
From: John Lawson
Sent: 15/08/2023 12:34:45 PM
To: Council Northernbeaches Mailbox
Subject: DA2023/1023 - 32 Loblay Crescent Bilgola Plateau - Submission Opposing the Development Application
Attachments: Photo 10 bdry sstone steps rock face intersection.jpg; Photo 11 Rear Verbannum trees string - -wall boundary.jpg; Photo 12 - Existing garden lin #34 looking to #32.jpg; Photo 1 Front Lilli Piily - existing walls gfront v boundary.jpg; Photo 2 bdry line Verbannum trees locations.jpg; Photo 3 tree1 -wall intersection.jpg; Photo 4 Tree1 with flock of birds.jpg; Photo 5 west ffront exist walls v boundary stake & height walls.jpg; Photo 6 frnt retaining wall gas meter.jpg; Photo 7 our sandstone wall - fence locatioin.jpg; Photo 8 Bdry on top of SStone Wall.jpg; Photo 9 fence rock outcrop bdry interscetion.jpg; Tree Lopping Invoice INV-0725 (1).pdf; DA-02 Revised.pdf; D03 - Revised.pdf; DA-01 Revised.pdf; Sketch Section at Start SStone Steps.pdf; SUBMISSION IN REGARD TO DA20231023 - 32 Lobaly Cresc. Bilgola Plateau.pdf; Access to Neighbouring Land Agreement3 JL.pdf;

Attention: Planning Officer - Mr. Phil Lane

Mr. Lane – We are Helen & John Lawson, owner occupiers of the property next door at 34 Loblay Crescent Bilgola Plateau. Please find following our submission opposing the approval of the referenced Development Application.

We have detailed a number of reasons to our objection, and these are all as shown in the attached files: –

- Pdf “SUBMISSION IN REGARD TO DA/2023/1023 - 32 LOBLAY CRESCENT BILGOLA PLATEAU”
- Our scanned Revised Drawings attached as Drawings DA-01rev / DA-02rev/ DA-03rev as well as Sketch – Section at start of Sandstone Steps.
- Further we have also attached series of Photos P1-P12 inclusive that are referenced on Dwg.DA-02rev as to where they were taken.
- Access to Neighbouring Land Agreement

We would also request that we have a face-to-face meeting on site to see the actual “on the ground” conditions and to review our concerns regarding the development application and the issues why this should be rejected. We believe that there are incorrect aspects shown on the Drawings and issues that should/ need be addressed that follow from same.

We apologise for the length of our submission but unfortunately the issues involved it could not be summarized any further.

Many thanks in advance for your time in evaluating our submission. .

Kind regards

John Lawson

Project Manager

a: U30, 5 Ponderosa Pde, Warriewood NSW 2102

t: [REDACTED]

m: [REDACTED]

w: teccorp.com.au

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ARCHITECTURAL HOMES | REMEDIAL REPAIRS | COMMERCIAL WORKS



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TAX INVOICE

James Bruner

Invoice Date
15 Aug 2022

Invoice Number
INV-0725

Reference
32 Loblay crescent Bilgola
plateau

ABN
30 166 666 780

Simply Trees Pty Ltd
Michael Wasley - Director
3 Konda Cl, Bayview NSW
2104
simply_trees@outlook.com
0414 971 949

Description	Amount AUD
Large gum in rear yard remove limbs as discussed overhanging your property and neighbours property.	1,150.00
Reduce height of neighbours cheese tree once permission is obtained. Remove all associated vegetation from site.	950.00
Subtotal	2,100.00
TOTAL GST	210.00
TOTAL AUD	2,310.00

Due Date: 15 Aug 2022

Payment within 7 days

Direct Deposit:

