

NEH0009



Department of  
Environment and  
Conservation (NSW)

Application for a

## Section 91 Licence

to harm or pick a threatened species, population or ecological community\*, or damage habitat under the *Threatened Species Conservation Act 1995*.

<p>1. Applicant's Name: (if additional persons require authorisation by this licence, please attach details of names and addresses)</p>	<p>Note: A team of consultancies will undertake / supervise seed collection. Team details are provided in Attachment 7.</p>	
<p>2. Organisation name and position of Applicant: (if applicable)</p>		
<p>3. Postal address:</p>		<p>4. Telephone: B.H.</p>
<p>5. Location of the action (including grid reference and local government area and delineated on a map).</p>	<p>"Hunter Economic Zone" (HEZ), Cessnock LGA. For location and map details refer to attached documentation (Attachment 1)</p>	
<p>6. Full description of the action and its purpose (eg. scientific research, environmental assessment, regeneration activities, development etc.).</p>	<p>In accordance with Cessnock Local Environmental Plan 1989, Cessnock Development Control Plan 2006, Part E - Specific Areas - E.6 HEZ and Draft HEZ Habitat Management Strategy (Revised and Updated), September 2005 (Refer to Attachment 2), the use of local native species in landscape and restoration works is encouraged to retain and further enhance</p>	

\* A threatened species, population or ecological community means a species, population or ecological community identified in Schedule 1, 1A or Schedule 2 of the *Threatened Species Conservation Act 1995*.

the existing character, habitat value and environmental resilience of the Hunter Economic Zone (HEZ).

It is envisaged that the use of provenance plant material will further complement proposed landscape and bushland restoration procedures such as topsoil stripping and reinstatement of existing site seed banks and bushland regeneration. Works are applicable to road corridors and individual lots within HEZ.

The establishment of a strategic programme to procure suitable volumes of local provenance material from HEZ and nearby areas is imperative to the success of this conservation initiative. By building the HEZ seed bank up over time, access to local provenance material will be possible for future landscape works

Collection of seed and propagules will occur only within land zoned 4(h). This is to ensure that local provenance material is used for all landscaping and restoration works. It is also to secure long term conservation outcomes, both for the Estate and the adjoining Werakata National Park.

The following actions will apply to the Threatened species and Endangered Ecological Communities (EEC) listed in No. 10 of this application and for the Protected flora species as listed within The Vegetation of the Hunter Economic Zone (Bell 2004) (Refer to Attachment 3 for Flora Species List containing Protected Species). These actions are:

- Seed collection of groundcover, shrub and / or tree species. Removal of seed from EEC site and direct seeded and / or propagated
- Collection of Cutting / Division Material of groundcover, shrub and/or tree species. Removal of material from EEC site and propagated.
- Collection of Brush Matting of groundcover, shrub and/or tree

	<p>species. Removal of material from EEC site and transported to suitable recipient site.</p> <ul style="list-style-type: none"> <li>• Translocation of Native Sod of groundcover, shrub and/or tree species. Removal of material from EEC site and translocation to approved restoration areas</li> </ul> <p>Seed collection protocols will be in accordance with best practice measures and the specifications contained in the Florabank Guidelines (Refer to Attachment 4).</p>				
<p>7. Details of the area to be affected by the action (<i>in hectares</i>).</p>	<p>There is approximately 977 ha of land within land zoned 4(h) within HEZ.</p> <p>Seed collection will only occur in areas nominated for development or in approved areas within HEZ. Where land is not owned by HEZ Nominees, seed collection will only occur where authorisation to access has been provided by the landowner.</p>				
<p>8. Duration and timing of the action (<i>including staging, if any</i>).</p>	<p>December 2007      December 2017</p>				
<p>9. Is the action to occur on land declared as critical habitat? (<i>please tick appropriate box</i>)</p>	<table border="0"> <tr> <td style="text-align: center;"><u>Yes</u></td> <td style="text-align: center;"><u>No</u></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	<u>Yes</u>	<u>No</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Yes</u>	<u>No</u>				
<input type="checkbox"/>	<input checked="" type="checkbox"/>				

\* Critical habitat means habitat declared as critical habitat under Part 3 of the *Threatened Species Conservation Act 1995*.

