



Our Ref:

The General Manager  
Port Macquarie Hastings Council  
PO Box 84  
Cnr Lord and Burrawan St  
PORT MACQUARIE NSW 2444

3 June 2008

Attention: Mr Dan Croft

Dear Mr Croft

**Re: Part 3A Application (MP06-0212) Le Clos Verdun Rural Subdivision  
Sancrox Rd, Sancrox**

Thank you for your letter of 24 April 2008 requesting the NSW Department of Primary Industries (DPI) provide comment on the above mentioned development application.

The NSW Department of Primary Industries (NSW DPI) has been formed by the merger of NSW Fisheries, Department of Mineral Resources, State Forests and NSW Agriculture. Correspondence dated 30 May 2008 included submissions from three of the former agencies and indicated that this letter from the Aquatic Habitat Protection Unit (essentially the former NSW Fisheries), focusing on SEPP 62 Priority Oyster Aquaculture Areas would be forthcoming.

NSW DPI has both statutory and advisory responsibilities in relation to development and land use planning matters. The Department is an advocate of sustainable development and profitable and sustainable primary industries through appropriate access to and wise management of natural resources. NSW DPI through Forests NSW also has a commercial and operational interest in land use planning matters.

DPI's responsibility also covers managing fish (including aquatic invertebrates), and fish habitat throughout NSW. In addition, the department works to provide quality commercial and recreational fishing, and aquaculture opportunities.

The Aquatic Habitat Protection Unit within DPI has reviewed the development application and accompanying information in light of provisions in the *Fisheries Management Act*, 1994 and the policies that underpin them. The following matters are raised for Council's consideration whilst undertaking the assessment:

FISHERIES MANAGEMENT DIVISION  
AQUATIC HABITAT PROTECTION BRANCH

1243 Bruxner Highway  
WOLLONGBAR NSW 2477

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### **Aquaculture Issues**

NSW DPI is responsible for the promotion of a viable and environmentally sustainable aquaculture industry. The NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS) and enabling amendments to State Environmental Planning Policy 62 - Sustainable Aquaculture were gazetted in December 2006. The strategy covers all oyster growing estuaries in NSW. It identifies Priority Oyster Aquaculture Areas for oyster farming in estuaries and incorporates the agreed water quality needs of the oyster industry.

There are a large number of Priority Aquaculture Oyster Leases located in the Hastings River estuary (as described in OISAS). The nearest oyster leases are less than one kilometre downstream of the proposed rural residential re-subdivision 'Le Clos Verdun'. It is therefore essential that the development does not have a deleterious effect on the water quality of the estuary. The water quality guidelines for oyster aquaculture areas are detailed in OISAS. I have enclosed OISAS as Attachment 1.

NSW DPI (Aquaculture Unit) has reviewed the document *Hopkins Consultants 2008 Major Project Application Rural Residential Subdivision Major Project No. MP-07-0212, Le Clos Verdun Estate - Sancrox Road, Sancrox. Environmental Assessment. Report to Le Clos Pty Ltd*(the EA) and have the following comments:

- A reticulated wastewater management system is the preferred option for any new substantial rural subdivision in close proximity to Priority Oyster Aquaculture Area. However, where this option is not viable, the design and location of on-site disposal systems must be appropriate to ensure that OISAS water quality objectives are met;
- NSW DPI has no major objection to the recommendations made in the effluent disposal assessment described in Appendix J of the EA, however, it should be noted that neither a 'sand filter system' nor an 'amended soil mound type system' is a primary treatment system that can be utilised in place of an AWTs as suggested by the wording of paragraph 1 of page 12 of Appendix J. This appears to be the author's understanding in the statement "Standard AWTs or sand filter system with subsurface or surface irrigation or amended soil mound type systems are recommended..." Sand filter systems and amended soil mound type systems are disposal systems rather than treatment systems and so require pre-treatment in all cases;