GREATER BANK

BSB: 637-000

ACC: 720032759

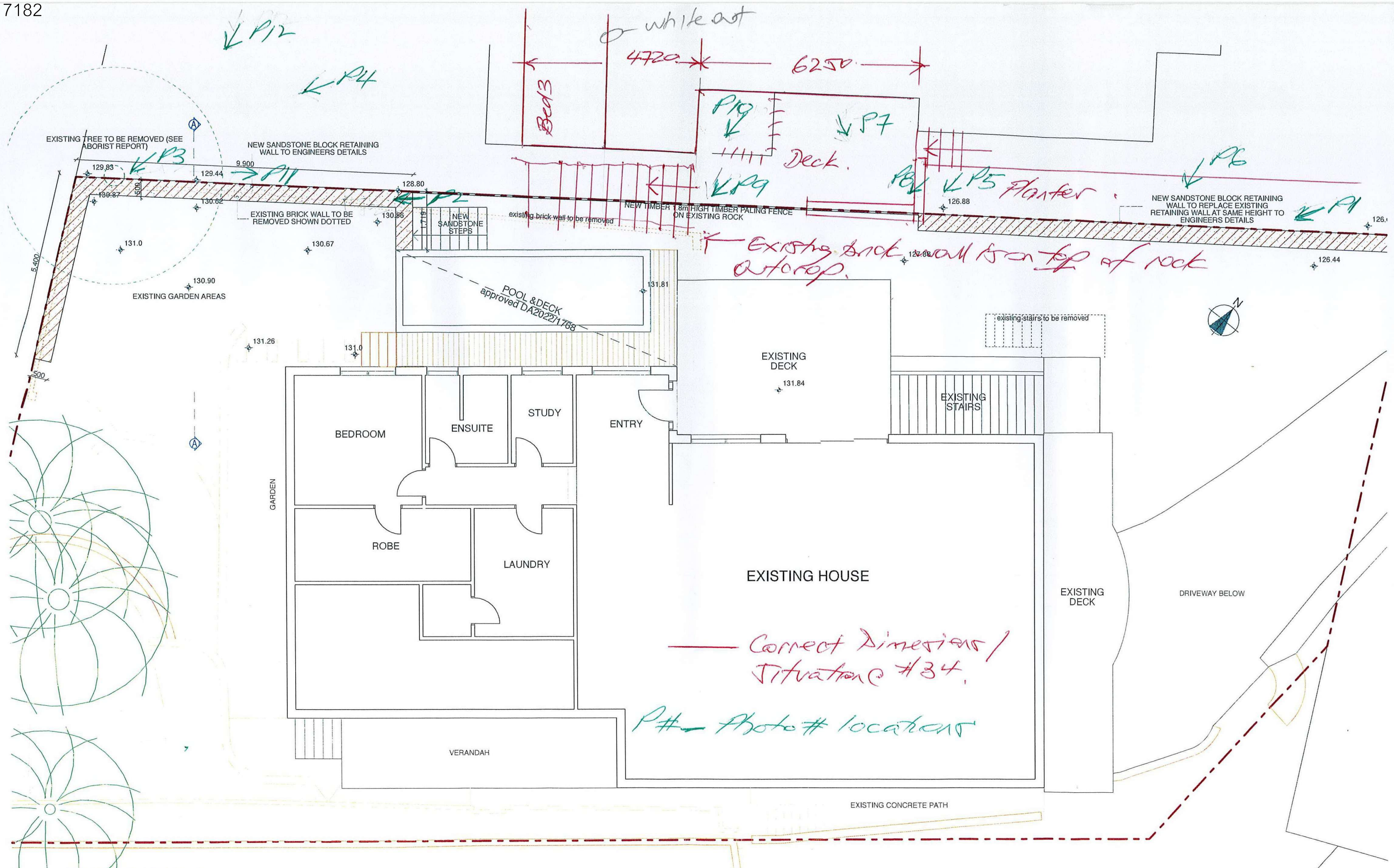
REF: Inv Number

PAYMENT ADVICE

To: Simply Trees Pty Ltd
Michael Wasley - Director
3 Konda Cl, Bayview NSW 2104
simply_trees@outlook.com.au
0414 971 949

Customer James Bruner
Invoice Number INV-0725
Amount Due 2,310.00
Due Date 15 Aug 2022
Amount Enclosed

Enter the amount you are paying above



AMENDMENTS

JO WILLMORE DESIGNS
11 Hudson Parade
Clareville NSW 2107
(02) 9918 2479
ABN 27 370 370 173

PROPOSED RETAINING WALL

for: J. Brunker
at: LOT 16, DP 236420, 32 Loblay Crescent
BILGOLA PLATEAU, 2107

drawing title

FLOOR PLAN

NOTE: Use figured dimension only.
Do not scale off drawings. All levels and
dimensions to be verified prior to construction
of work

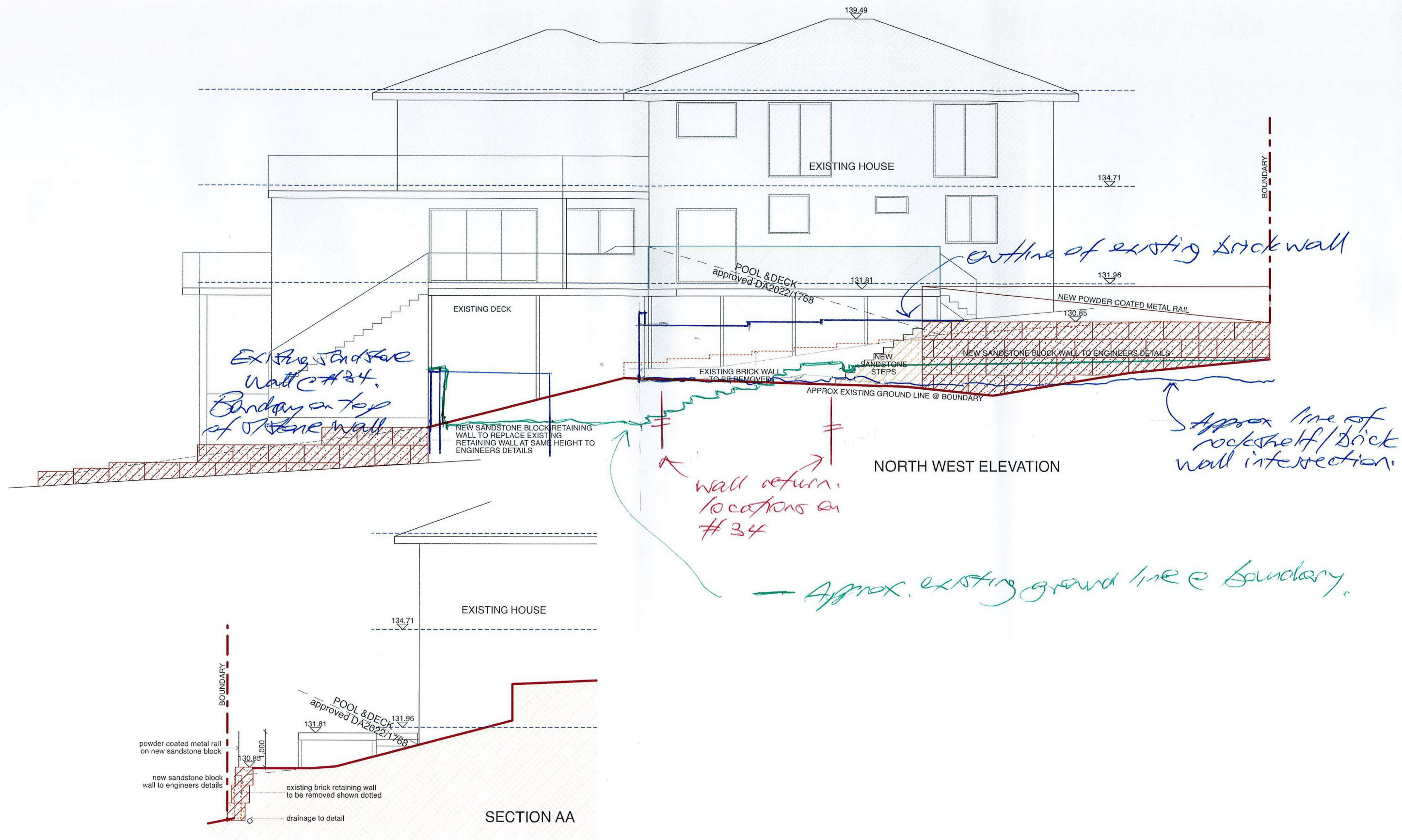
date: JUNE 2023

scale: 1:100 (A3)

