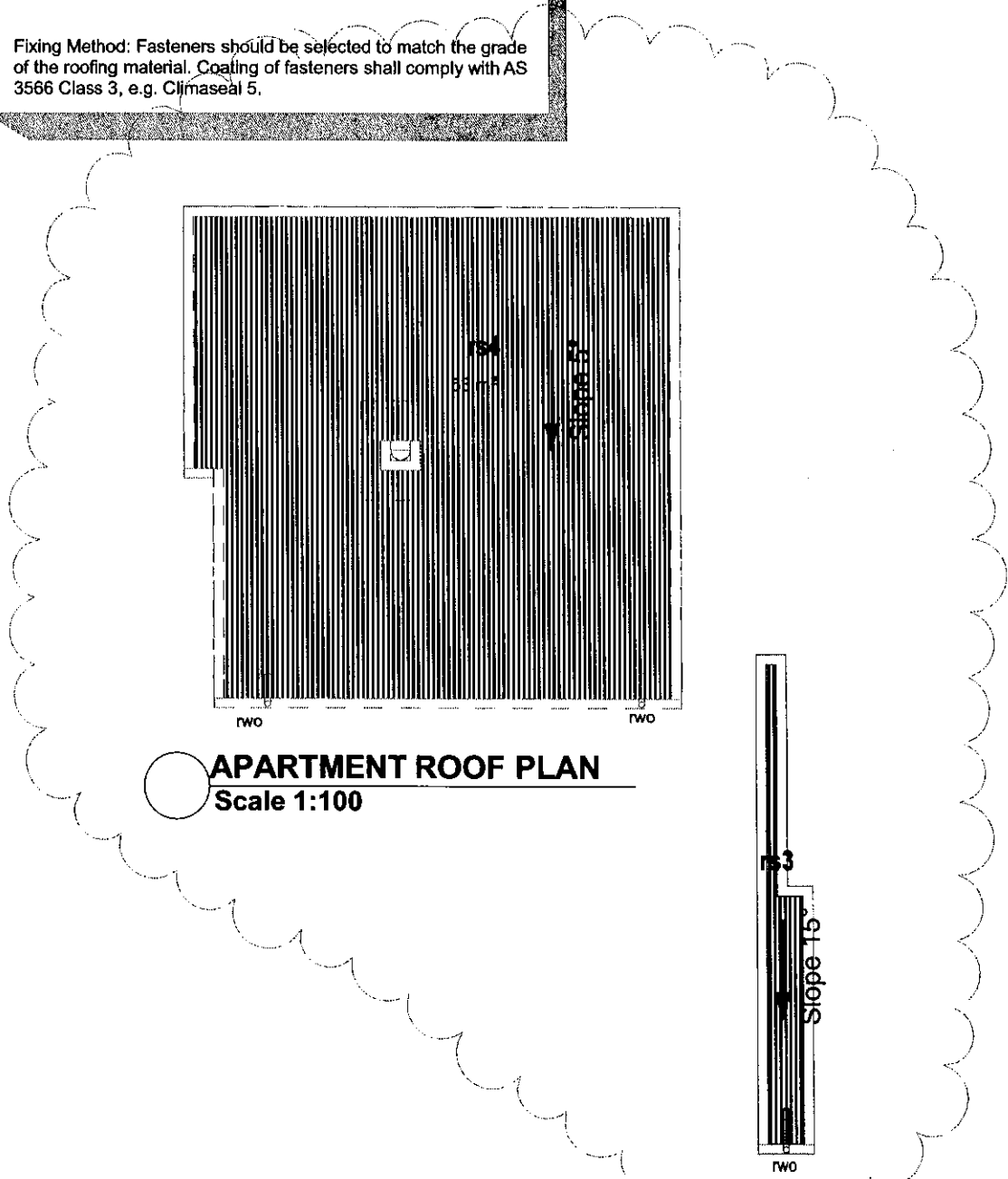
rs3 0.42 BMT BlueScope Lysaght Trimdek® roof sheet in accordance with manufacturers specifications @ approx. 15° pitch.

rs4 125mm Bondor Solarspan or similar sandwich panel in accordance with manufacturers specifications @ 5° pitch.

