



## Department of Primary Industries

Our Ref: C19/559

20 November 2019

Mr Jeremy Gray  
Director, Northern Region  
Planning and Assessment  
Locked Bag 9022  
GRAFTON NSW 2460  
Via email: [jon.stone@planning.nsw.gov.au](mailto:jon.stone@planning.nsw.gov.au)

Attn: Mr Jon Stone

Dear Mr Stone

**Re: Re-exhibition of the Draft Master Plan for the Iron Gates Residential Release, Evans Head**

Thank you for your letter received on 13 November 2019 seeking DPI Fisheries' comments on the revised Draft Master Plan (DMP) for the Iron Gates Residential Release, Evans Head.

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is 'no net loss' of key fish habitats (KFH) upon which they depend. To achieve this, the Coastal Systems Unit assesses activities under Part 4 and 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 associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)* (DPI Fisheries P&G) ([http://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0005/634694/Policy-and-guidelines-for-fish-habitat.pdf](http://www.dpi.nsw.gov.au/data/assets/pdf_file/0005/634694/Policy-and-guidelines-for-fish-habitat.pdf)).

The proposal includes the subdivision of Lot 63 DP 831052 and Lots 276 and 277 DP 755624 into 175 residential lots, 4 public reserves, 3 residue lots, 1 drainage reserve<sup>1</sup> sewer pump station lot, upgrading of Iron Gates Drive and various subdivision works. The proposal is of particular interest to DPI Fisheries due to its proximity to KFH including the Evans River and Coastal Wetlands (previously SEPP 14 wetlands), and to known and expected habitat of the threatened fish species Oxleyan Pygmy Perch (OPP) ([www.dpi.nsw.gov.au/fishing/threatened-species/threatened-species-distributions-in-nsw](http://www.dpi.nsw.gov.au/fishing/threatened-species/threatened-species-distributions-in-nsw)).

DPI Fisheries' assessment of the proposal involved review of the DAC Planning Pty Ltd document titled *Revised Statement of Environmental Effects DA2015/0096* and dated 28/09/2019.

## Key Fish Habitat

DPI Fisheries notes that some areas of KFH will be encroached on or impacted upon by the proposed works including the installation of foreshore access points. It is also possible that other construction works will result in either encroachment into KFH or indirect impacts to KFH or threatened fish species habitat. It should be noted that direct or indirect impacts to mangroves and saltmarsh, which are located along the site's riverfront, would not be supported by DPI Fisheries, and that all foreshore access points should be minimised in number and located in suitable locations such as at existing informal access points or other areas that are devoid of marine vegetation.

To ensure that no areas containing KFH will be impacted upon as a result of the development, mitigation and management plans (i.e. sediment and erosion control plan, stormwater management plan, construction management plan etc.) should be prepared, approved and implemented when and where necessary.

## Buffers to Key Fish Habitat

The protection and rehabilitation of the vegetated riparian corridor between the Evans River and the development footprint is important for maintaining the shape, stability and ecological functions of the river. It should be noted that DPI Fisheries will generally not approve developments or activities that do not incorporate foreshore buffer zones of 50-100 m width adjacent to TYPE 1 marine vegetation and at least 50 m width adjacent to TYPE 2 marine vegetation. Where a buffer zone of at least 50 m is physically unachievable due to land availability constraints, the available buffer width must be maximised to achieve protection of TYPE 1 and 2 marine vegetation (i.e. from edge effects, changes to water quality, flood protection and to allow for climate change adaptation). The buffer zone should not be used for other asset protection purposes (e.g. as a bushfire or mosquito buffer). It should be noted that foreshore buffer zones are measured from the outer edge of tidal areas (e.g. highest astronomical tide level - generally 1.0 m AHD).

DPI Fisheries will require the design of riparian buffer zones to incorporate the maintenance of lateral connectivity between aquatic and riparian habitat. The installation of infrastructure, terraces, retaining walls, cycle ways, pathways and grass verges within the riparian buffer zone that interrupt lateral connectivity should be avoided or minimised.

## Threatened Species:

DPI Fisheries notes that no areas representing known or potential habitat for OPP will be directly impacted upon by the proposed development. However, as the proposed development is within close proximity to known and indicative habitat for OPP, DPI Fisheries encourages the proponent to consider whether any development works would involve indirect impacts to OPP habitat, and if so, ensure that such works include best management practice environmental impact mitigation measures, such as sediment and erosion control measures, to ensure that any foreseeable indirect impacts are avoided or minimised.

It should be noted that any development works that are likely to have an impact on threatened species listed under the FM Act, either directly or indirectly, will need to be preceded by an assessment of significance. Further information on threatened species impact assessments under the FM Act can be found here: [www.dpi.nsw.gov.au/fishing/species-protection/legislation-and-approvals/impact-assessment](http://www.dpi.nsw.gov.au/fishing/species-protection/legislation-and-approvals/impact-assessment).

### DPI Fisheries Approvals

The proposal may require approvals from DPI Fisheries consistent with the provisions of the FM Act. The table below outlines actions that trigger sections of the FM Act. The proponent should be made aware of these requirements.

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 <sup>rd</sup> order and higher watercourses (based on 1:25,000 scale maps) and/or draining water from land for its reclamation. Activities described in cl 263 <i>Fisheries Management (General) Regulation 2010</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 260-262 <i>Fisheries Management (General) Regulation 2010</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

DPI Fisheries permit application forms are available at:

[www.dpi.nsw.gov.au/fishing/habitat/protecting-habitats/toolkit](http://www.dpi.nsw.gov.au/fishing/habitat/protecting-habitats/toolkit)

If you have any queries, please contact me on 02 6626 1375 or [jonathan.yantsch@dpi.nsw.gov.au](mailto:jonathan.yantsch@dpi.nsw.gov.au).

Yours sincerely



Jonathan Yantsch

**Senior Fisheries Manager, Coastal Systems (North Coast)**

Authorised delegate of the Minister for Primary Industries