drawing number

RW DA-02

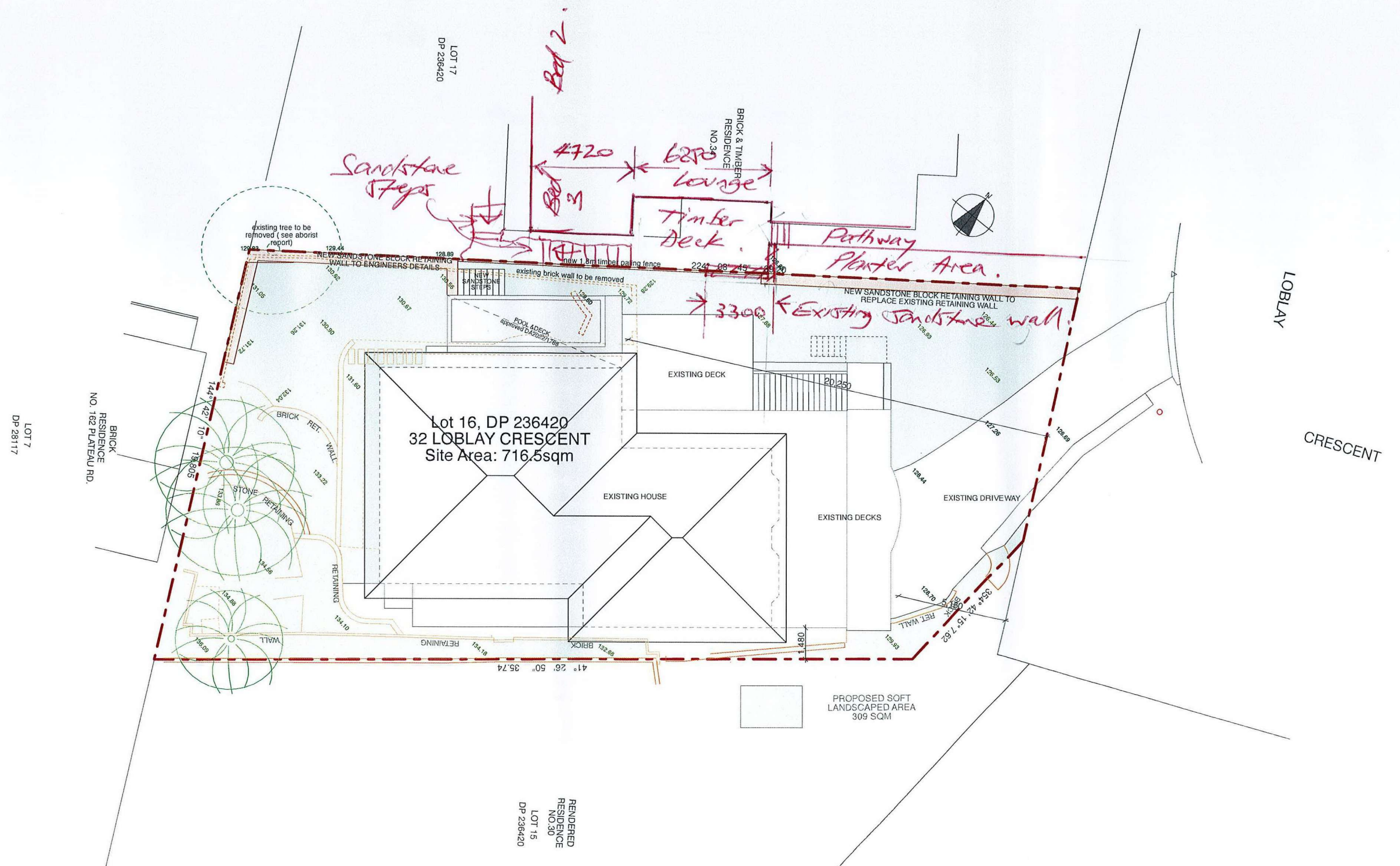
Revised 12-8-23



AMENDMENTS	JO WILLMORE DESIGNS 11 Hudson Parade Clareville NSW 2107 (02) 9918 2479 ABN 27 370 370 173	PROPOSED RETAINING WALL for: J. Brunker at: LOT 16, DP 236420, 32 Loblay Crescent BILGOLA PLATEAU, 2107	drawing title ELEVATION & SECTION	date: JUNE 2023 scale: 1:100 (A3)
			NOTE: Use figured dimension only. Do not scale off drawings. All levels and dimensions to be verified prior to construction of work	drawing number RW DA-03

Revised 12-8-23

Correct House dimensions #34 & installations.