	<u>Scientific Name</u>	<u>Common Name (if known)</u>	<u>Conservation Status</u> <i>(ie. endangered or vulnerable)</i>	<u>Details of no. of individual animals, or proportion and type of plant material</u> <i>(eg. fertile branchlets for herbarium specimens or whole plants or plant parts)</i>
10. Threatened species, populations or ecological communities to be harmed or picked.	<i>Acacia bynoeana</i>		Endangered	The part of the plant that will be taken will be the fruit or the seed.  The no. of plants to be collected is difficult to determine due to the process being over a long time. It is only possible to give quantities of plants to be collected on land that has been approved this being Stage 2 Road and the Uniting Church Site. If required the quantity of plants can be supplied for these two proposals. It is noted that seed collection will only occur in areas nominated for development or in approved areas.
	<i>Callistemon linearifolius</i>	<i>Netted Bottlebrush</i>	Vulnerable	
	<i>Eucalyptus glaucina</i>	<i>Slaty Redgum</i>	Vulnerable	
	<i>Eucalyptus parramattensis subsp. decadens</i>	<i>Parramatta Redgum</i>	Vulnerable	
	<i>Grevillea parviflora subsp. parviflora</i>	<i>Small Flowered Grevillea</i>	Vulnerable	
	<i>Rutidosis heterogama</i>	<i>Heath Wrinklewort</i>	Vulnerable	
	Hunter Lowland Redgum forest		EEC	
	Kurri Sand Swamp Woodland		EEC	
	Lower Hunter Spotted Gum Ironbark Forest		EEC	

11. Species impact: <i>(please tick appropriate box)</i>	
a) For action proposed on land declared as critical habitat; or	An SIS is attached
b) For action proposed on land <u>not</u> declared as critical habitat.	✓ Items 12 to 25 have been addressed

*N.B: Provision of a species impact statement is a statutory requirement of a licence application, if the action is proposed on critical habitat.*

*The provision of information addressing items 12 to 17 is a statutory requirement of a licence application if the action proposed is not on land that is critical habitat. Information addressing any of the questions below must be attached to the application.*

<p>12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.</p>	<p>Three vegetation communities occur within the lands zoned 4(h) at HEZ. These are as follows:-</p> <ol style="list-style-type: none"> <li>1. Hunter Lowland Redgum Forest</li> <li>2. Kurri Sand Swamp Woodland</li> <li>3. Lower Hunter Spotted Gum Ironbark Forest</li> </ol> <p><i>A Draft Ecological Constraints Masterplan (ECMP) for the Hunter Economic Zone (HEZ), (Harper Somers O'Sullivan, February 2004) has been prepared for the site. This document is a comprehensive ecological database for the site. The Ecological Constraints Master Plan (ECMP) has detailed key features as part of the habitat surveys for the 4(h) zone land</i></p> <p>These key features include:</p> <ul style="list-style-type: none"> <li>• Keystone Mature Tree Species;</li> <li>• Hollow-bearing Trees;</li> <li>• Condition of habitat;</li> <li>• 'Grid Pattern' Habitat Investigations; and</li> <li>• Threatened Species Surveys.</li> </ul> <p>Refer Harper Somers O'Sullivan, <i>Draft Ecological Constraints Masterplan (ECMP) for the Hunter Economic Zone (HEZ)</i>, February 2004 for more information (Refer to Attachment 5).</p>
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13. Provide details of any known records of a threatened species in the same or similar known habitats in the locality (include reference sources).

Flora Species

*Acacia bynoeana*  
*Callistemon linearifolius*  
*Eucalyptus glaucina*  
*Eucalyptus parramattensis subsp. Decadens*  
*Grevillea parviflora subsp. Parviflora*  
*Rutidosis heterogama*

Fauna Species

Green-thighed Frog  
 Black-breasted Buzzard  
 Glossy Black-Cockatoo  
 Brown Treecreeper  
 Grey-crowned Babbler  
 Speckled Warbler  
 Swift Parrot  
 Turquoise Parrot  
 Masked Owl  
 Sooty Owl  
 Powerful Owl  
 Regent Honeyeater  
 Black-chinned Honeyeater  
 Koala  
 Yellow-bellied Glider  
 Squirrel Glider  
 Eastern Falsistrelle  
 Little Bentwing-bat  
 Eastern Bentwing-bat  
 Greater Broad-nosed Bat  
 Large-footed Myotis

Refer Harper Somers O'Sullivan, *Draft Ecological Constraints Masterplan (ECMP) for the Hunter Economic Zone (HEZ)*, February 2004 for more information (Refer to Attachment 5).

