

21 April 2020

Ryan Falkenmire
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Dear Ryan

**Re: Agency reference number: A-5976 DA number: DA 16-2020-81-1
Water Reticulation System and Sewerage System – Kings Hill**

DPI Fisheries, a division within the Department of Primary Industries, provide General Terms of Approval on the subject development application.

DPI 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, the Aquaculture and Aquatic Ecosystems Unit assesses activities under Part 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)*. In addition, DPI Fisheries is responsible for ensuring the sustainable management of commercial, quality recreational fishing and viable aquaculture within NSW.

DPI Fisheries’ review of the development application involved consideration of the following matters:

Fisheries Policy and Guidelines: waterway classification

The DPI Fisheries Policy and Guidelines (P&G) are taken into account when assessing developments or activities affecting **key fish habitats**. DPI Fisheries recommend proponents of development submit proposals that address the policy and guidelines. The document is available to view at www.dpi.nsw.gov.au/data/assets/pdf_file/0009/468927/Policy-and-guidelines-for-fish-habitat.pdf.

The P&G outline the types of areas considered as key fish habitats. **Key Fish Habitats** include waterways mapped as 3rd order and more significant, and tidal waterways extending to areas up to the Highest Astronomic Tide limit (generally considered to be 1m AHD).

The P&G also rank the sensitivity of **Key Fish Habitats**. This is done by classifying the **functionality** of the waterway as fish habitat. This assessment relates primarily to freshwater and estuarine watercourses and classifies these waterways using indicators such as:

- hydraulic geometry (stream shape and size);
- frequency of stream flows (perennial, intermittent or ephemeral);
- presence of aquatic habitat units (pools, riffles, vegetation, snags);

- presence of threatened or protected fish species and other native fish; and
- connection to adjacent habitats (e.g. floodplain wetlands).

Waterway **CLASS** can be used to assess the impact of certain activities on fish habitats in conjunction with the habitat sensitivity **TYPE**. The sensitivity type is used with the P&G statements to differentiate between permissible and prohibited activities or developments related to the importance of the **TYPE** of key fish habitat. Waterway CLASS and habitat sensitivity TYPE are described in the P&G.

The subject site

The subject site includes areas of key Fish Habitat that may be impacted by the proposal

Proposed works

Construction of a sewage and water reticulation pipeline system

Contingent upon adherence to the following conditions DPI Fisheries has no objection to the proposed works:

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*.
- Works are carried out in accordance with all applicable requirements of The Blue Book (Landcom 2004, *Managing Urban Stormwater: Soils and Construction* [4th Edition]).
- Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.
- Sections 219-220 of the *Fisheries Management Act 1994* require appropriate fish passage be provided when designing, modifying or constructing watercourse crossings (pipelines, floodgates, causeways or weirs) that are constructed or modified. Provision of fish passage needs to satisfy DPI Fisheries requirements for fish passage available in the document *Why Do Fish Need To Cross The Road? Fish Passage Requirements for Waterway Crossings*, available on the internet at:
www.fisheries.nsw.gov.au/_data/assets/pdf_file/5054/booklet-fish-passage.pdf

If you have any further enquiries please me on 4916 3931 or
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Yours sincerely

Scott Carter

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