

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING INCLUDING  
CONSTRUCTION OF A SWIMMING POOL, CABANA AND ASSOCIATED LANDSCAPING**

**AT**

**33 MARLBOROUGH AVENUE, FRESHWATER**

**FOR**

**GREGORY AND MELINDA WILL**



**Prepared  
February 2025**

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## 1.0 Introduction

This Statement of Environmental Effects accompanies architectural plans prepared on behalf of Gregory and Melinda Will by Beaches Group, Drawings No's. A-00-A, A-01-A, A-02-A, A-10-A, A-11-A, A-20-A, A-21-A, A-100-1, A-200-A, dated 25 November 2024 detailing the proposed alterations and additions to an existing dwelling including construction of a swimming pool, cabana and associated landscaping at **33 Marlborough Avenue, Freshwater**.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment, it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended (EP&A Act)*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Warringah Local Environmental Plan 2011 (WLEP 2011)*
- *Warringah Development Control Plan 2011 (WDCP 2011)*

## 2.0 Property Description

The subject allotment is described as 33 Marlborough Avenue, Freshwater, being Lot 11, within Deposited Plan 18880 and is zoned R2 Low Density Residential under the provisions of the WLEP 2011.

The site does not contain any heritage items within the WLEP 2011 nor is it within a Heritage Conservation Area; however, it is located within the vicinity of a listed heritage item (item 173, House 35 Marlborough Ave, Freshwater). This matter will be discussed in further detail throughout the body of this statement.

The site is identified as being within the Coastal Environment Area and the Coastal Use Area under the provisions of the SEPP (Coastal Management) 2018. This matter will be discussed in further detail throughout the body of this statement.

The land is identified as being Landslip Area B on the Landslide Risk Land Map of WLEP 2011. This will be discussed further within this statement.

There are no other known hazards that apply to the site.

### 3.0 Site Description

The property is located on the southern, lower side of Marlborough Avenue. The site is irregular in shape with a street frontage of 11.195m. The western and eastern side boundaries measure 35.84m and 34.66m respectively. The rear boundary is 24.385m (by calc) and the land has a total area of 609.6m<sup>2</sup>.

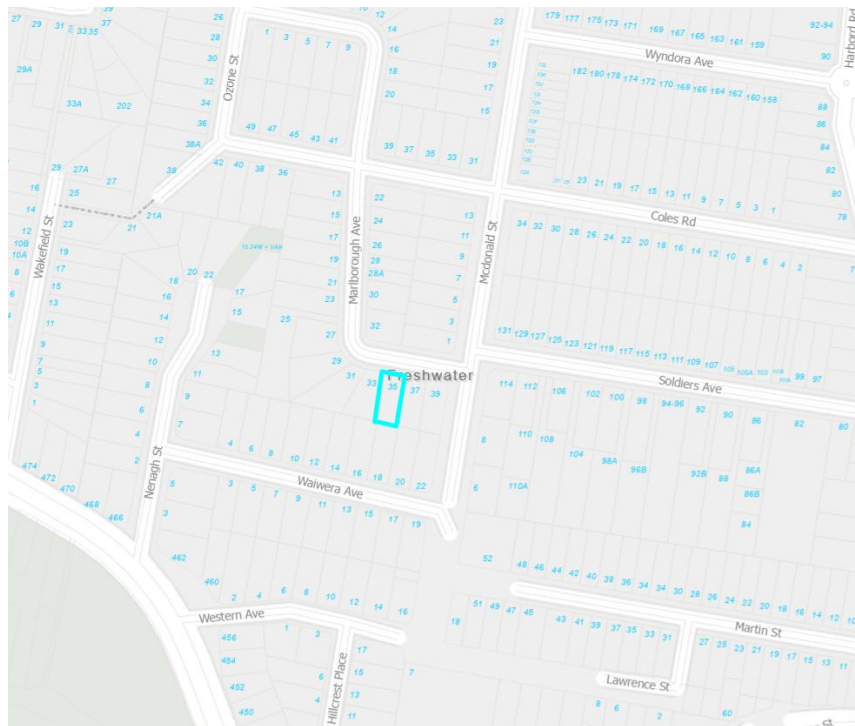
The site has sloping topography with a fall from the front northern east corner to the rear south-west corner of the site of approximately 2.45mm

The site is currently developed with a two storey brick residence with a tile roof and an existing detached double garage at the rear, with vehicle access along the western boundary from Marlborough Avenue.