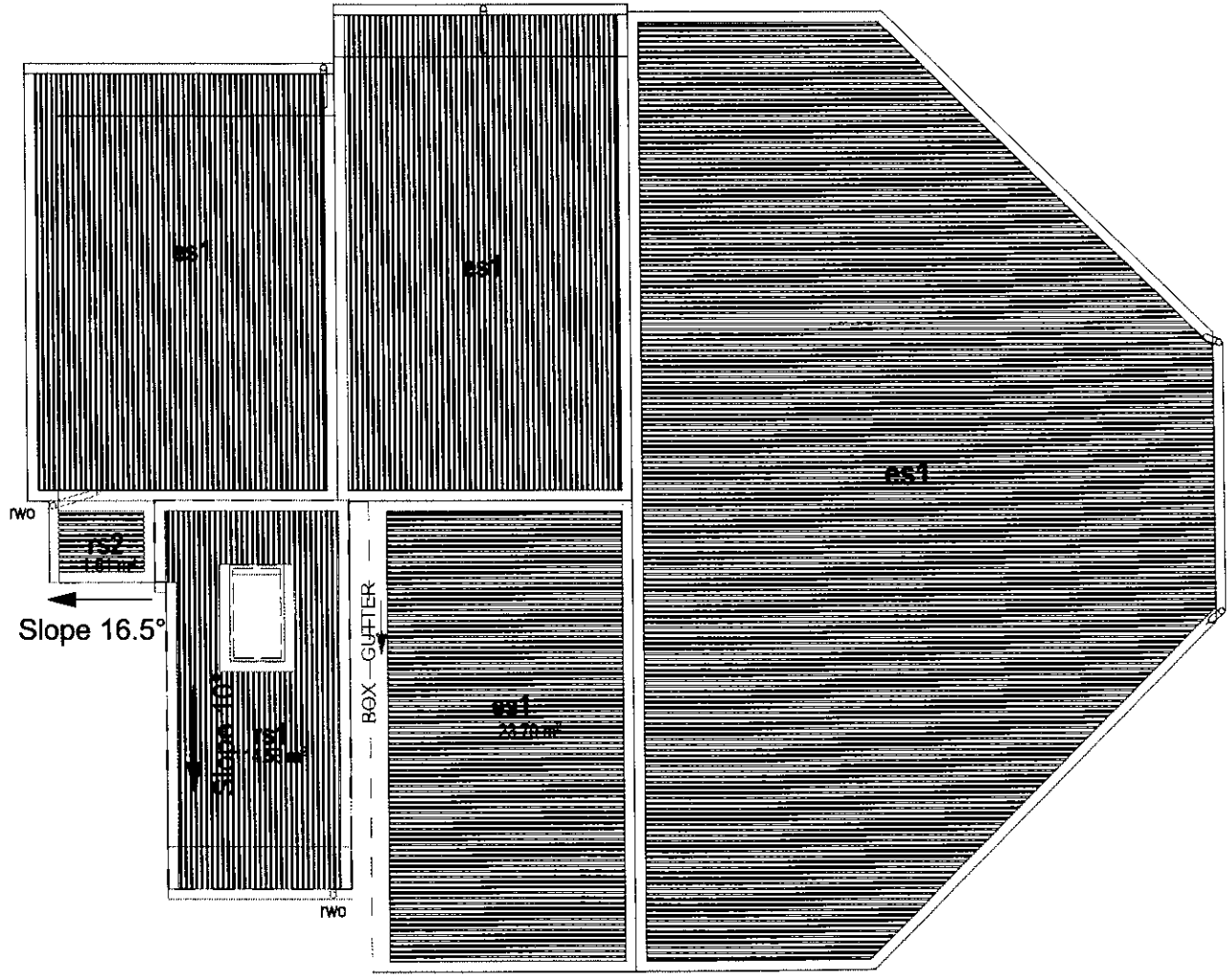
Fixing Method: Fasteners should be selected to match the grade of the roofing material. Coating of fasteners shall comply with AS 3566 Class 3, e.g. Climaseal 5.

Gutter overflow requirements to comply with BCA performance solution P2.2.1 using high-front quad gutter 150mm with 90mm diameter downpipes. Gutter to have slots allowing for 1.4 L/s/m and are to be installed as per manufacturers requirements.