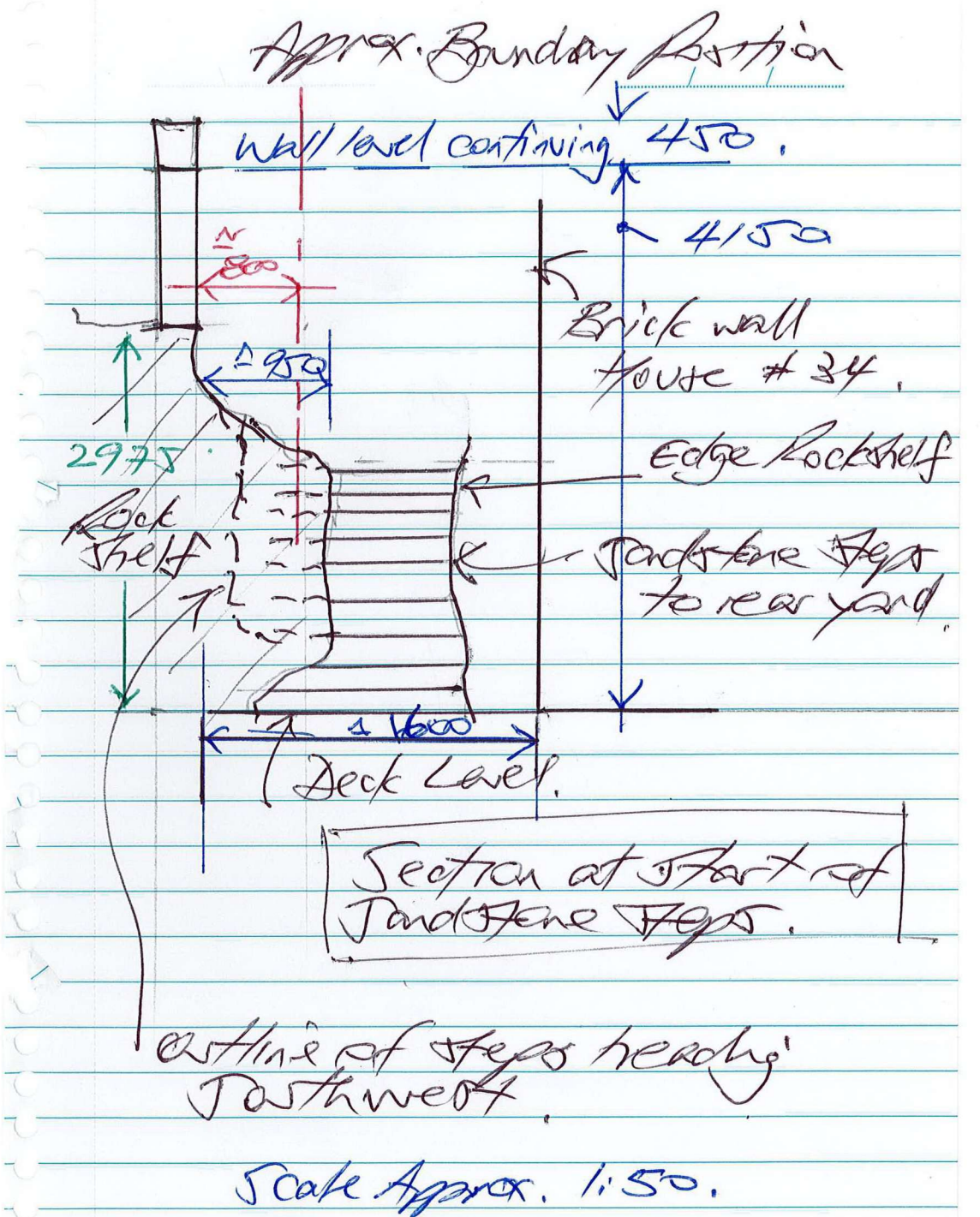
SITE CALCULATIONS

Site Area : 716.5 sqm

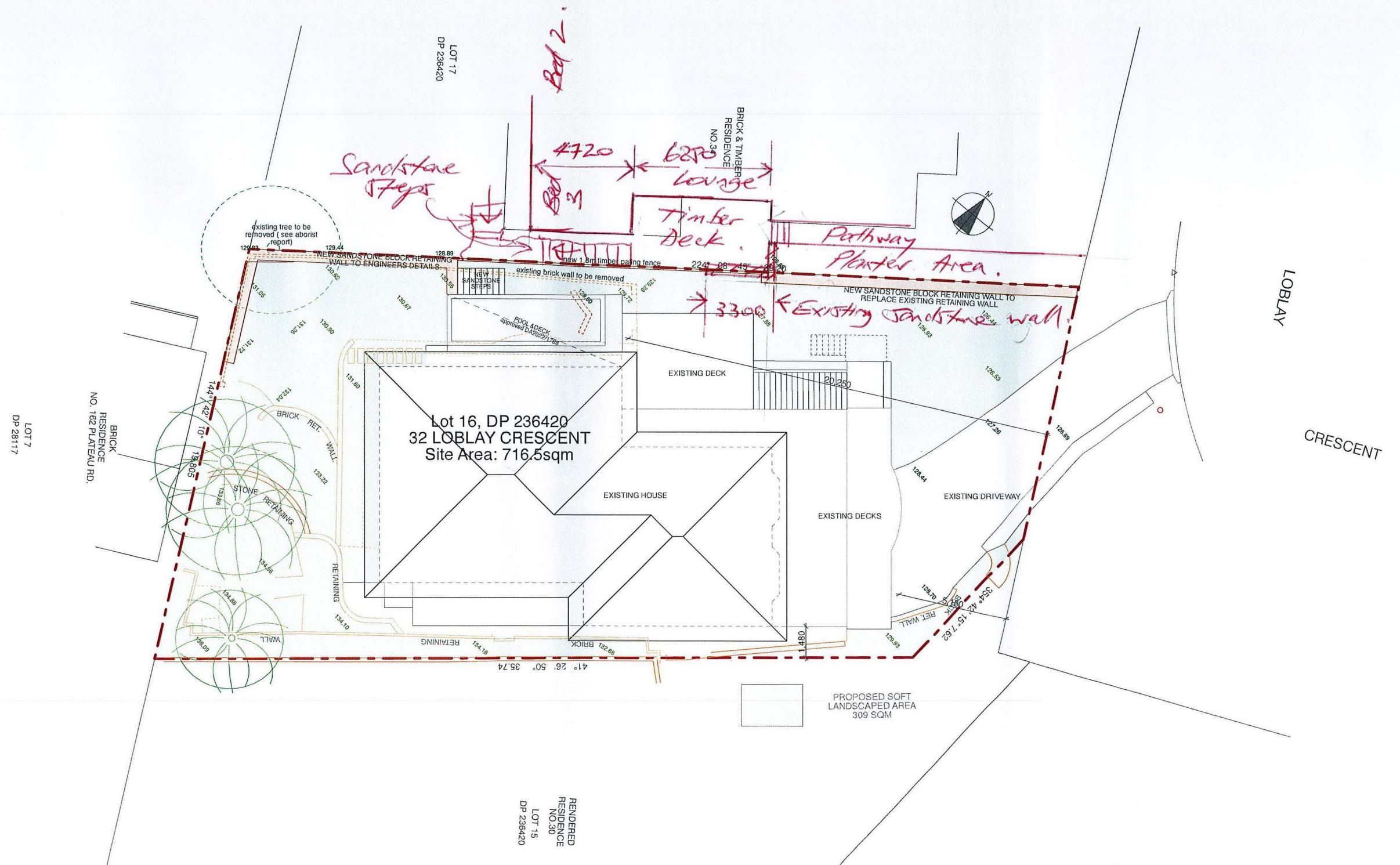
Existing & proposed Soft Landscaped area - 309sqm = 43.13%

AMENDMENTS	JO WILLMORE DESIGNS 11 Hudson Parade Clareville NSW 2107 (02) 9918 2479 ABN 27 370 370 173	PROPOSED RETAINING WALL for: J. Brunker at: LOT 16, DP 236420, 32 Loblay Crescent BILGOLA PLATEAU, 2107	drawing title	date: JUNE 2023
			SITE PLAN	scale: 1:200 (A3)
			NOTE: Use figured dimension only. Do not scale off drawings. All levels and dimensions to be verified prior to construction of work	drawing number RW DA-01

Revised 12-8-23.



Correct House dimensions #34 & installations.



SITE CALCULATIONS

Site Area : 716.5 sqm

Existing & proposed Soft Landscaped area - 309sqm = 43.13%

AMENDMENTS	JO WILLMORE DESIGNS 11 Hudson Parade Clareville NSW 2107 (02) 9918 2479 ABN 27 370 370 173	PROPOSED RETAINING WALL for: J. Brunner at: LOT 16, DP 236420, 32 Loblay Crescent BILGOLA PLATEAU, 2107	drawing title SITE PLAN	date: JUNE 2023 scale: 1:200 (A3)
			NOTE: Use figured dimension only. Do not scale off drawings. All levels and dimensions to be verified prior to construction of work	drawing number RW DA-01

Revised 12-8-23.