14. Provide details of any known or potential habitat for a threatened species on the land to be affected by the action (include reference sources).

Threatened species were found within the three EEC's within the site. This being;

1. Hunter Lowland Redgum Forest
2. Kurri Sand Swamp Woodland
3. Lower Hunter Spotted Gum Ironbark Forest

Threatened Flora Species

*Acacia bynoeana*

	<p><i>Callistemon linearifolius</i>  <i>Eucalyptus glaucina</i>  <i>Eucalyptus parramattensis</i> subsp.  <i>Decadens</i>  <i>Grevillea parviflora</i> subsp. <i>Parviflora</i>  <i>Rutidosis heterogama</i></p> <p><u>Threatened Fauna Species</u>  Green-thighed Frog  Black-breasted Buzzard  Glossy Black-Cockatoo  Brown Treecreeper  Grey-crowned Babbler  Speckled Warbler  Swift Parrot  Turquoise Parrot  Masked Owl  Sooty Owl  Powerful Owl  Regent Honeyeater  Black-chinned Honeyeater  Koala  Yellow-bellied Glider  Squirrel Glider  Eastern Falsistrelle  Little Bentwing-bat  Eastern Bentwing-bat  East-coast Freetail-bat  Greater Broad-nosed Bat  Large-footed Myotis</p> <p>Refer to Appendix A of the <i>Draft ECMP (HSO, 2004) for the Hunter Economic Zone (HEZ) (Attachment 5)</i>, for more information on the known or potential habitat for a threatened species on the land to be affected by the action.</p>
<p>15. Provide details of the amount of such habitat to be affected by the action proposed in relation to the known distribution of the species and its habitat in the locality.</p>	<p>This is difficult to determine at this stage due to the long process of the proposal.</p> <p>Collection of seed and propagules will occur only within land zoned 4(h). Where land is not owned by HEZ Nominees, seed collection will only occur where authorisation to access has been provided by the landowner.</p>
<p>16. Provide an assessment</p>	<p>Seed collection will occur at such levels to ensure that the reproductive cycle and</p>

<p>of the likely nature and intensity of the effect of the action on the lifecycle and habitat of the species.</p>	<p>habitat of the subject species is not likely to be affected. Adequate conservation areas have been provided for all species, therefore the actions proposed such as seed collection, reusing topsoil for regeneration purposes, propagation of cuttings etc will increase representation of these important ecological characteristics throughout the estate. In addition, collection will only occur within areas already zoned for development.</p>
<p>17. Provide details of possible measures to avoid or ameliorate the effect of the action.</p>	<p>The proposed procurement of propagative material from the above mentioned EEC is part of an integrated site wide approach to conservation and landscape management within HEZ. Seeding and planting of local provenance material together with effective monitoring and assessment programmes will contribute to retaining landscape character, ecological diversity and habitat quality within the proposed development.</p> <p>Seed collection protocols will be in accordance with the Florabank Guidelines (refer to Attachment 4)</p>

*N.B: The Director-General must determine whether the action proposed is likely to significantly affect threatened species, populations or ecological communities, or their habitats. To enable this assessment the Applicant is required to address items 18 to 25. Information addressing any of the questions below must be attached to the application.*

<p>18. In the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction.</p>	<p>The life cycle of the subject threatened species will not be disrupted such that the viability of populations is likely to be affected.</p> <p>Seed collection will occur at such levels to ensure that the reproductive cycle of EEC's and threatened species is not likely to be affected. Adequate conservation areas have been provided for all species and EEC's, therefore the actions proposed such as seed collection, reusing topsoil for regeneration purposes, propagation of</p>
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	cuttings etc will increase representation of these important ecological characteristics throughout the estate.
<p>19. In the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction.</p>	<p>No endangered populations are known from the locality.</p>
<p>20. In the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:</p> <p>(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or</p> <p>(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.</p>	<p>The proposed action will not:</p> <ul style="list-style-type: none"> <li>(i) have an adverse effect on the extent of the EEC's such that its local occurrence is likely to be placed at risk of extinction.</li> <li>(ii) adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.</li> </ul> <p>This being; The areas proposed for collection of EEC are likely to be developed as a result of the approval of industrial development by DECC (refer to Attachment 6 for Assumed Concurrence). Adequate representation is contained within the conservation areas of the HEZ Estate. Therefore collection of propagative material and reuse of topsoil will only add to the conservation outcomes for these EEC's across the site as opposed to total loss of the valuable genetic material contained in these plants.</p>
<p>21. In relation to the habitat of a threatened species, population or ecological community:</p>	<p>The industrial zoned lands from which collection is proposed to occur have been identified for development and approved for this purpose by the DECC under the Assumed Concurrence (March 2005).</p>