Stormwater from the site is collected on site and dispersed at the rear of the site.

Vehicular and pedestrian access is available via Marlborough Avenue. A provision of landscaped areas is located within the front and rear areas of the site, with the main recreational landscaped area towards the rear of the property.

The details of the site are as indicated on the survey plan prepared by CMS Surveyors Pty Ltd, Drawing Name 23728detail, dated 22 August 2024 (amended 8 November 2024) which accompanies the DA submission.



**Fig 1: Location of Subject Site**  
(Source: NBC Location Map)





**Fig 2: View of subject site, looking south from Marlborough Avenue**



**Fig 3: View looking south along the western side boundary towards the existing detached garage in the rear, south-western corner of the site**





**Fig 4: View of the existing access driveway to the garage, looking north along the western boundary**

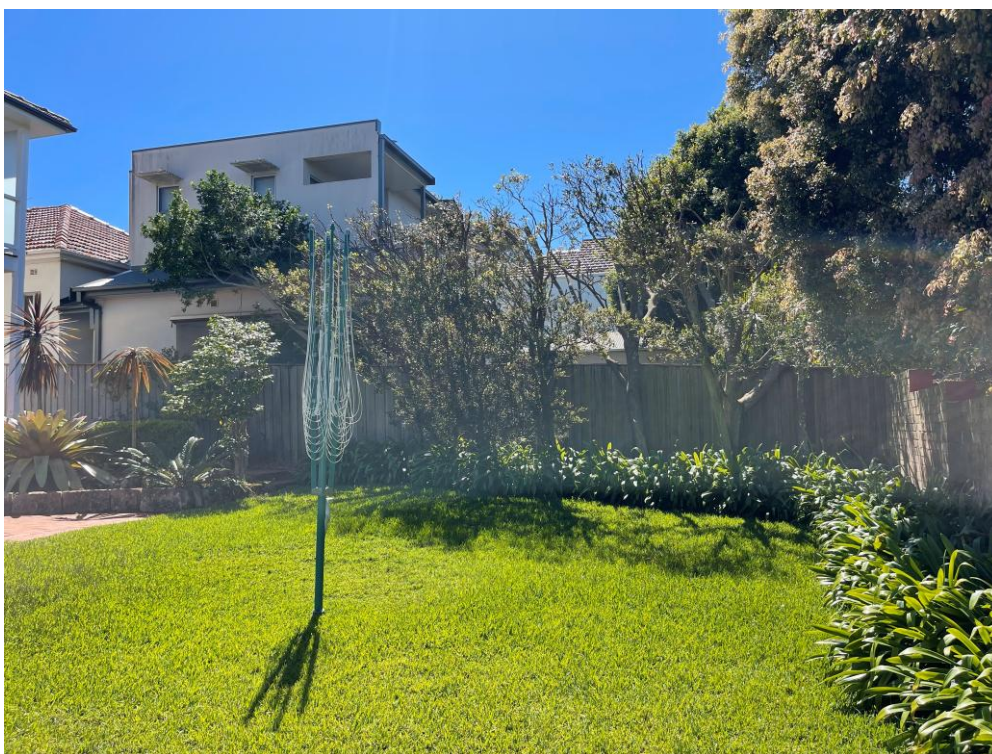


**Fig 5: View of the rear yard, looking east along the rear (southern) elevation of the dwelling**





**Fig 6: View of the rear yard looking west over the location of the proposed pool towards the existing garage**



**Fig 7: View of the rear yard looking east over the location of the proposed swimming pool**



**Fig 8: View of the rear elevation of the dwelling, looking north**



#### **4.0 The Surrounding Environment**

The general vicinity of the site is characterised by residential development of varied density, scale and architectural style. Two storey dwellings are common, interspersed with multi-storey residential flat developments in the vicinity of the beach reserve and public open space.

