

<<insert date>>

Our ref: 2018/978
PN: 55166

Michilis Pty Ltd
PO Box 2005
GATESHEAD DC NSW 2290

Dear Sir/Madam

Notice to applicant of determination of a development application under Section 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 and Section 99 of the Local Government Act 1993

Subject Development	Coastal Protection Works – Flynn's Beach Seawall
Property Description	LOT: 7052 DP: 1121282, Pacific Drive PORT MACQUARIE
Applicant	Michilis Pty Ltd

Notice is hereby given of the determination by the consent authority of your development application by granting of consent subject to the conditions detailed on the schedule attached to this notice.

Approvals under the Local Government Act, 1993

Local Government Act 1993 approvals granted under Section 4.12 of the Environmental Planning & Assessment Act 1979 are as follows: Nil

Notes to this consent

1. The date of determination is <<insert date>>.
2. The date from which this consent operates is <<insert date>> and will lapse unless building, engineering or construction work or a use related to this consent is physically commenced within five (5) years of this date.
3. The period for which this consent can operate may be limited by conditions of this consent.

Yours sincerely

DRAFT

SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2018/978 are as follows:

PRESCRIBED CONDITIONS

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the *Environmental Planning & Assessment Regulations 2000*

A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Development Plans as stamped	Drawing Number: 81018050-ST-1000 Revision C Sheets 1 to 10	Cardno	14 November 2018
Statement of Environmental Effects	81018050	Cardno	26 October 2018
Ecological Impact Assessment	81018050	Cardno	26 October 2018

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- (2) (A002) No work shall commence until a building Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority; and
 - the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;

2. Appropriate dust control measures;
3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
4. Building waste is to be managed via an appropriate receptacle;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.

- (4) (A013) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
 - **NSW Department of Primary Industries** - The General Terms of Approval, Reference IDA18/126 and dated 1 February 2019, are attached and form part of this consent.
- (5) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (6) The mitigation measures outlined in Part 8 – Environmental Assessment of the Statement of Environmental Effects and Part 7 of the Ecological Impact Assessment both prepared by Cardno, dated 26 October 2018, form part of this consent and shall be implemented at the respective stages throughout the development.
- (7) Compensatory planting of 135 *Sophora tomentosa* (Silverbush) plants shall be undertaken. The details of these plantings shall form part of a Vegetation Management Plan (VMP) to be approved by the Manager of Natural Resources of Port Macquarie-Hastings Council.

B – PRIOR TO ISSUE OF A BUILDING CONSTRUCTION CERTIFICATE

- (1) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed seawall is to be submitted to Port Macquarie-Hastings Council prior to the release of the Construction Certificate.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C015) Tree protection fencing, compliant with *AS 4970/2009 Protection of trees on development sites* must be provided. The fencing shall be in place prior to the commencement of any works or soil disturbance and maintained for the entirety of the works.

D – DURING WORK

- (1) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

Should asbestos be present, its removal shall be carried out in accordance with the National OH&S Committee – *Code of Practice for Safe Removal of Asbestos* and *Code of Practice for the Management and Control of Asbestos in Workplaces*.
- (2) (D033) Should any Aboriginal objects be discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service, Department of Environment and Conservation is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act 1974*. Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the *National Parks and Wildlife Act 1974* may be required before work resumes.
- (3) (D046) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the *Heritage Act 1977*.

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The structure shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) Prior to the issue of any Occupation Certificate a Vegetation Management Plan (VMP) shall be provided to and approved by the Manager of Natural Resources of Port Macquarie-Hastings Council. In addition to standard VMP requirements the following details shall be incorporated:
 - Specific mapping details of each individual compensatory *Sophora tomentosa* (Silverbush) plant;

- Technique for plantings and size of plantings;
- Protection mechanisms around plantings;
- Management and monitoring measures for a minimum period of 2 years;
- Monitoring report to be provided 4 times a year;
- Qualifications of the person(s) responsible for the plantings, management and monitoring;

F – OCCUPATION OF THE SITE

Nil

The reason for this decision is that site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public interest and will not result in significant adverse social, environmental or economic impacts. The conditions referred to in this schedule are imposed in conformity with the relevant provisions of the Environmental Planning and Assessment Act and Regulations, the Local Government Act and Regulations, The Building Code of Australia and with Council's Policies and Development Control Plan or any other ancillary Act or Regulation in force at the time of the date of determination. The conditions are aimed at protecting the natural environment, preserving our heritage and providing a functional, safe and healthy built environment.

Rights of Appeal

If you are dissatisfied with this decision:

1. A request for a review of the determination may be made to Council, under the provisions of Section 8.3 of the Environmental Planning and Assessment Act 1979.
2. Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court.

Yours sincerely

DRAFT