Box gutter:- 250W, 150D Rainhead:- Mln D -120 L -120 W - 250  
 Overflow from rainhead to be a min. 75mm hole and centreline of the hole positioned 100mm below top of fascia.



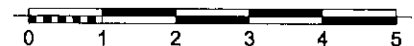
**APARTMENT ROOF PLAN**  
 Scale 1:100



**ROOF PLAN**  
 Scale 1:100

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*[Signature]*  
 12.08.17



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BA	BUILDING APPLICATION	12.08.17

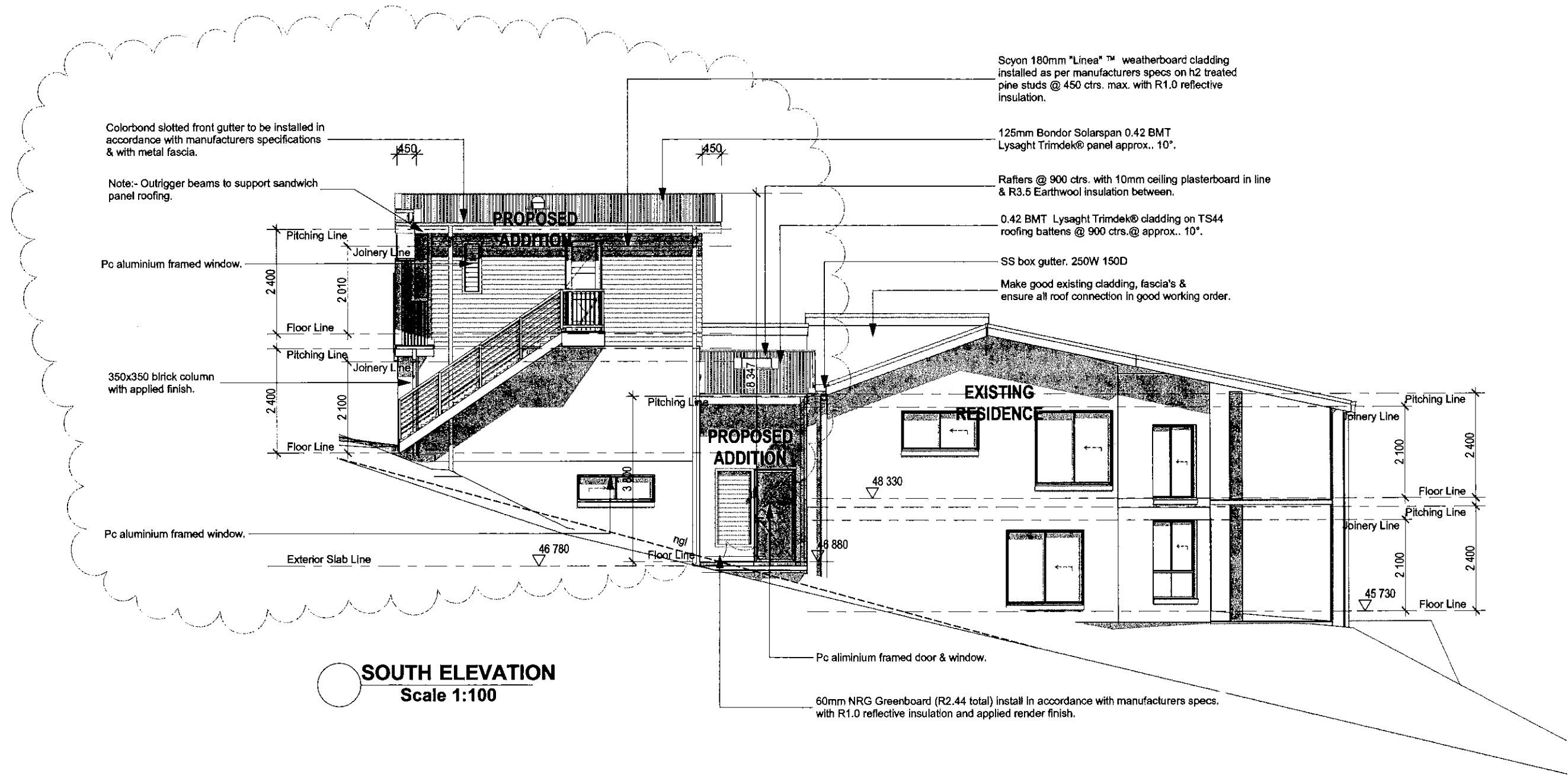
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Title			
<b>ROOF PLANS</b>			
Scale 1:100	Sheet A3	Drawn E.B.	Date 12.08.17
Dwg. No. 17124	Sheet No. A1.09	Issue BA	