SUBMISSION IN REGARD TO DA/2023/1023 - 32 LOBLAY CRESCENT BILGOLA PLATEAU

Description: Alterations and additions to a dwelling house including retaining walls

Attention: Mr. Phil Lane – Planner

Mr. Lane – Please see following our objections to the construction of the Retaining Walls and Fence as detailed within the DA submission and on the Drawings RW DA-01 to RW DA-04 inclusive.

Objection Summary

1. **We object to the construction of Retaining Walls on the boundary as drawn, as they are greater than 600mm high in the majority of locations and should be placed at least 1m back from the boundary.**
2. **We object to the construction of the boundary fence using an 1800mm high timber paling fence as in the majority of locations this fence will be located on an existing sandstone wall or a rock shelf. The toe of the stone wall and the rock outcrop should be the basis of the datum measurement of the height of the fence. The sandstone wall is 1650mm high and generally speaking the fence / rock outcrop intersection to the toe of the rock wall/ deck intersection is approx. 1400mm high.**
3. **We object to the destruction/ removal of Tree #1 – Red Bloodwood as proposed at the rear of our property. The required earthworks will cause extensive and irreparable damage to the root systems of ALL of the trees involved, including the front Lilli Pilli's and the Sweet Viburnum at the rear**

We have detailed following the reasons for our objection to the DA submission in the relevant sections involved – i.e.

1. The Front Stone Retaining Wall location.
2. The Middle fence construction section
3. The Rear retaining wall construction location.

We would please request that the responsible planning officer physically attend the site to review the situation on the ground, so that a full and thorough understanding of the implications/ existing site conditions are fully considered in the evaluation.

ISSUES with DRAWINGS/ REPORTS

1. **Survey Details are incorrect – re the position of our house on the Plans provided.**

We note and refer to the DA2022/1768 Development Application Assessment Report prepared by Northern Beaches Council Responsible Officer Tony Collier. Please see page 7 where at that time we noted that the positioning of our house on the applicants Survey Plan relative to the “existing deck” and the existing retaining walls vs. the location of our Family room location is incorrect.

It is noted on the Assessment Report that Mr. Collier states – “The site inspection confirmed that the survey diagram was in error in representing this corner of the neighbouring dwelling (#34- ours).

I would suggest that if the Application is approved that a surveyor be engaged by the Applicant to provide boundary marker points at relevant locations involved – i.e., at the start/ finish of the front retaining wall/ at the start finish of the fence and at the start finish of the rear retaining walls.

I have attached a revised Plan DA-01 showing the correct alignment.

I also note and reference the DA Assessment Report re side boundary considerations where the applicant was allowed to build much closer to the boundary than Council regulations permit, and I believe that this precedent is being used by the applicant in this DA submission unfairly.

2. Issue with the Elevation Drawing DA-03

The drawing shows the approx. existing ground line at the boundary – it is incorrect. The height differences shown on the Elevation are much less than in reality and have relevance in terms of the fence height datum and in relation to our existing Sandstone retaining wall that is to have a 1.8m fence built on top of it at the boundary as per the application.

I have attached a revised Drawing DA-03 where I show the approx. actual boundary ground level. This Drawing shows measurements taken at the site based on the locations where the applicant has placed a string line along the boundary.

3. NO Details Provided on Drawings of our Existing Infrastructure/ Landscaping / Access Details

All the Drawings provided do not show our existing steps/ plantings/ landscaping/ sandstone retaining walls that are/ will be affected by this Development Application.

We have attached a series of photos that detail the effects on our property of this Development Application.

These photo locations are listed on the attached plans. Photo Details are as described following: -

- Photo 1 – Front Lilli Pilli trees v boundary stringline – proximity to trees for footing
- Photo 2 – Rear Sweet Viburnum trees vs. boundary stringline – effect of footings.
- Photo 3 – Tree #1 Bloodwood at wall location at rear
- Photo 4 – Tree #1 flock of birds in trees
- Photo 5 – Front existing dry rock wall / Lilli Pilly trees / boundary at stake / height of existing walls
- Photo 6 – Gas Meter at front & existing dry rock wall
- Photo 7 – Our existing sandstone wall / proposed fence on top
- Photo 8 – Boundary mark on our sandstone wall for proposed fence line
- Photo 9 – Existing rockface / fence / existing deck boundary intersections
- Photo 10 – Existing sandstone steps to rear yard – proposed fence on steps at boundary.
- Photo 11 – Rear proposed wall / Exposing Viburnum trees boundary approx. 100mm away.
- Photo 12 – Existing Rear Garden

4. Statement of Environmental Affects- New Retaining Walls.

- (a) Page 3 – under earthworks states that “There will be no detrimental effect on neighbouring properties, drainage, or stormwater flow or stability.”

I disagree with this statement – earthworks to create concrete footings for proposed sandstone walls ON THE BOUNDARY will certainly affect all the Lilli Pilli trees that are on our property at the front and

the 7 x Sweet Viburnum trees at the REAR. The Arborist report, p6 – Table 2 – acknowledges that the SRZ and the TRZ areas are affected and encroached upon at these locations in a MAJOR way. Please see Photo 1 for front Lilli Pilli's and Photo 2 for the rear Sweet Viburnum.

I further note that the Arborist has made NO comment regarding the Lilli Pilli trees that will be affected by earthworks at the front of our property. In places the concrete footing earthworks/ boundary edge will be approx. 100-150mm from the main stem of these trees- the root structure will be severely impacted if this Application is approved.

(b) Page 4 of the Environmental Report – Biodiversity Protection

I note that the Report states that "one tree is proposed to be removed under the recommendation by the arborist. All other significant planting is to be retained and with existing soft landscaped areas to be upgraded there will be no negative impact on habitats of native fauna and flora."

The recommendation of the Arborist is that the tree will be impacted by the construction of a new footing right at the base of the tree stem and will cause damage to structural roots. The tree cannot be safely retained" The Arborist DID NOT propose removal of the tree except IF the application was approved.

This tree is at least 40-50 years old; we have been in this house for 26 years and the tree was the same height when we bought the house. Please see Photo 4 of flocks of birds within the rear Tree #1.

