

The General Manager
Maitland City Council
Via Planning Portal (CNR-73930)

Re: Development Application No. DA/2024/763, Anambah Road, Gosforth

Attention: Ms Emilia Marshall

Dear Ms Marshall

Thank you for your referral dated 27 September 2024 requesting that DPIRD Fisheries, a division within the Department of Primary Industries and Regional Development provide General Terms of Approval (GTAs) and advice on the subject development application.

Receipt of the prescribed \$416 fee under cl253 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) is acknowledged. Consistent with cl45 of the EP&A Regulation, DPIRD Fisheries has provided this response within 40 days after the Department received a copy of this application, including the prescribed fee, on 4 October 2024.

DPIRD Fisheries is responsible for ensuring that fish stocks are conserved and that there is “no net loss” of key fish habitats upon which they depend. To achieve this, DPIRD Fisheries assesses activities under Parts 4 and 5 of the *Environmental Planning and Assessment Act 1979* in accordance with the objectives of the *Fisheries Management Act 1994* (FM Act), the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the FM Act, and the *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)* (DPIRD Fisheries P&G). In addition, DPIRD Fisheries is responsible for assessing potential impacts on marine parks under Division 6 of the *Marine Estate Management Act 2014* (MEM Act), ensuring the sustainable management of commercial fishing and aquaculture, quality recreational fishing and the continuation of Aboriginal cultural fishing within NSW.

Key fish habitats include those habitats that are crucial to the survival of native fish stocks. The degradation of aquatic habitat is a major threat to the abundance and diversity of native fishes in NSW. As such, a primary objective for conserving fishes is to conserve the habitats that fish are dependent upon for survival.

It is understood that the subject proposal involves a concept and stage 1 residential land development of Nine Hundred (900) Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of Two Hundred and Forty One (241) Lots as per the Statement of Environmental Effects dated August 2024. DPIRD Fisheries understands that this proposal will include construction of road with a number of waterway crossings (box culverts), including over an unnamed 3rd order tributary of the Hunter River floodplain, which is considered Key Fish Habitat. On-ground works within the unnamed 3rd order stream will trigger the dredging and reclamation provisions of the FM Act and General Terms of Approval will be provided for this aspect of the proposal.

DPIRD Fisheries also identifies that the proposal constitutes works in areas adjacent to Key Fish Habitats, including vegetation clearing, earthworks, and waterway crossings installed in first and/or second order drainage lines. The scope and scale of these works has the potential to impact upon sensitive receiving key fish habitats. Consequently, DPIRD Fisheries has also included advice on this aspect of the development below.

General Terms of Approval

- A permit under s198-202 of the *Fisheries Management Act 1994* for dredge and reclamation works, or a Controlled Activity Approval under the *Water Management Act 2000* or a Crown Land Licence under the *Crown Land Management Act 2016* is to be obtained prior to commencement of any dredging and reclamation works within Key Fish Habitat.
- Works are carried out in accordance with all applicable requirements of The Blue Book (Landcom 2004, Managing Urban Stormwater: Soils and Construction [4th Edition]).

DPIRD Fisheries' Advice

Key fish habitats are defined within the DPIRD Fisheries P&G and are graded by 'type' on the basis of their sensitivity, or their importance to the survival of fish (refer to section 3.2 of DPIRD Fisheries P&G for further information). The DPIRD Fisheries impact mitigation hierarchy is to first avoid impacts to key fish habitats. Where impacts to key fish habitats cannot be avoided, the preference is to impact less sensitive key fish habitats over more highly sensitive key fish habitats. All unavoidable impacts should be appropriately mitigated and offset.

The proposed subdivision has the potential to cause indirect impacts to Key Fish Habitat by a reduction in the current buffering capacity between fish habitats and development, and via an increase in urban water discharges, potential changes in floodplain hydrology and through immediate construction related impacts, such as erosion and sedimentation and the exposure of

potential acid sulfate soils during earthworks. Accordingly, DPIRD Fisheries' interests in this project are in ensuring that the project is designed, constructed and operated in a way that avoids and minimises these indirect impacts to key fish habitat.

To address indirect impacts on key fish habitat, NSW DPIRD Fisheries typically requires the establishment and maintenance of riparian buffer zones for developments or activities in or adjacent to key fish habitats. In the case of waterways, these buffer zones are measured from the top of the bank or drainage depression.

The design of riparian buffer zones must maintain lateral connectivity between aquatic and riparian habitats. The installation of infrastructure such as terraces, retaining walls, cycleways, pathways, and grass verges within the buffer zone should be avoided or minimised. Riparian buffer zones should be clearly marked (e.g., using fences or markers) and effectively managed to prevent degradation, such as controlling weeds and restricting stock access. Developments should retain existing native riparian vegetation as much as possible, leaving it in an undamaged and unaltered condition. Revegetation with local native species should be considered for disturbed areas, including sediment stabilisation and filters during and after construction. Regular monitoring should be conducted to ensure successful vegetation establishment in these areas.

NSW DPIRD Fisheries will determine the width of riparian buffer zones based on the habitat type and/or waterway class per the DPIRD Fisheries P&G, as well as the potential for disturbance, and the vulnerability of the riverbank to erosion. As a guide, the following widths are recommended:

- Buffer zone width to TYPE 2, CLASS 2-3 (Any 3rd order or greater waterways, which do not contain Type 1 fish habitats, within the vicinity of the subject location): 50 metres

DPIRD Fisheries highlights that water sensitive urban design measures should be incorporated into the subdivision's operation to limit indirect impacts on adjacent fish habitats.

If you or the proponent wish to discuss these GTAs, please contact Fletcher Mingramm, Fisheries Manager Coastal Systems (North Coast) on 0499 689 583 or fletcher.mingramm@dpi.nsw.gov.au.

Yours sincerely



Fletcher Mingramm
A/Senior Fisheries Manager, Coastal Systems (North Coast)
Marine Estate Management, Primary Industries NSW

Cc: fisheries.compliance@dpi.nsw.gov.au