- NSW DPI recommends that all primary treatment systems utilised within Lot Group 3, Lot Group 4 and Lot Group 5 include disinfection (either chemical or UV), and that a subsurface disposal system (not a surface irrigation system) be utilised. These measures are to further reduce the risk of this development leading to a reduction in sanitary water quality at downstream oyster harvest areas;
- All on-site treatment and disposal systems require ongoing maintenance. All householders should be informed about their responsibilities in this regard. NSW DPI recommends that these systems be classified as High Risk (refer to *NSW Department of Local Government 1998 On-site Sewage Management for Single Households*) and are subject to an annual compliance inspection;
- NSW DPI supports the maintenance of a riparian buffer zone at least 30 metres in width adjacent to Hastings River and Haydons Creek. Exotic vegetation should be replaced with native vegetation, and stock access should be excluded in this zone;
- The existing and proposed stormwater quality control and drainage plans are presented in Appendix D and discussed in Section 6.2 of the EA. This information provides very little detail regarding how the drainage system will ensure a neutral or beneficial impact on the quality of stormwater runoff and ensure the protection of the downstream oyster aquaculture industry. Given the importance of this information in assessing the downstream environmental impacts of the development, NSW DPI recommends that a detailed Stormwater Management Plan is provided by the proponent *before* the development is determined. The Plan should include a detailed assessment of the requirements of the drainage system, and design specifications of the system (for *all* development phases of the subdivision). The OISAS water quality objectives should be referenced in the Plan;
- NSW DPI will notify the Hastings River oyster farmers through the Hastings River Local Shellfish Program of the proposed development. The proponent should consider direct consultation with the Hastings River oyster industry to ensure that all relevant issues are identified and addressed. Please call Ms Katie Sachs, Policy Officer Aquaculture on 4916 3913 for further information;
- A comprehensive erosion and sediment control plan for the construction period should be prepared prior to the commencement of any works that disturb the ground. This plan should include a detailed site and soil assessment of the proposed development area. It should also reference the OISAS water quality objectives and detail how the proposed mitigation



measures will result in no significant impact on water quality in the Hastings River and adjoining drainage lines as a result of construction activities. This plan should include a water quality monitoring program, designed to demonstrate that water quality objectives are met both during and post construction. Current and historic water quality data collected under the NSW Shellfish Program may be obtained from the NSW Food Authority (Contact: Mr Anthony Zammit, Manager NSW Shellfish Program, NSW Food Authority).

### **Recreational Fishing Issues**

It is highlighted that the Hastings River has been gazetted as a Recreational Fishing Haven. Using money from recreational fishing fees commercial fishing effort was bought out of the River. Considering the use of stakeholder's funds to achieve this outcome DPI does not support construction of private facilities such as pontoons, jetties and boat ramps on Crown land adjacent to the development. Subject to the outcome of appropriate environmental assessment such as impact on riparian buffers for the development and consideration of potential issues on SEPP 62 Priority Oyster Aquaculture Areas DPI may consider suitability of the site for public facilities. It is unlikely though that DPI would be supportive of a facilitate that reduced the quality and habitat availability of an aquatic habitat buffer between the development and the Hastings River.

### **Buffers to Aquatic Habitats**

In previous correspondence dated 24 October 2006 DPI recommended provision of 50 metre buffer zones to the Hastings River. It is noted that this has not been achieved in the proposal. Adequate justification for the reduced buffer has not, however, been outlined. Justification by way of off-sets or appropriate mitigation measures would be considered particularly necessary due to the proximity of the proposal to a SEPP 62 area and climate change projections. Furthermore the proponent's investigations into using the foreshore buffer area to accommodate infrastructure such as a boat ramp, jetty and pontoon are very likely to necessitating provision of a road / track and carpark further reducing the buffer and its habitat value. The present proposal is inconsistent with DPI's recommendations for a buffer that satisfied the Department's criteria outlined below:



“Terrestrial areas adjoining freshwater, estuarine and coastal habitats should be carefully managed in order to minimise land-use impacts on these aquatic habitats. As a precautionary approach, foreshore buffer zones at least 50 m wide should be established and maintained, with their natural features and vegetation preserved. Such buffer zones may need to be fenced or marked by signs. The width of these buffer zones may need to be increased to 100 m or more where they are adjacent to ecologically sensitive areas.”

Inadequacy of a habitat buffer, and it appears use of Crown land to satisfy mosquito and bushfire buffers to the development is inappropriate and increases the risk of impacts on downstream oyster farmers and other waterway users.

### **Watercourse Crossings**

Final detailed plans of a fish friendly watercourse crossing of Haydons Creek should be consistent with the National Guidelines available at:

[http://www.fisheries.nsw.gov.au/\\_\\_data/assets/pdf\\_file/5054/booklet-fish-passage.pdf](http://www.fisheries.nsw.gov.au/__data/assets/pdf_file/5054/booklet-fish-passage.pdf)

An inappropriately designed crossing can increase the risk of deleterious impacts on both fish movement further upstream and the progress of tidal waters. Obstructing tidal waters particularly could lead to a proliferation of weed species and mosquito favourable habitats upstream of a poorly designed crossing. To manage this risk Aquatic Habitat Protection Unit with DPI would appreciate the opportunity to provide comment on the final plans.

If you have any further enquiries please contact me on (02) 6626 1397.

Yours sincerely

Patrick Dwyer  
**Fisheries Conservation Manager (North)**