<p>(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and</p> <p>(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and</p> <p>(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality.</p>	<p>Collection is proposed to occur as part of the overall ecologically sustainable principles upon which development of the HEZ is based. Conservation-zoned areas and deferred areas have been identified in collaboration with DECC to ensure that no viable local populations of any of the proposed collection species will be affected by the development. Collection is proposed to occur in these industrial zoned areas to ensure that in addition to the Conservation Zones (and in accordance with the HEZ Habitat Management Strategy) supplementary habitat for EEC's and threatened flora and fauna will be provided in restored and landscaped areas. For this reason it is considered that the proposal will not impact upon the habitat of threatened species, populations or ecological communities.</p>
<p>22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).</p>	<p>The proposal will not have an adverse effect on critical habitat.</p>
<p>23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.</p>	<p>The only species or community for which a recovery plan exists is for Kurri Sand Swamp Woodland (Draft). The proposed activities will be in accordance with this plan.</p>
<p>24. Whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.</p>	<p>The proposed action is not recognised as a key threatening process.</p>

## Important information for the Applicant

### Processing times and fees

The *Threatened Species Conservation Act 1995* provides that the Director-General must make a decision on the licence application within 120 days where a species impact statement (SIS) has been received. No timeframes have been set for those applications which do not require a SIS. The Director-General will assess your application as soon as possible. You can assist this process by providing clear and concise information in your application.

Applicants may be charged a processing fee. The Director-General is required to advise prospective applicants of the maximum fee payable before the licence application is lodged. Therefore, prospective applicants should contact the DEC prior to submitting a licence application .

A \$30 licence application fee must accompany a licence application.

### Protected fauna and protected native plants\*

Licensing provisions for protected fauna and protected native plants are contained within the *National Parks and Wildlife Act 1974*. However, a Section 91 Licence may be extended to include protected fauna and protected native plants when these will be affected by the action.

If you are applying for a licence to cover both threatened and protected species please provide the information requested in Item 10 and a list of protected species and details of the number of individuals animals or proportion and type of plant material which are likely to be harmed or picked.

### Request for additional information

The Director-General may, after receiving the application, request additional information necessary for the determination of the licence application.

### Species impact statement

Where the application is not accompanied by a SIS, the Director-General may decide, following an initial assessment of your application, that the action proposed is likely to have a significant effect on threatened species, populations or ecological communities, or their habitats. In such cases, the *Threatened Species Conservation Act 1995* requires that the applicant submit a SIS. Following initial review of the application, the Director-General will advise the applicant of the need to prepare a SIS.

### Director-General's requirements for a SIS

Prior to the preparation of a SIS, a request for Director-General's requirements must be forwarded to the relevant DEC Office. The SIS must be prepared in accordance with section 109 and 110 of the TSC Act and must comply with any requirements notified by the Director-General of the Department of Environment and Conservation (NSW).

### Certificates

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\* Protected fauna means fauna of a species not named in Schedule 11 of the *National Parks and Wildlife Act 1974*.

Protected native plant means a native plant of a species named in Schedule 13 of the *National Parks and Wildlife Service 1974*.

If the Director-General decides, following an assessment of your application, that the proposed action is not likely to significantly affect threatened species, populations or ecological communities, or their habitats, a Section 91 Licence is not required and the Director-General must, as soon as practicable after making the determination, issue the applicant with a certificate to that effect.

*N.B: An action that is not required to be licensed under the Threatened Species Conservation Act 1995, may require licensing under the National Parks and Wildlife Act 1974, if it is likely to affect protected fauna or protected native plants.*

I confirm that the information contained in this application is correct. I hereby apply for a licence under the provisions of Section 91 of the *Threatened Species Conservation Act 1995*.

Applicant's name-  
Organisation-

Applicant's signature

Date

18/12/07

For more information or to lodge this form, contact the Environment Protection and Regulation Division in your nearest office:

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P: 02 9995 5000  
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PO Box 668  
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