The site is within walking distance of several public recreational areas community and recreational open space areas, including Nolan Reserve to the south-east of the site. Manly Lagoon is also in close proximity.

The site and its surrounds are depicted in the following aerial photograph (Figure 9).



**Fig 9: Aerial view of locality**  
(Source: Six Maps)

## 5.0 Proposed Development

As detailed within the accompanying plans the proposal seeks consent for alterations and additions to an existing dwelling including construction of a swimming pool, cabana and associated landscaping.

The proposed works comprise:

### External Works

- Increase in the existing rear verandah and new access stairs
- Bin storage area under the new verandah
- Swimming pool and associated decking
- Cabana
- Minor driveway works
- 1.8m boundary fence with black finish

The works represents a high-quality architectural design solution that will provide a significant enhancement to the amenity and usability of the site.

The boundary setbacks of the work maintain the rhythm of development of other swimming pools and associated structures within the street and surrounding area and provide appropriately for spatial separation, deep soil landscape opportunity, privacy, solar access and view sharing.

The location and design of the new works will afford exceptional amenity to future occupants without unreasonably compromising the amenity of surrounding residential properties or the attributes of the Freshwater locality.

The proposed external mix of finishes will reflect the existing coastal characteristics within the area and complement surrounding older and newer modern developments.

Proposed landscape plantings will further assist in maintaining the privacy and amenity of both the subject and neighbouring properties and will soften the visual impact of the resultant development.

The proposal is accompanied by a Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees, dated 6 December 2024. The Statement considers the impact of the works on 16 trees within the site and neighbouring properties and concludes that six trees will be removed however they have all been classified as being unimportant trees of lower retention value and health. Recommendations of been provided to ensure that the more significant trees within the site are protected to maintain throughout the works.

Stormwater from the roof area of the cabana and the collected surface waters will be directed to a level spreader device in the rear yard via an on-site detention and rainwater tank system in accordance with the Stormwater Plans prepared by TLA engineering dated 31 January 2025.



The proposal results in the following development indices:

Site Area:	606.6m <sup>2</sup>
Required Building Height:	8.5m
Proposed Building Height:	2.87m Cabana, 0.55m Swimming Pool
Required Landscaped Area:	40% or 243.00m <sup>2</sup>
Proposed Landscaped Area:	41.5% or 253m <sup>2</sup>

## **6.0 Zoning and Development Controls**

### **6.1 Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021**

#### Chapter 2 Vegetation in non-rural areas

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the Biodiversity & Conservation SEPP) contains planning controls for the removal of vegetation on the land within non-rural areas of the State. The policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of nonrural areas of the State through the preservation of trees and other vegetation.

There are no trees within the site that have been identified as Heritage Items or identified within a Significant Tree Register. An Arboricultural Assessment Report, prepared by X has been prepared that considers the impact of the works on the trees within the site that are to be removed, and those in the neighbouring properties within close proximity to the proposed works.

The Assessment notes that six trees are required to be removed as a result of the works, with the report concluding that the works will not impacts neighbouring trees with appropriate mitigation as recommended in the report.

Replacement planting will be incorporated within the site along the eastern and western to increase the biodiversity value of the site and assist in screening the built form.

The proposal does not impact on the biodiversity value on the site, neighbouring properties or the surrounding public domain. No further consideration of this chapter is required.

### **6.2 State Environmental Planning Policy (Resilience and Hazards) 2021**

#### ***Chapter 2 – Coastal Management***

The subject site is identified as being within the coastal environmental area and therefore SEPP (Coastal Management) 2018 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

*The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:



- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Coastal Management) 2018, as set out in Clause 3 of the Coastal Management Act 2016.