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**SOUTH ELEVATION**  
Scale 1:100

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BA	BUILDING APPLICATION	12.08.17

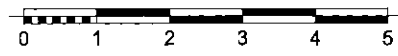
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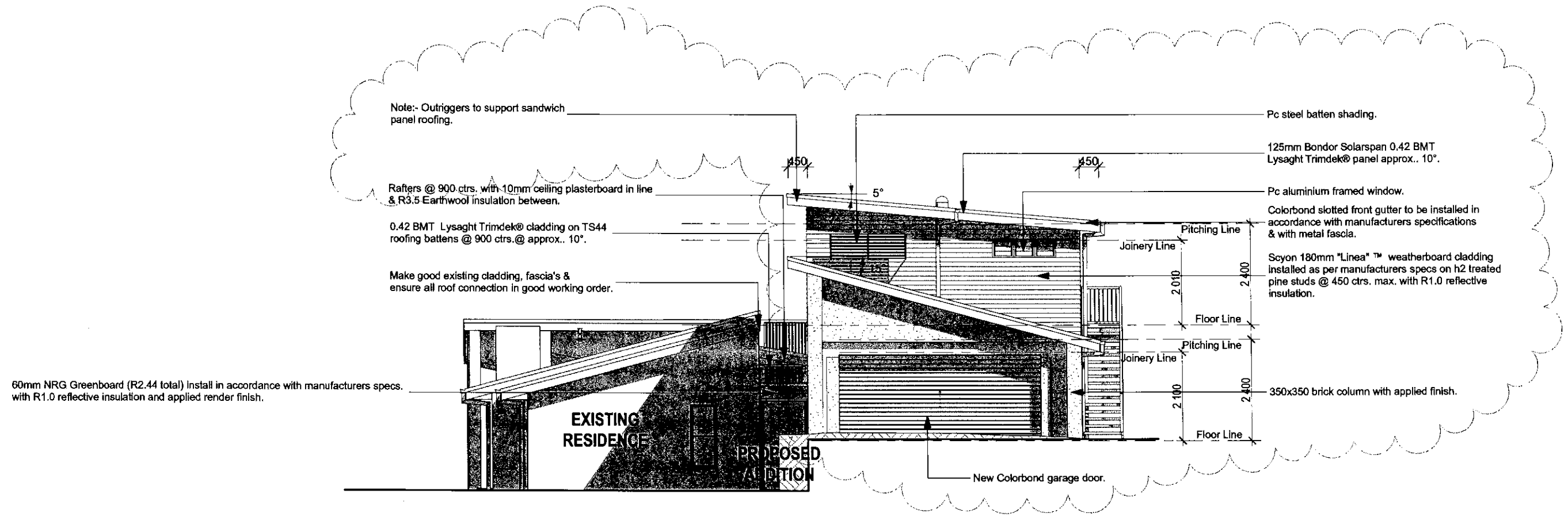
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Project  
**Phillips Residence**  
**Ms. J. Phillips**  
**10 Mona Vista Crt Coolum**  
**Beach Qld 4573**

Title			
ELEVATION			
Scale	Sheet	Drawn	Date
1:100	A3	E.B.	12.08.17
Dwg. No.	Sheet No.	Issue	
17124	A1.17	BA	