(c) Page 6- of the Environment Report states that "Under recommendation from the Arborist this is proposed to be removed due to its reliance on the existing wall and possibility of failure and the majority of planting is to remain or be upgraded."

The tree is not using the wall as a" brace", the wall is using the tree as a brace – see Photo # 3.

The tree is not recommended for removal due to potential failure. It is only recommended that it can't stay IF the Application is approved- the construction of the concrete footing would mean that the tree would be so impacted that it then would be unsafe.

The stated plantings are ON OUR PROPERTY – there are no plants on the applicant's property, currently only weeds, nearly all existing plants were removed a while ago prior to any DA applications being lodged.

I should highlight that yes; the tree has been pruned as per the Arborist report– twice in 25 years. Once at the request of the previous owner of #32, and again on the 15th of August 2022 at the request of the Applicant, paid for ½ and ½ by the applicant and us, to improve the applicants view. The applicant had at that time requested that the tree be removed completely, but the applicant's own Arborist at that time said verbally that the tree was fine and could not be removed but could be trimmed as per Council requirements. At the same time the applicant arranged to trim 3 x trees in the property of 162 Plateau Road and subsequently two of these trees have died. Please see attached copy of Invoice for trimming of the tree.

(d) Page 6 & 7 Environmental Report – Privacy and Side Building Lines

Regarding privacy issues, I note that it is not true that we are unaffected. The proposed stairs on the boundary will enable views into our rear 2nd & 3rd bedrooms. – pls see the attached revised Dwg. DA-02 for information on their location and relevance to our home when the correct dimensions / locations are shown on the plans

Currently it is not possible to view into our bedrooms due to the level differential and the pool location, however the proposed stairs will be at a much lower level and facilitate this.

I further note that these stairs if considered part of a building line as drawn in DA-02 will have a zero setback from the boundary line.

5. Arboricultural Impact Assessment

I note that I have referenced aspects of this in relevant points above, but I specifically highlight here issues involved: -

- No statement regarding the effect that earthworks/ concrete footings will have on our Lilli Pilli trees at the proposed front retaining wall section. I note that the boundary at this location is approx. 100-150mm from the main stem of these 20-year-old mature Lilli Pilli trees that provide privacy for / between ourselves and the applicant. They will be severely impacted by the proposed development.
- The Tree #1 – Red Bloodwood at the rear of the property as previously stated is probably at least 40 years old, same height as when we moved in 25 years ago. This tree is basically located 7/8 on our property on the boundary. I would state that this is a very mature tree. As stated already the tree is not using the wall as a brace but rather the wall is braced / supported off the tree.
- The 7 x Sweet Viburnum trees at the rear of our property and as noted on the Arborists report will be severely impacted IF the Application is approved. These trees are approx. 20 years old and are regularly trimmed. We disagree completely with the Arborist report that an excavation within 100mm of the main stem of the tree will allow for “a tolerance of root disturbance”. These trees will have their SRZ and their TRZ seriously affected due to any proposed earthworks/ concrete footing.
- Who will be responsible for the Arborist report stated “remediation methods “for these trees- see my later comments re a Security Deposit requirement.
- I note that all pruning is required by an AQF Level 3 Arborist if the application is approved and if so, I would request that an arborist of our choice paid by the applicant should be involved.

ISSUES WITH PROPOSED CONSTRUCTION – RETAINING WALLS AND FENCES

1. Front Retaining Walls Construction

- As previously stated, we object to the provision of the new sandstone block retaining wall ON THE BOUNDARY to “replace the existing dry stone retaining wall to the same height to Engineers details”. The existing dry stone retaining wall varies between 0.2 to 1.4 height at the intersection with our existing Sandstone Wall. We object to a wall height greater than 600mm high being on the boundary – our understanding is that if this wall height is greater than 600mm then it needs to be offset 1m from the boundary.
- We do not object to the construction of a new sandstone block retaining wall in the location of the existing retaining wall taking the toe of the existing wall as the base start point into the applicant’s property as it is a pre-existing condition and would be like for like replacement.
- I would also advise that our gas meter is very close to the boundary location, and we are concerned with the effect of gas services in our existing planter box location. Any

alterations to this service, if required, would need to be at the applicants' costs. Please see Photo 6.

- We also advise that this existing retaining wall has been in this location from when and prior to our purchase 25 years ago. Obviously, it appears to be in conformity to a degree with the 1m offset rule from boundary when constructed. Please see Photo 5 re: Lilli Pilli trees front v stake at the boundary.

2. Middle Area – Fence Construction

- It is noted on Dwg. DA-02 that it is stated that the proposed timber fence will be a "1.8m high timber paling fence on existing rock."
- I note that our existing Sandstone Retaining Wall (see Photo #7) exists in this location due to the replacement of an original defective retaining wall approximately 18 years ago in accordance with a verbal agreement with the previous owner of #32. We built this wall at our cost to improve the amenity of our home and to rectify issues with this then defective retaining wall to hold back soil from falling into our property from #32.
- I note that this wall extends into the applicant's property by about 300mm from front to rear as that is what the original retaining wall did. If the applicant is to place a fence ON the boundary ON top of this sandstone wall with a 1.8m timber paling fence my understanding is that then the datum point for the 1.8 m fence is at the base of the existing sandstone wall. The existing sandstone wall is approx.1650mm high at the boundary point - See Photo's #7 & #8 for details)
- I also advise as the proposed fence heads in a southwest direction along the boundary it will be "on existing rock"- as such again the toe of the rock face / intersection with our existing deck; (See Photo #9), should be the datum point for a fence height. The height above the toe of the rock face at this location on the boundary is approx.1400mm high.
- Heading further southwest along the boundary it will intersect with our existing sandstone landscape steps that allow access into our rear yard area. This will mean that approximately ½ of the width of our steps will be lost rendering the steps ineffective and unable to access our rear yard area. These steps were built in this format due to the presence of a large tree near the S/W rear corner of our house which unfortunately fell over during a large storm and had to be removed. Please see Photo #10 for details.
- We would request please as a condition of the DA; if you approve same, for the rectification/ replacement of our existing sandstone steps so that we can maintain access into our rear yard area. This should be at the Applicants expense, but we would prefer to obtain Tradesmen ourselves to perform the works.
- I note that I can't understand how the applicant will create a safe pedestrian trafficable space with this proposal without further structural additions that are not detailed in this submission. I note that this section I proposed solely as a Fence/ not a retaining wall and it is an air space only.
- I note that I have revised Drawing DA-03 Elevation section to show the actual elevations / approx. dimensions involved / correct orientation of the existing brick retaining wall as well as our existing Sandstone wall and deck area.
- We note that our deck is our designated clothes drying area – as such we would be unable to use this space in the event of an approval during the construction process.

