

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0363
<b>Responsible Officer:</b>	Nick Keeler
<b>Land to be developed (Address):</b>	Lot 3 DP 511677, 1 A The Serpentine BILGOLA BEACH NSW 2107
<b>Proposed Development:</b>	Modification of Development Consent REV2021/0037 granted for alterations and additions to a dwelling house
<b>Zoning:</b>	C4 Environmental Living SP2 Infrastructure
<b>Development Permissible:</b>	No - Zone SP2 Infrastructure Yes - Zone C4 Environmental Living
<b>Existing Use Rights:</b>	Yes
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Kevin Thomas Reilly Jane Louise Reilly
<b>Applicant:</b>	Rdo Architect

<b>Application Lodged:</b>	03/08/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	12/08/2022 to 26/08/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent REV2021/0037 granted for Review of Determination of Application DA2021/0148 for Alterations and additions to a dwelling house.

The modifications include the removal of four trees, including two heritage listed Cabbage Tree Palms, alteration to the dwelling roof design and new clerestory windows, cladding replacement, minor external wall adjustment at the ground floor, removal of the existing first floor balcony and internal layout changes.

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 3 DP 511677 , 1 A The Serpentine BILGOLA BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of The Serpentine. The site does not have a street frontage. Access is obtained via a right-of-carriageway across the lot known as No. 1 The Serpentine.</p> <p>The site is irregular in shape with a width of approx. 29.3m and a maximum depth of approx. 65m. The site has a surveyed area of 1,328m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living and SP2 Infrastructure zones and accommodates a two-storey residential dwelling with a detached carport and garage.</p> <p>The site falls approx. 11m from the west towards the east.</p> <p>The site contains and is surrounding by dense canopy vegetation and is within proximity to an area of littoral rainforest.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by</p>

low density residential dwellings within a coastal bushland setting.

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **N0362/02** for Alterations and Additions was approved on 18/07/2002 by Council staff.

Application **DA2021/0148** for Alterations and additions to a dwelling house was approved on 24/06/2021 by Council staff.

Application **REV2021/0037** for Review of Determination of Application DA2021/0148 for Alterations and additions to a dwelling house was approved on 09/02/2022 by the Development Determination Panel.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for REV2021/0037, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
<p>A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</p>	
<p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>	<p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> <li>• no unreasonable additional amenity impact to adjacent properties or the public domain is expected</li> <li>• the built form of the dwelling will remain generally consistent with the approved development</li> </ul>
<p>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under REV2021/0037 for the following reasons:</p> <ul style="list-style-type: none"> <li>• the modification is generally consistent with the approved alterations and additions to the existing dwelling</li> <li>• the modification does not alter the low density residential land use of the site</li> <li>• all expected outcomes of the original assessment are maintained under the modification</li> </ul>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>

Section 4.55(1A) - Other Modifications	Comments
the case may be.	

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>been addressed via a condition of consent.</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## EXISTING USE RIGHTS

Existing use rights for a dwelling house on the site were established in the original application assessment.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

Advice from the applicant's bushfire consultant confirms the Bush Fire Report submitted with the original application (prepared by Bushfire Planning & Design, dated 01/03/2021) remains valid and that the modified development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 12/08/2022 to 26/08/2022 in

accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for modification to consent DA2021/0148, including the following modification to be considered by Landscape Referral: remove two native Cabbage Tree Palms.</p> <p>As noted in the Statement of Modification, current construction work has revealed substantial damage to the existing structure caused by the Cabbage Tree Palms located approximately to the existing wall, and the trunk and roots have damaged the footings and allowed water to penetrate. Roots have grown into the wall framing. Damage will continue to occur if trees remain in place.</p> <p>Removal of the Cabbage Tree Palms is supported by reports from the structural engineer and arborist. The proposal includes replacement with two Cabbage Tree Palms, and in consideration of the reports and replacement proposal, Landscape Referral raise no concerns and appropriate conditions shall be imposed. It is noted that additionally other Exempt palm species are proposed to be removed and no Council consent is required for the management or removal of such species under the DCP exempt provisions.</p>
NECC (Bushland and Biodiversity)	<p>The proposed modification has been assessed against the following applicable biodiversity-related provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• SEPP (Resilience and Hazards) - Littoral Rainforest Proximity Area</li> <li>• Pittwater LEP Clause 7.6 - Biodiversity Protection</li> <li>• Pittwater DCP Clause B4.17 - Littoral Rainforest Endangered Ecological Community</li> </ul> <p>The submitted arboricultural statement confirms that removal of two <i>Livistona australis</i> is required to manage confirmed structural building damage. Subject to replacement plantings as per Landscape referral comments and conditions, there are no objections to the modification. Existing biodiversity conditions are to be retained.</p>
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021; and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The site is identified as proximity area for littoral rainforest and as such the development must not significantly impact on the</p>

