

The General Manager
Tweed Shire Council
C/- Ashleigh McLean
amclean@tweed.nsw.gov.au
Via *Planning Portal* (CNR-80112)

Re: DPIRD Fisheries comments on the proposed construction of seniors housing comprising 69 independent living units and associated facilities at Lot 1 DP 786570, 87-89 Tweed coast road, Hastings Point, Tweed Shire Council LGA.

Attention: Ms Ashleigh Maclean

Dear Ms Maclean

I refer to your letter dated 30 May 2025 seeking comment on the subject proposal.

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, the Aquatic Assessment, Regulation and Engagement Unit 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 ensuring the sustainable management of commercial fishing and aquaculture, quality recreational fishing and the continuation of Aboriginal cultural fishing within NSW.

It is understood that the proposal involves the construction of 69 Independent Living Units (ILUs) distributed across four buildings— Building D (18 ILUs), Building E (24 ILUs), Building F (18 ILUs), and Building G (9 ILUs). The development will also include a range of communal facilities to support an active and connected senior community, including a bowling green and pavilion with amenities, a kitchen and covered seating area, an indoor swimming pool and spa with a viewing area, a perimeter walking trail, and landscaped gardens designed for visual amenity and passive recreation.

Approvals under Part 7 of the *Fisheries Management Act 1994*

It is understood that the proposed development claims to not be undertaking any on-ground works within tidal areas or mapped Coastal Wetlands. Consequently, it appears that the proposed works do not directly intersect with Key Fish Habitat. As such, it is unlikely that this development will trigger the provisions of the FM Act. Nonetheless, please consider the full scope of works in accordance with the trigger provisions for the FM Act listed in Table below. Given the high density of marine vegetation mapped at the site, particular attention should be given to s205 of the FM Act.

Sections	Description of action	Legislative trigger
198-202	Dredge (digging) and/or reclamation (filling) of land permanently or periodically inundated by water (including wetlands).	Digging and/or filling below the Highest Astronomical Tide (~1m AHD) in estuaries. Digging and/or filling within the high bed of 3 rd order and higher watercourses (based on 1:25,000 scale maps) and/or draining water from land for its reclamation. Digging and/or filling within Coastal Wetlands. Activities described in cl 226 <i>Fisheries Management (General) Regulation 2019</i>
205	Harming marine vegetation (seagrass, mangroves, and kelp)	Gather, cut, pull up, destroy, poison, dig up, remove, injure, or otherwise harm marine vegetation or any part of it. Activities described in cls 228-229 <i>Fisheries Management (General) Regulation 2019</i>
218-220	Obstructing free passage of fish, in waterways	Construction or alteration of a dam, floodgate, causeways, or weir or otherwise creation of an obstruction

Avoiding impacts on fisheries resources

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 P&G considers SEPP Coastal Wetlands as TYPE 1 Highly Sensitive Key Fish Habitat. Highly sensitive key fish habitats are afforded the highest level of protection.

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.

DPIRD Fisheries Priority Issues

The proposed development has the potential to result in indirect impacts to Key Fish Habitat, primarily due to the reduction in buffering capacity between development and sensitive ecosystems such as Coastal Wetlands and tidal waters, as well as increased urban water discharges. While formal environmental study requirements have already been issued, the following considerations are provided to support best-practice environmental outcomes and reduce the risk of long-term impacts on adjacent sensitive aquatic habitats.

To support the protection of fisheries values and maintain the ecological function of nearby aquatic habitats, it is recommended that the project team consider:

- **Preserving Natural Buffers:** Consider the establishment or maintenance of a vegetated buffer between the development footprint and sensitive receivers, such as the mapped waterway and Coastal Wetlands to the west of the site. DPIRD Fisheries typically recommends a minimum 100m buffer to Type 1 habitats, such as Coastal Wetlands, as outlined in Section 3.2.4.2 of the DPIRD Fisheries P&G.
- **Protecting Water Quality:** Stormwater and construction runoff have the potential to degrade nearby waterways. Water-sensitive urban design (WSUD) features — such as biofiltration systems, constructed wetlands, or vegetated swales — may help to mitigate impacts. Sediment and erosion controls during construction should also be carefully considered.
- **Managing Hydrological Connectivity:** Consider how the development could alter surface water or groundwater flows into adjacent wetlands and estuarine environments. Changes to natural hydrological regimes can have significant ecological consequences.
- **Understanding Vegetation Condition:** A clear understanding of the condition and distribution of nearby marine and wetland vegetation (e.g. shoot density, cover, health) can help inform appropriate impact minimisation and offset strategies.
- **Planning for Sea-Level Rise:** Consider future migration pathways for intertidal vegetation in response to sea level rise scenarios, and avoid development in areas mapped as vulnerable to inundation.
- **Avoiding Cultural and Social Impacts:** The design and siting of development should consider potential impacts on Aboriginal cultural heritage, as well as public and commercial fishing access.
- **Addressing Cumulative Impacts:** Urban subdivisions may contribute to broader cumulative impacts on water quality, sedimentation, and hydrology. The proposal should consider the potential for cumulative effects — particularly in relation to stormwater, acid sulfate soils, salinity, and land contamination.
- **Considering Marine Estate and Coastal Management Strategies:** Aligning project design with the goals and priorities of the relevant Marine Estate Management Strategy (MEMS) and Coastal Management Program may further reduce long-term risks to aquatic ecosystems.

If you have any queries, please contact me on 0499 689 583 or fletcher.mingramm@dpi.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "F Mingramm".