- We further note that the only way that this fence could be constructed is from accessing our property- it is both unsafe and virtually impossible to work from the applicant's side as the area is too small and virtually vertical. As such again we are unable to use our own property area due to the implications of workmen/ dust / noise etc.
- The proposed new fence will conceal the rock face view that we have had for 25 years- to be covered with a timber paling fence of varying heights – not an improvement I would suggest.
- Drawing DA-04 notes the fenced off areas as having “new landscaped screenings” in the area directly behind the fence– it will be impossible to access this location to plant or to enable the plants to be placed in soil/ maintained/ weeds to be removed etc. etc. as the location will be impossible to access because it is basically a vertical rock face and no access into the area will be possible.
- I further note that as part of the applicants earlier DA application DA2022/1768 it was a condition that new landscape screening plants were to be in place in front of the façade of the existing deck/ timber slats to soften the visual impact. I also advise that in the same DA conditions it was required to install timber slatting to the facade of the concrete pool and also plantings in front of that location again to soften the visual impact. Again, no such timber slats or plantings are in place yet.

For the stated reasons above we object to the provision of this fence on the boundary within this Development Application.

3. Rear Retaining Wall Construction

- We object to the construction of the proposed retaining wall on the boundary as the height of the wall is greater than 600mm and these walls should be subject to a setback of 1m from the boundary.
- As previously stated, we do not agree to the removal of the tree at the rear of our property (Tree1).
- We also, as previously stated, do not agree that our Sweet Viburnum trees at the rear will not be affected by earthworks/ concrete footing construction within 100 - 150mm of their trunks. Who is responsible long term in the restoration / refurbishment of these trees and who will pay for this ongoing cost? See Photo 11.
- The issue of Tree 1 removal / stump grinding / clean up etc. if this approval is provided has not been detailed and if the application is approved needs to be conditioned for any required resultant repairs to our landscaped areas/ existing gardens. Stump grinders and sandstone blocks will not be allowed on our property due to the damage that they can cause.
- We are concerned re the provision of correct/ functioning agricultural subsoil drainage provisions to the proposed retaining wall and the connection/ extension to Councils stormwater system. The levels of any subsoil drainage that would be placed behind the proposed retaining wall means that the drainage line will be well below any existing stormwater drainage within the applicant's property. The concern is that any drainage works HAVE to extend to the front street and the only means that I can see for this to occur is via the collection at a sump and the provision of an auto pump system to collect and discharge the subsoil water. The levels do not work in the applicant's favour.

I note from my many years in Civil Engineering/ Hydraulics installations that this is not a foolproof method over gravity drainage, but I perceive that this is the only viable option to enable water to run uphill here. These issues need to be addressed now rather than at a Construction Certificate stage as we will not get a chance to review same. I am concerned that our property will be affected by the possible discharge of this subsoil water.

- I note that I would like to see the proposed “Engineering Details” of the construction of the retaining wall so that I might evaluate them.
- Any sediment control fence will obviously be on our property. How will this be restored; I note that considerable garden planting/ native shrubs that we have in place – care is needed so that they are not damaged and who will pay for that / perform that work on an ongoing basis as I’m sure that they will be affected. See Photo 12
- We advise that IF the application was altered to reflect the construction of a sandstone wall in the same position as the existing brick retaining wall we would have no objection to the construction as it would be again a like for like proposal provided that the existing root structure of our Sweet Viburnum trees would not be affected and also that an engineered proposal method be installed so that the existing Tree1 (Red Bloodwood), root structure system would again not be affected and NOT removed.

ADDITIONAL COMMENTS

- As previously stated, we would request that the Approving Planning officer make a visit to our home to review the situation “on the ground”. We would make ourselves available at a date / time suitable to the officer.
- I would suggest that if the Application is unfortunately approved that a condition of the approval be that a surveyor be engaged by the Applicant to provide boundary marker points at relevant locations involved – i.e. at the start / finish of the front retaining wall / at the start finish of the fence / and at the start finish of the rear retaining walls prior to any works being performed and as a check to the actual on ground locations to determine / locate boundary markers at relevant construction points.
- Further additional conditions should also be: -
 - An Arborist of our choosing and paid for by the applicant be always in place whilst any earthworks are occurring on the front and the rear retaining wall locations.
 - If the Arborist determines that the excavations will impact the existing trees /root structures, then they have the final say as to whether works can proceed until alterations / engineered methods of construction are implemented to not damage the trees / roots.
 - If any trees are damaged / roots affected so that the trees are determined by the Arborist to be not salvageable then replacement mature trees of a similar size will be purchased by the applicant and landscaping personnel of our choosing will replant the trees at the applicants cost.
 - In order to ensure that the applicant covers any possible costs of damage that the applicant lodge a \$20,000.00 security bond/ cash with us / an independent solicitor to hold by way of surety. Please see attached a copy of the proposed security bond documentation linked to an agreed access format to our property.
- Whilst building the rear/ front sandstone walls that NO construction equipment – i.e., excavators/ dump trucks/ concrete pumping equipment or hoses be placed on our property.

NO Craneage of sandstone blocks, tree sections or a stump grinder be permitted over the air space above our property. That said works at the front street have a Traffic Management Plan in place and traffic controllers as well whilst working.

- Further to this IF any workers are coming onto our property, we require that copies of all Certificates of Currency of any Insurances re Workers Compensation, Public Liability be provided to ourselves PRIOR to any work being performed or access onto our property.
- Provision of a Construction Methodology for the Project provided to us to confirm all relevant procedures to be implemented to remediate issues on our property as detailed above.

Many thanks for your time in reading a voluminous submission on our part. We apologize for the extent of documentation, but this reflects our sincere concerns for the impact on ourselves and our property from this application. Hopefully looking forward to meeting you on site in the not-too-distant future.