The matters for consideration under Division 3 of SEPP (Coastal Management) 2018 are:

***Division 3 Coastal environment area***

***2.10 Development in coastal zone generally—development not to increase risk of coastal hazards***

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*

**Comment**

The proposal provides for the construction of alterations and additions to an existing dwelling including construction of a swimming pool, cabana and associated landscaping. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

The matters for consideration under Division 5 of SEPP (Coastal Management) 2018 are:

***Division 5 General***

***2.12 Development in coastal zone generally—development not to increase risk of coastal hazards***

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

**Comment**

The proposal provides for the construction of alterations and additions to an existing dwelling including construction of a swimming pool, cabana and associated landscaping. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.



**16 Development in coastal zone generally—coastal management programs to be considered**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.*

**Comment:** No coastal management programs have been identified.

**17 Other development controls not affected**

*Subject to clause 7, for the avoidance of doubt, nothing in this Part:*

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

**Comment:** Noted

**18 Hierarchy of development controls if overlapping**

*If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:*

- (a) the coastal wetlands and littoral rainforests area,*
- (b) the coastal vulnerability area,*
- (c) the coastal environment area,*
- (d) the coastal use area.*

**Comment**

Noted

The assessment has concluded that the proposed development is consistent with the matters for consideration under Chapter 2 of SEPP (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of land**

Clause 7(1)(a) prescribes that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

### 6.3 State Environmental Planning Policy (Sustainable Building) 2022

In accordance with the provisions of the SEPP, a BASIX Certificate is submitted with the application as the pool volume is greater than 40,000 litres. The certificate confirms that the proposal will comply with the requirements of the policy.

### 6.4 Warringah Local Environmental Plan 2011

The land is zoned R2 Low Density Residential under the provisions of the WLEP 2011 and the proposed dwelling house is permissible with consent.

The development of and use of the land for residential purposes is consistent with the zone objectives, which are noted as:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*



**Fig 10: Extract of Zoning Map of WLEP 2011**

It is considered that the proposed alterations and additions to the existing dwelling including construction of a swimming pool, cabana and associated landscaping will be consistent with the desired zone objectives and future character of the surrounding locality for the following reasons:

- The proposal provides for a residential development in an area with special aesthetic values and does not have an adverse effect on the values in terms of biodiversity and foreshore scenic protection.
- The site will continue to maintain the residential use.
- The proposed works does not negatively impact on nearby coastal foreshores or result in a loss of natural vegetation.

- The proposed works will provide for increased residential amenity, together with improved functionality through the introduction of improved vehicular access, together with enhanced functional recreation areas.
- The new works does not have any unreasonable impact on views, solar access or amenity for the neighbouring properties.
- The bulk and scale of the alterations and additions is comparable with the surrounding locality, with a more modern and compatible built form that is compatible with that of existing development in this portion of Marlborough Avenue.

**Clause 4.3** provides controls relating to the height of buildings.

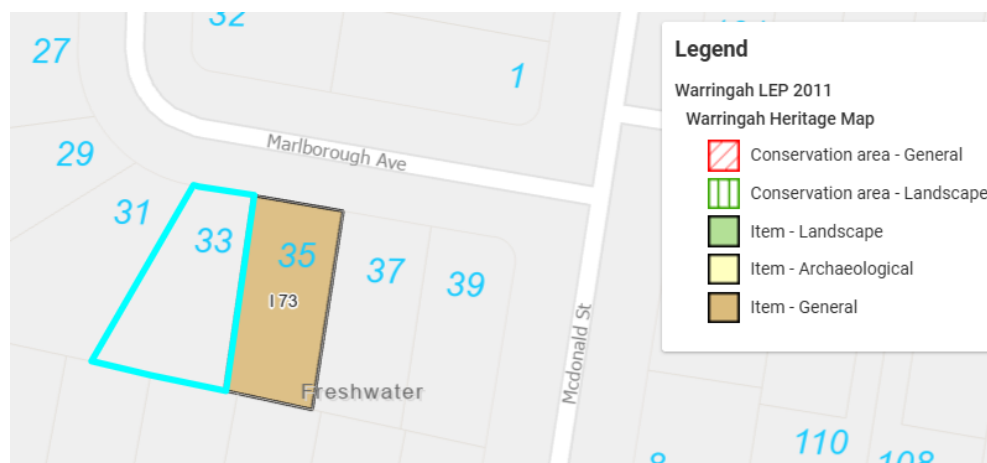
The dictionary supplement to the LEP notes building height to be:

**building height (or height of building)** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The building height limit for development in this portion of Freshwater is 8.5m. The proposed new cabana will result in a maximum height of approximately 2.87m and 0.55m for the swimming pool complying with the requirements of the control.