Fletcher Mingramm
Fisheries Manager, Aquatic Ecosystem Assessment
Regulatory Reform and Engagement | Fisheries and Forestry

USEFUL DEFINITIONS

The definitions given below are relevant to these requirements:

Dredging work means:

- (a) any work that involves excavating water land, or
- (b) any work that involves the removal of material from water land that is prescribed by the regulations as being dredging work to which this Division applies.

Farm Dam means the backed up waters of any dam, or impoundment, located on land that is not public water land.

Fish means any part of marine, estuarine, or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead). Fish include oysters and other aquatic molluscs, crustaceans, echinoderms and beach worms and other aquatic polychaetes.

Marine vegetation means any species of plant that at any time in its life must inhabit water (other than fresh water).

Reclamation Work means any work that involves:

- (a) using any material (such as sand, soil, silt, gravel, concrete, oyster shells, tyres, timber, or rocks) to fill in or reclaim water land, or
- (b) depositing any such material on water land for the purpose of constructing anything over water land (such as a bridge), or
- (c) draining water from water land for the purpose of its reclamation.

Stream Order (Strahler) When two first order streams come together, they form a second-order stream. When two second order streams come together, they form a third order stream. Streams of lower order joining a higher order stream do not change the order of the higher stream. Thus, if a first order stream joins a third order stream it remains a third order stream. It is not until a third order stream combines with another third order stream that it becomes a fourth order stream. DPIRD Fisheries, using maps at a scale of 1:25,000, consider 3rd order and above (i.e. 4th, 5th, 6th etc) waterways as Key Fish Habitats and works in these waterways in almost all instances trigger permit requirements under the *Fisheries Management Act 1994*.

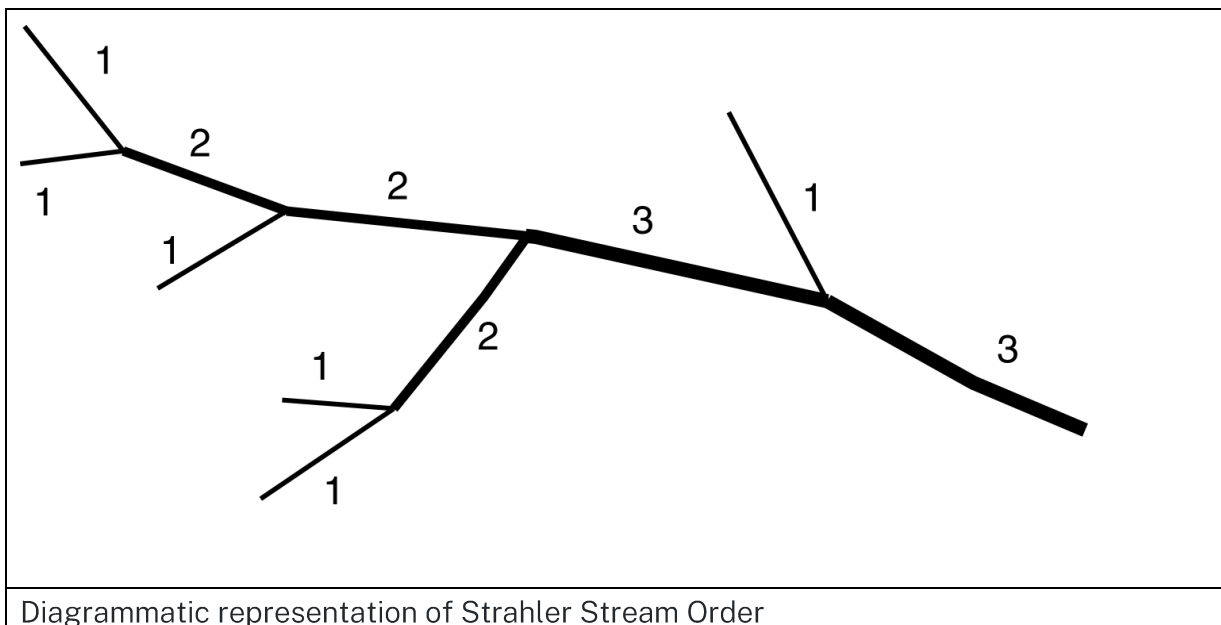
Water Land means land submerged by water:

- a) whether permanently or intermittently, or
- b) whether forming an artificial or natural body of water,

and includes wetlands and any other land prescribed by the regulations as water land to which this Division applies.

Waters refers to all waters including tidal waters to the Astronomical High Tide Level (AHTL) as well as flowing streams, irregularly flowing streams, gullies, rivers, lakes, coastal lagoons, wetlands, and other forms of natural or man-made water bodies on both private and public land.

Wetlands include marshes, mangroves, swamps, or other areas that form a shallow body of water when inundated intermittently or permanently with fresh, brackish, or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities



Further Information

DPIRD Fisheries' Policy and Guidelines series contains more detailed information on techniques and practices that satisfy DPIRD Fisheries' requirements to minimise impacts of developments on fish and fish habitat. The Guidelines are available at:

<http://www.dpi.nsw.gov.au/fisheries/habitat/protecting-habitats/toolkit>

Considering the information in these documents prior to developing and submitting your proposal is strongly recommended.

Another document "*Guidelines for the Assessment of Aquatic Ecology in EIA*" (Draft 1998) produced by the Department for Urban Affairs and Planning (now the Department of Planning and Environment) may prove useful in outlining appropriate procedures and methodologies for conducting aquatic surveys required for the preparation of an environmental assessment.