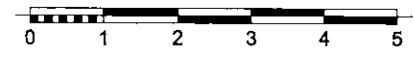
*[Signature]*  
12.08.17





**WEST ELEVATION (OPTION C)**  
Scale 1:100

*E.B.*  
12.08.17



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Project

**Phillips Residence**  
**Ms. J. Phillips**  
**10 Mona Vista Crt Coolum**  
**Beach Qld 4573**

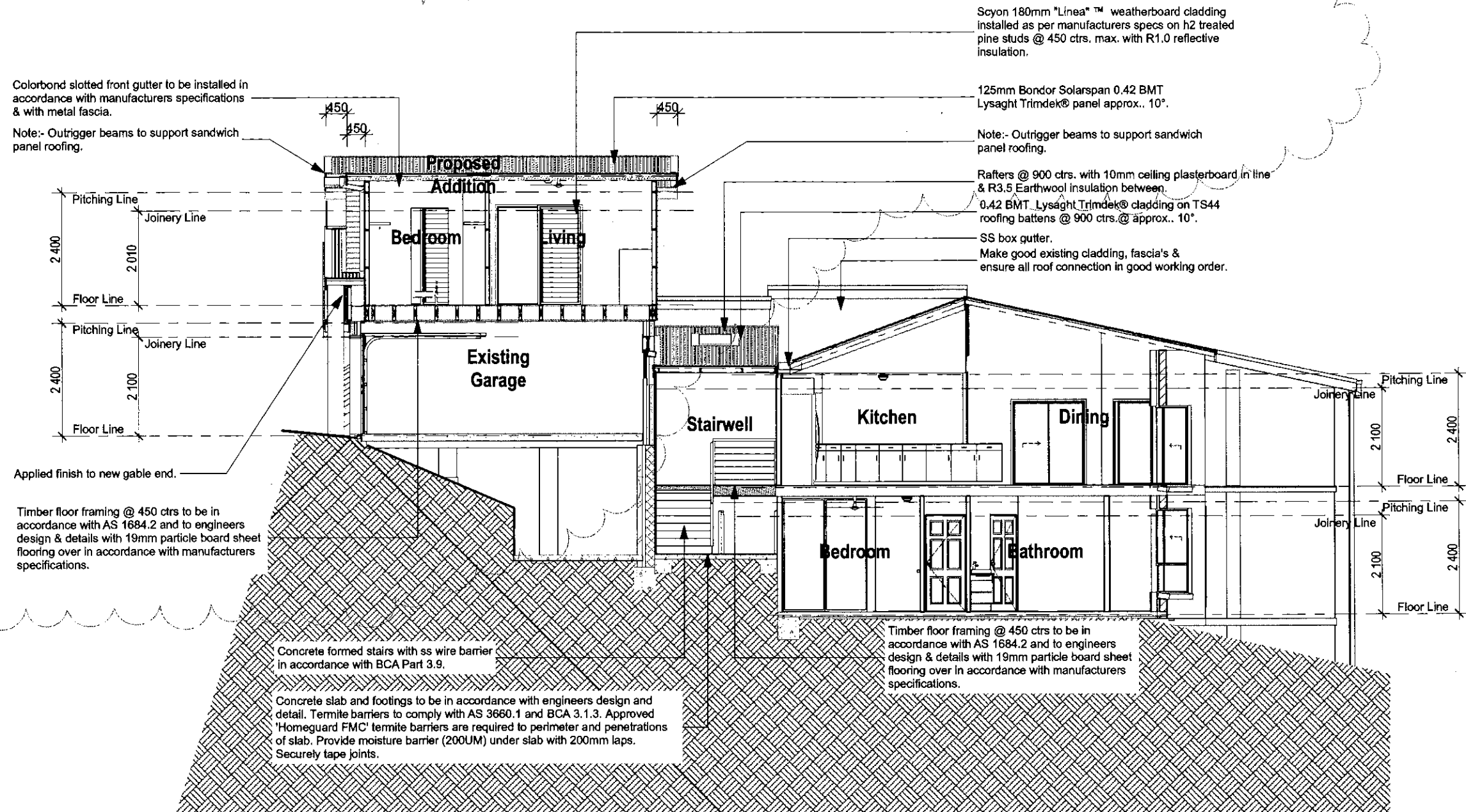
Title

**ELEVATION**

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Dwg. No. 17124	Sheet No. A1.18	Issue BA	

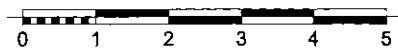
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**SECTION B**  
 Scale 1:100

*E.B.*  
 12.08.17



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Project  
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**Ms. J. Phillips**  
**10 Mona Vista Crt Coolum**  
**Beach Qld 4573**

SECTION			
Scale	Sheet	Drawn	Date
1:100	A3	E.B.	12.08.17
Dwg. No.	Sheet No.	Issue	
17124	A1.20	BA	

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