**Clause 5.10** relates to heritage conservation.

The subject site is within the vicinity of a listed heritage item being “House” 35 Marlborough Ave, Freshwater (Item No. 173).



**Fig 10: – WLEP Heritage Map**  
(Source – Northern Beaches Council Planning Maps)

Heritage item 174 is an example of an inter-war Spanish mission style dwelling house. Displays high integrity with original fabric and detailing including hipped & gabled roof of terracotta tiles, twisted columns flanking arched entrance to the porch and with arches forming loggia at the front of the dwelling.

The heritage is located to the west of the subject site, however due to the minor nature of the and the separation the proposal is considered to not impact upon the heritage item or its significance

The proposed new works will be read in the context of the existing and newer surrounding sites and will not impact upon the social and historical significance of this heritage building.

**Clause 6.2** relates to earthworks.

The proposal involves the construction of the cabana and the swimming pool. The swimming pool will require excavation and minor site disturbance.

A Preliminary Geotechnical Assessment has been prepared by Ascentgeo Geotechnical Consulting, Reference No. AG 24551 dated 9 December 2024, which concludes the following:

***Preliminary Risk Assessment and Recommendations***

*With reference to the Australian Geomechanics Society's definitions, the existing conditions and proposed development are considered to constitute an 'ACCEPTABLE' risk to life and a 'LOW' risk to property provided that the recommendations outlined in **Table 2** are adhered to.*

The works will be carried out in accordance with the recommendations of the Geotechnical Report and the consulting Structural Engineer and will therefore satisfy the provisions of this clause.

**Clause 6.4** relates to development on sloping land.

The land is within Area B on the Landslide Risk Map of WLEP 2011. In consideration of the provisions of clause E10 of WDCP 2011, a Geotechnical Report has been submitted as part of the documentation package.

As discussed, the proposal is supported by a Preliminary Geotechnical Assessment which supports the development and suggest that subject to the recommendations within the report being observed, the site will continue to remain in a stable condition.

The works will be carried out in accordance with the recommendations Geotechnical Report and the consulting Structural Engineer and will therefore satisfy the provisions of this clause.

There are no other clauses of the WLEP 2011 that are considered to be relevant to the proposed development. It is considered that the proposal achieves the requirements of the WLEP.



## 6.5 Warringah Development Control Plan

The relevant numerical and performance-based controls under WDCP are discussed below:

Part B - Built Form Controls			
Standard	Required	Proposed	Compliance
B1 – Wall heights	Max 7.2m	The cabana has one solid wall on the eastern elevation that measures up to 1.85m, thereby complying with the control.	Yes
B2 – Number of storeys	No requirement identified on map		N/A
B3 – Side Boundary Envelope	Building envelope 45 degrees from 5m.	No encroachment	Yes
B4 – Site Coverage	No requirement identified on map		N/A
B5 – Side Boundary setbacks	R2 zoned land 0.9m	<p><u>East:</u> Cabana: 0.9m Swimming pool: &gt; 0.9m</p> <p><u>West:</u> Driveway : &lt;0.9m Verandah, access stairs, swimming pool: &gt; 0.9m</p> <p>As noted in the requirement of the control: <i>Side boundary setback areas are to be landscaped and free of any above or below ground structures, car parking or site facilities other than driveways and fences.</i></p> <p>The minor area of driveway is acceptable part of the</p>	Yes

		requirement of the side setback control, with the small area within the setback not visually identifiable when considering the context of the while driveway. Therefore, there is no visual or amenity impact from the minor driveway addition.	
B7 – Front Boundary Setbacks	Minimum 6.5m to primary frontage 3.5m to secondary frontage	No change	Yes
B9 – Rear Boundary Setbacks	Minimum 6m to rear boundary  R2 Zoned land swimming pool not to exceed 50% of rear setback area.	Cabana, verandah and access stairs : >6.0m  Less than 50%	Yes  Yes – see discussion below