Regards,

Helen Lawson

John Lawson B.E. Civil/ Project & WHS Manager/ Estimator



34 Loblay Crescent, Bilgola Plateau

Access to Neighbouring Land Agreement

Agreement between Owners at 32 Loblay Crescent, Bilgola Plateau, NSW, 2107

Mr. James Brunker

Ms. Penelope Claire Sinton

And Owners at 34 Loblay Crescent, Bilgola Plateau, NSW, 2107

Mr. John & Mrs. Helen Lawson

This document is prepared as a formal agreement between the parties listed above to enable access through 34 Loblay Cr., Bilgola Plateau (34LC) to 32 Loblay Cr., Bilgola Plateau (32LC) only for the purposes and under the conditions defined in this document.

Each page is to be initialled by the parties and the final page requires for signatures by the parties.

Access to Neighbouring Land Agreement

1. The Owners at 32LC have submitted a Development Application (DA2023-1023) to Northern Beaches Council (NBC) for the replacement of retaining walls and the provision of a fence on the property boundaries of 32/34LC.
2. At such time as NBC approves the DA, the Owners of 32LC will require access through the adjoining property referred to as 34LC.
3. The owners of 34LC are prepared to provide access to the owners of 32LC and specified contractors/subcontractors/tradespersons based on the conditions defined within this agreement.
 - a. The owners of 32LC will provide a document defining the names of each party that will be requiring access to 34LC property, including company name, individuals name and reason for requiring access.
 - b. Where the term "the Owners" has been used in this document when referring to the owners of 32LC it also includes any contractor/subcontractor/tradesperson whose details appear on the document defined in 3a.
4. The various requirements set out by the Owners of 34LC are based on clauses from the Access to Neighbouring Land Act 2000 NSW Act 2000 #2, as at 12 October 2010 (accessed from <http://www.austlii.edu.au>).
5. This Agreement is not a Neighbouring Land Access Order and is provided specifically to avoid a need for the owners of 34LC to request such an Order from the Local Court.
6. This document is not a Utility Services Access Order, which is not required based on the details provided by the owners of 34LC to the owners of 32LC.
7. Notice of 10 days is required from the date of signing of this document by both parties prior to access being granted or if the NBC DA Approval is provided after the signing date on this agreement then 5 days' notice is required prior to access being granted. This is less than that required if a Neighbouring Land Access Order is sought by the Owners of 32LC.
8. A schedule of works is required to be provided by the Owners of 32LC to the Owners of 34LC prior to commencement of any works as well as a Construction Methodology. If there are any times when it is likely there will be interruptions to the privacy of or cause inconvenience for the Owners of 34LC then the Owners of 34LC will make this known to the Owners of 32LC so that alternative arrangements can be made.
9. Access will be granted to 34LC for a period of no more than 4 weeks from the date when works commence at 32LC or if the works finish on an earlier date, that date will be when access is revoked.
10. Access will be granted to the Owners of 32LC during the following times:
 - a. Monday to Friday – after 09:00 and prior to 16:00
 - b. Saturday – after 10:00 and prior to 14:00
 - c. Sunday – no access
11. Access will be granted to the Owners of 32LC based on the following conditions:
 - a. At no time will access to any part of 34LC be restricted for the Owners of 34LC by the works carried out by the Owners of 32LC, except where specific requests are made by the Owners of 32LC and approval given by the Owners of 34LC, at least 24 hours prior and that restricted access can only be for a

Access to Neighbouring Land Agreement

maximum of 30 minutes for each specific advice and cannot be multiple requests joined together.

- b. At no time will the Owners of 32LC bring a vehicle or motorised equipment (i.e. excavator/stump grinder or similar) through the property of 34LC that uses treads, whether rubber or metal.
- c. At no time will the Owners of 32LC bring any vehicle or equipment through the property of 34LC that weighs more than 1.5 tonne loaded (gross weight).
- d. At no time will the Owners of 32LC have a vehicle or motorised equipment parked on the property of 34LC.
- e. At no time will the owners of 32LC utilise the air space above 34LC for the lifting/ location of sandstone blocks to proposed retaining walls OR for the removal of any tree sections cut out, or for the relocation of any stump grinder into place to perform works.
- f. The Owners of 32LC will put in place either an Insurance Policy or Bond of a value no less than \$20,000 but final value to be agreed, managed by a 3rd party agreed to by the Owners of both 32LC and 34LC.
 - i. If an Insurance Policy, then this Policy provided by the Owners of 32LC must cover any damage to any part of the property of 34LC that is not included in the "dilapidation report" prepared by the Owners of 32LC and must specifically cover damage caused by any Contractor/Subcontractor/Tradesperson or the Owners of 32LC themselves. It must allow for any damage to trees at the property of 34LC that is determined by an independent Arborist;(paid for by the owners of 32LC), that determines that the trees have been permanently damaged beyond redemption/ repair and require replacement with a similar sized mature trees.
 - ii. If a Bond, then the value should be determined by an appropriate assessor paid for by the Owners of 32LC but must cover the possibility of restoring damage to 34LC caused by the works to be carried out at 32 & 34LC. In particular reference is again made to affected trees as per note i above.
- g. Waste material will not be stored on the property of 34LC and any waste that is found within the property of 34LC must be removed immediately.
- h. No use will be made of any Utility Services, i.e. Water, Electricity, etc. from the property at 34LC
- i. The Owners of 32LC will agree to reimburse any costs incurred by the Owners of 34LC as a result of the works being carried out, where such costs are not significant enough to make use of the Insurance Policy or Bond, or where such costs would not be covered by either an Insurance Policy or Bond. Such costs could be incurred for the following reasons:
 - i. Waste/ dust/ tree portions/ mulch not having been removed appropriately causing cleaning to be required through an external party;
 - ii. Mortar droppings, stone pieces, timber materials & fixings requiring removal, damage to existing decking, shrubs or trees requiring replacement as damaged.

Access to Neighbouring Land Agreement

- iii. Damage to any part of 34LC caused by the works being carried out at 32LC;
 - iv. Time spent ensuring that the conditions of this Agreement are adhered to, which if done by the owners has been valued at \$560 per day, or if this is required to be done by a 3rd party, then the costs incurred by the Owners of 34LC for this service.
12. Failure to comply with this Agreement by the Owners of 34LC will cause this Agreement to be cancelled, any access rights revoked and any and all costs incurred to date and into the future related to this matter to be borne by the Owners of 32LC.

SIGNATURE PAGE FOLLOWS

Access to Neighbouring Land Agreement

This Agreement is accepted in its entirety by:

Name: James Brunker

Signature:

Date:

Name: Penelope Claire Sinton

Signature:

Date:

Access will be provided based on this Agreement by:

Name: John Lawson

Signature:

Date:

Name: Helen Lawson

Signature:

Date: