

Nathan Heath
A/Principal Planning Officer
Transport and Water Assessments | Infrastructure Assessments
Via Major Projects Portal (SSI-78107213)

Re: DPIRD Fisheries advice on EIS for Lord Howe Island Critical Infrastructure Project (SSI-78107213).

Dear Mr Heath

I refer to your email dated 13 October 2025 seeking advice on the Environmental Impact Statement for 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 Ecosystems Assessment 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.

The Aquatic Ecosystems Assessment Unit principally administers the assessment, consultation and approval of activities under Part 7 of the FM Act as outlined in the table below.

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>

Sections	Description of action	Legislative trigger
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

Please note that development declared as State Significant Infrastructure (SSI) under the *Environmental Planning and Assessment Act 1979* (EP&A Act) is exempt from the approval provisions of Part 7 of the *Fisheries Management Act 1994* (FM Act). Accordingly, activities that would ordinarily require approval under sections 199, 201, 205 or 219 of the FM Act — such as dredging, reclamation, obstruction of fish passage, or harm to marine vegetation — do not require separate permits when forming part of an SSI project.

Notwithstanding this exemption, the Aquatic Ecosystems Assessment Unit recommends that the proposal continue to be guided by the objects of the FM Act and the Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update) (DPIRD Fisheries P&G). The Department's minimum information requirements for environmental assessment are outlined in section 3.3 of the DPIRD Fisheries P&G and have been adequately addressed within the Environmental Impact Statement (EIS).

DPIRD Fisheries maintains a priority interest in this project given its location within the Lord Howe Island Marine Park. The Lord Howe Island Marine Park team will lead the review of the EIS and provide comments for this and any future stages of the proposal. Consequently, the Aquatic Ecosystems Assessment Unit does not require further direct consultation on this matter.

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

Yours sincerely



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