Part C – Siting Factors			
C2 – Traffic, Access and Safety	Vehicular crossing to be provided in accordance with Council's Vehicle Crossing Policy	The proposal will see the retention of the existing vehicle crossing from Marlborough Avenue.	Yes
C3 – Parking Facilities	Garages not to visually dominate façade Parking to be in accordance with AS/NZS 2890.1	There is no change to the existing double garage located at the rear of the site. The garage will continue to provide for two car parking spaces to satisfy the requirement of the control.	Yes
C4 – Stormwater	Hydraulic Design to be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments and Minor Works Specification	As recommended by the Geotechnical Consultant, stormwater disposal has been considered in the Stormwater Plans prepared by TLA Engineers, dated 31 January 2025. As there is no stormwater easement available to the site to pipe water off the site, stormwater we directed to a level spreader at the rear of the site via a rainwater and on-site detention tank to the satisfaction of the engineer. The proposed new roof areas of the cabana will be connected to the proposed stormwater system, demonstrating a suitable stormwater solution for the site.	Yes

C5 – Erosion and Sedimentation	Soil and Water Management required	Sediment and erosion control measures will be carried out as required.	Yes
C7 – Excavation and Landfill	Site stability to be maintained	<p>Some excavation is required to accommodate the proposed swimming pool.</p> <p>All works will be carried out in accordance with the recommendations of the Geotechnical Report and the consulting Structural Engineer and will therefore satisfy the provisions of this clause.</p>	Yes
C8 – Demolition and Construction	Waste management plan required	Waste management measures to be employed in accordance with the accompanying Waste Management Plan.	Yes
C9 – Waste Management	Waste storage area to be provided	Bins storage proposed within the area under the new verandah.	Yes
<b>Part D – Design</b>			
D1 – Landscaped Open Space and Bushland	Min 40% Landscaped Area to be maintained	<p>41.5% or 253m<sup>2</sup></p> <p>New landscaping will be incorporated to improve the presentation of the site and contribute to the landscaped character of the locality and soften the built form of the development.</p>	Yes
D2 – Private Open Space	Dwelling houses with three or more bedrooms:	The ground floor private open space areas are to be	Yes



	Min 60m <sup>2</sup> with min dimension 5m	<p>increased as part of the proposal. The new increase is verandah is directly accessible from the dwelling, with the cabana providing a new recreational area adjoining the new swimming pool.</p> <p>The private open space areas will maintain a reasonable level of privacy and aural amenity within the site and to the neighbouring properties via generous placement, separation and the incorporation of landscape plantings.</p>	
D3 – Noise	<p>Mechanical noise is to be attenuated to maintain adjoining unit amenity.</p> <p>Compliance with NSW Industrial Noise Policy Requirements</p>	<p>Given the residential nature of the works, there will not be any significant impact on the surrounding locality in terms of acoustic privacy.</p> <p>The swimming pool equipment will be contained within a noise attenuating enclosure, and it is not anticipated that any acoustic issues will result from the mechanical equipment.</p>	Yes
D5 – Orientation and Energy Efficiency	<p>Dwellings to be orientated to receive northern sun</p> <p>Appropriate construction to enhance thermal properties and</p>	<p>The site enjoys good access to northern sun to the front and rear yards.</p>	Yes

	ventilation/natural cooling Compliance with SEPP (BASIX) requirements		
D6 – Access to sunlight	This control requires that sunlight to at least 50% of private open space to adjoining properties is not to be reduced to less than 2 hours between 9am and 3pm on the winter solstice.	The internal and external living areas of the site and the surrounding properties will continue to receive suitable solar access.	Yes
D7 – Views	View sharing to be maintained	<p>The controls require that development should enable the reasonable sharing of views.</p> <p>Due to the minor nature of the works there is no impact to any outlook from neighbouring sites.</p>	Yes
D8 – Privacy	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties	<p>The swimming pool and cabana pool is located in the rear yard.</p> <p>The cabana has a solid wall facing the eastern neighbouring site to ensure no privacy impact arises.</p> <p>The swimming pool and associated decking is elevated above ground. However, this is a minor elevation of 0.55m above ground level at the western end, and when combined with boundary fencing and</p>	Yes