Internal Referral Body	Comments
	<p>biophysical, hydrological or ecological integrity of the littoral rainforest, or the quantity and quality of surface and ground water flows that it receives.</p> <p>On assessment this application meets the requirements of the relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed Mod generally complies with the flood controls in the LEP and DCP.</p> <p>No objections or conditions from the flood team.</p>
Parks, reserves, beaches, foreshore	<p>Upon review of the plans and reports, Parks Reserves and Foreshores Referral raise no objections to the modification application, as the modification proposal is not detrimental to the landscape character of the adjoining Reserve.</p>
Strategic and Place Planning (Heritage Officer)	<p><b>HERITAGE COMMENTS</b></p>
	<p>Discussion of reason for referral</p>
	<p>The proposal has been referred to Heritage as the subject property contains a heritage item</p> <p><b>Grove of Cabbage Tree Palms</b> - Various lots within Bilgola Beach</p>
	<p>Details of heritage items affected</p>
	<p>Details of the item as contained within the Pittwater inventory is as follows:</p> <p><u>Statement of Significance</u>  The Grove of Cabbage Tree Palms (<i>Livistona australis</i>) is a landscape heritage item of local significance with natural, aesthetic, scientific, historic and social significance for the Pittwater local government area. Strong and densely established, this grove is emblematic of Bilgola as a locality within the larger peninsula and municipality. The occurrence of cabbage tree palms, said to be the best remaining stand in the Sydney area, add to the natural beauty of the area. The area is an important recreational resource for the people of Sydney.</p> <p><u>Physical Description</u>  The Grove of Cabbage Tree Palms in the Bilgola Valley covers several properties to the east and west of Barrenjoey Road in Bilgola. <i>Livistona australis</i> (Cabbage Palm) is a tall erect indigenous member of the palm family (Arecaceae) very widely distributed throughout lowland forest and swamps of eastern Australia, occurring in QLD, NSW and VIC. The stems are mostly about 10</p>



Internal Referral Body	Comments	
	metres tall but can grow up to 30 metres. The leaves, borne at the top of the stems, are palmately divided, fan shaped and plicate (folded longitudinally).	
	<b>Other relevant heritage listings</b>	
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No
	Australian Heritage Register	No
	NSW State Heritage Register	No
	National Trust of Aust (NSW) Register	
	RAIA Register of 20th Century Buildings of Significance	No
	Other	N/A
	<b>Consideration of Application</b>	
	<p>The proposal seeks consent for modifications to an approved application for alterations and additions. This includes changes to internal layout, roofs, windows and doors as well as the proposed removal of two heritage listed cabbage tree palms along the western wall of the lounge room. The application documents indicate that the cabbage tree palm are causing issues with the structural integrity of the building and an arborist report recommends their removal and the planting of two new cabbage tree palms to offset their removal. Heritage raises no objections to the modifications to the dwelling and in light of the issues the palms are causing, can support replacement plantings to offset their removal, subject to conditions. Heritage notes that conditions to this effect have already been recommended by Landscape and Heritage is happy to concur with them. Replacement plantings will maintain the significance of the item as a grove of cabbage tree palms.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No          Has a CMP been provided? No          Is a Heritage Impact Statement required? Yes          Has a Heritage Impact Statement been provided? Yes</p>	
	<b>Further Comments</b>	
	<p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 8 August 2022</p>	

Internal Referral Body	Comments

External Referral Body	Comments
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p>

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\***

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A400358\_05, dated 27/06/2022). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

#### **SEPP (Resilience and Hazards) 2021**

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

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 1 Coastal Wetlands and littoral rainforest area**

##### **2.8 Development on land in proximity to coastal wetlands or littoral rainforest**

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
  - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

- b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

Council is satisfied that the proposed development is appropriately designed and sited to ensure adverse impact to the nearby littoral rainforest is avoided.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Zone SP2: No Zone C4 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone SP2: Yes Zone C4 : Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8m	6.5m	6.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.1 Relevant acquisition authority	Yes
5.1A Development on land intended to be acquired for public purpose	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes

Clause	Compliance with Requirements
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	10m	0.9m	Unaltered	As approved
Rear building line	6.5m	14.8m	Unaltered	Yes
Side building line	N - 2.5m	4.4m	Unaltered	Yes
	S - 1m	0.6m	Unaltered	As approved
Building envelope	N - 3.5m	Within envelope	Unaltered	Yes
	S - 3.5m	Outside envelope	Unaltered	As approved
Landscaped area	60%	69.57% (924m <sup>2</sup> )	Unaltered	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.2 Scenic protection - General	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	Yes	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## POLICY CONTROLS

### Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

## CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0363 for Modification of Development Consent REV2021/0037 granted for alterations and additions to a dwelling house on land at Lot 3 DP 511677,1 A The Serpentine, BILGOLA BEACH, subject to the conditions printed below:

### A. Add Condition No. 1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
025 BIL DA10 Rev C S4.55	24/06/2022	RDO Architect
025 BIL DA20 Rev C S4.55	24/06/2022	RDO Architect
025 BIL DA21 Rev C S4.55	24/06/2022	RDO Architect
025 BIL DA30 Rev C S4.55	24/06/2022	RDO Architect
025 BIL DA31 Rev C S4.55	24/06/2022	RDO Architect

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. A400358_05	27/06/2022	RDO Architect
Arboricultural Impact Assessment	21/05/2022	Growing My Way Tree Consultants
Bushfire Advice (Ref: BL-519422)	18/07/2022	Bushfire Planning & Design

#### b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

In the event of any inconsistency between conditions of this consent and the drawings/documents

referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**B. Add Condition No. 12A - Tree Removal Within the Property to read as follows:**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) tree 20(A) and 20(B) - Cabbage Tree Palms, as identified in the Plans, subject to tree replacement,
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

**C. Modify Condition No. 14 - Installation and Maintenance of Sediment Control to read as follows:**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

**D. Add Condition No. 20A - Required Tree Planting to read as follows:**

Two (2) *Livistona australis* (Cabbage Tree Palms) shall be planted within the property in accordance with the following:

- i) the palm planting shall be a minimum pre-ordered planting size of at least 1 metre tall clear trunk, and shall meet the requirements of Natspec - Specifying Trees,
- ii) planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings and other trees, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Nick Keeler, Planner**

The application is determined on 14/09/2022, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**