		<p>perimeter planting the existing privacy enjoyed by easter and southern neighbours will be maintained.</p> <p>Accordingly, the works will retain a suitable level of privacy between the properties.</p>	
D9 – Building Bulk	<p>This clause requires buildings to have a visual bulk and architectural scale that is consistent with structures on nearby and adjoining properties and not to visually dominate the street or surrounding spaces</p>	<p>The minor works achieves the desired objectives to ensure that the development does not become visually dominant by virtue of its height and bulk.</p> <p>Accordingly, the works are consistent with the established pattern of development within the immediate and surrounding areas.</p>	Yes
D10 – Building Colours and materials		<p>The proposed new works will be finished in colours which complement the existing development on site and the locality.</p>	Yes
D11 – Roofs	<p>The LEP requires that roofs should not dominate the local skyline.</p>	<p>The proposed new dwelling comprises a skillion roof lines on the cabana that will not dominate the skyline.</p>	Yes
D12 – Glare and Reflection	<p>Glare impacts from artificial illumination minimised. Reflective building materials to be minimised</p>	<p>No significant glare impacts will result from proposed new works.</p>	Yes

D14 – Site Facilities	Garbage storage areas and mailboxes to have minimal visual impact to the street Landscaping to be provided to reduce the view of the site facilities.	Bin storage area is available under the veranda.	Yes
D15 – Side and Rear Fences	Side and rear fences to be maximum 1.8m and have regard for Dividing Fences Act 1991	New boundary fencing including side fence to be provided in accordance with the Dividing Fences Act 1991.	Yes
D16 – Swimming Pools and Spa Pools	Pool not to be located in front yard or where site has two frontages, pool not to be located in primary frontage. Siting to have regard for neighbouring trees.	Proposed pool and spa are located in the rear yard.  The siting of the proposed pool will not affect any existing vegetation on neighbouring properties.	Yes
D20 – Safety and Security	Buildings to enhance the security of the community.  Buildings are to provide for casual surveillance of the street.	The proposed works will not reduce the security of the street area or the subject property.	Yes
D21 – Provision and Location of Utility Services	Utility services to be provided	Normal utility services are available to the site	Yes
D22 – Conservation of Energy and Water	Compliance with SEPP BASIX	A BASIX Certificate is provided to support the development	Yes



Part E – The Natural Environment			
E1 – Private Property Tree Management	Arboricultural report to be provided to support development where impacts to trees are presented.	<p>The proposal is not intended to adversely affect any significant or protected planting.</p> <p>The Arboricultural Impact Assessment prepared by Naturally Trees dated 6 December 2024 confirms that there will not be any adverse impact of significant or protected trees.</p>	Yes
E2 – Prescribed Vegetation	Not identified on map		N/A
E3 – Threatened species, populations, ecological communities	Not identified on map		N/A
E4 – Wildlife Corridors	Not identified on map		N/A
E5 – Native Vegetation	Not identified on map		N/A
E6 – Retaining unique environmental features		No significant features within site	Yes
E7 – Development on land adjoining public open space	Not identified on map		N/A
E8 – Waterways and Riparian Lands	Not identified on map		N/A
E9 – Coastline Hazard	Not identified on map		N/A
E10 – Landslip Risk	Identified on map as Area B.	The land is within Area B on the Landslide Risk Map of WLEP 2011. In consideration of the provisions of clause E10 of WDCP 2011, the production of a Geotechnical Report has been undertaken, with the report submitted as part of the documentation package.	Yes
E11 – Flood Prone Land	Not identified on map		N/A

## **B9 –Rear boundary setbacks**

It is noted that an existing double garage also encroaches within the rear setback area.

The proposed swimming pool is located within the rear setback. The swimming pool is setback from 1.27m – 2m from the rear setback. This presents a variation of up to 78.8% respectively to the control requiring a 6m setback.

B9 Rear Boundary Setbacks of the WDCP allows swimming pools to encroach within the rear setback area subject to not exceeding 50% of the total rear setback area. The swimming pool and decking is less than 50% of the rear setback area and therefore the variation is supportable.

Nonetheless, the proposed works have been evaluated to demonstrate compliance with the objectives of the control.

By strategically locating the pool along the rear of the site within the sloping topography ensures the existing sense of openness will not be impacted upon by virtue of the opportunities for landscaping, and from the built form itself. The proposal will significantly enhance a sense of openness by making the space more usable and accessible.

The proposed setbacks of the new swimming pool will see visual amenity maintained for neighbouring properties. The existing spatial separation to the neighbouring dwelling houses combined with boundary fencing and new screening vegetation ensure reasonable privacy levels are maintained for the occupants of the subject site and neighbouring properties.

Therefore, the proposed works are not considered to result in any unreasonable overlooking or privacy impacts to the neighbour or surrounding sites, and as a result, no further mitigation measures or privacy treatments are required.

The proposed pool filter equipment will be located under the new deck and contained within a soundproof enclosure. Given the nature of the works are consistent with residential living, it is not considered there be any significant change to the existing acoustic site conditions.

The works are therefore acceptable on merit.

**7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979**

**7.1 The provisions of any environmental planning instrument**

The proposal is subject to the provisions of WLEP 2011. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its objectives.

The proposal has also considered all relevant SEPPs, and Council can be satisfied that the proposal is consistent with these policies.

**7.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

There are no draft environmental planning instruments applying to the site.

**7.3 Any development control plan**

The development has been designed to comply with the requirements of WDCP 2011.

In accordance with the provisions of section 4.15(3A) of the EP&A Act, we request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular, we consider that the variation to the building envelope and wall height controls to be reasonable alternative solutions, noting that the proposal is otherwise consistent with the objectives of these controls.

It is considered that the proposed design respects the desired character of the locality, in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity of the site.

**7.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

No matters of relevance are raised in regard to the proposed development.

**7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),**

No matters of relevance are raised in regard to the proposed development.

**7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.**

It is considered that the proposal has been located and designed to appropriately minimise impacts on the amenity of adjoining properties, resulting in a development that is compatible with and will complement the character of the area.

The proposal is considered to be well designed having regard for the relevant provisions of the applicable SEPPs, Council's LEP and DCP.

#### **7.7 The suitability of the site for the development**

The site is considered suitable for the proposed development.

The proposal will provide for a new swimming pool and associated decking, cabana and increase to the existing verandah.

It is suggested that the proposal will not have a detrimental impact on the amenity of the adjoining properties or any impact on the streetscape.

#### **7.8 Any submissions made in accordance with this Act or the regulations**

This is matter for Council in the consideration of this proposal.

#### **7.9 The public interest**

The proposal will not impact upon the environment; the character of the locality and will mitigate any unreasonable visual impacts on the amenity of adjoining properties and is therefore considered to be within the public interest.



## **8.0 Conclusion**

The proposal provides for the alterations and additions to an existing dwelling including a new swimming pool and cabana, which will not have a detrimental impact on the adjoining properties or the locality.

The proposal is a site-specific design response which takes advantage of the properties superior locational attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining development.

The works displays a complimentary and compatible building form when compared to other development located along this section of Marlborough and within the site's visual catchment generally.

The swimming pool has been set into the rear setback to provide a complimentary and compatible streetscape presentation while providing increase privacy amenity to the occupants and their guests.

The works arrangement on the site will afford exceptional amenity and functionality to future occupants without unreasonably compromising the amenity of surrounding residential properties or the foreshore scenic attributes of the precinct.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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