

Section 95(2) Certificate

Threatened Species Conservation Act 1995



Office of
Environment
& Heritage

Your reference : DA/777/2008
Our reference : NEHU045, DOC13/81210, FIL13/10850
Contact : Robert Gibson, 4908 6851

Mr Aaron Mulcahy
Kleinfelder Australia Pty Ltd
PO Box 585
WARNERS BAY NSW 2282

Dear Mr Mulcahy

APPLICATION FOR LICENCE TO HARM THREATENED SPECIES, POPULATIONS, ECOLOGICAL COMMUNITIES OR TO DAMAGE THEIR HABITATS

I refer to your application for a licence to harm threatened species, populations or ecological communities, and/or damage their habitats under section 91 of the *Threatened Species Conservation Act 1995* (TSC Act) that was received by Office of Environment and Heritage (OEH) on 7 November 2013. The works proposed in the application pertained to the propagation of at least 1,500 plants of Small-flower Grevillea (*Grevillea parviflora* subsp. *parviflora*) from 316 stems to be destroyed as part of an approved development (DA/777/2008). The plants produced would be planted in a dedicated 'Offset Area and adjacent to a remnant population of Small-flower Grevillea adjacent to the approved development where they would be managed for conservation. These works were not all explicitly covered in the DA consent for this development granted on 25 January 2012.

I have considered the application and supporting information provided and I have determined that the proposed action is not likely to significantly affect threatened species, populations or ecological communities, or their habitats. Therefore, a licence is not required under the TSC Act for the proposed action.

A certificate to this effect has been issued (enclosed) under section 95 of the TSC Act subject to the conditions prescribed in the certificate.

You should note that it is an offence under section 133(4) of the *National Parks and Wildlife Act 1974* to contravene or fail to comply with any condition or restriction attached to the certificate.

If you have any further questions in relation to this matter, please contact Robert Gibson on 4908 6851.

Yours sincerely

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RICHARD BATH
Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

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Issued To:

Mr Aaron Mulcahy
Kleinfelder Australia Pty Ltd
PO Box 585
WARNERS BAY NSW 2282

Mr Denis Byron
Anglican Care
87 Toronto Road
BOORAGUL NSW 2284

Certificate no. : C0000147
Issue Date: 18 December 2013
Expiry date: 18 December 2018

I certify that the Proposed Action as described below is not likely to significantly affect threatened species, populations, ecological communities or their habitats and consequently the Proposed Action does not require a licence under the *Threatened Species Conservation Act 1995* (TSC Act).

An act that is the subject of this certificate is a defence against prosecution under sections 118A-118D of the *National Parks and Wildlife Act 1974*.

The proposed action:

- A. Comprises the collection of propagules (including ripe fruit, seeds, stem sections and rhizome sections) of Small-flower Grevillea (*Grevillea parviflora* subsp. *parviflora*) from plants from within Stage 1 of the Development Area for the Anglican Care Aged Care Facility at 1 Portland Drive, Cameron Park [on Lots 3613 & 3612 DP 1109029, Lot 5401 DP 1128817 and Lot 4 DP 1135728) in the Lake Macquarie City Council Local Government Area. The development is subject to DA/777/2008 for which consent was granted on 25 January 2012. Small-flower Grevillea is a 'Vulnerable' Species as listed in Schedule 2 of the TSC Act. The act of propagation, planting out and managing the species in the Offset Area and Conservation Areas were not explicitly covered in the consent conditions which prompted a section 91 licence application under the TSC Act;
- B. Would raise at least 1,500 new plants of Small-flower Grevillea to be planted out in the Offset Area and Conservation Area 2;
- C. Would manage the newly generated plants so that there was at least 85% survivability of those plants to enable Stage 2 of the Aged Care Facility Development to proceed; and
- D. Is planned to occur include management and monitoring of the remnant and propagation-produced Small-flower Grevillea plants over at least a five (5) year time frame.

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RELEVANT CONDITIONS

The holder of the certificate must ensure that:

1. The works must be carried out in accordance with the information provided in the section 91 licence application under the *Threatened Species Conservation Act 1995* signed on 7 November 2013 that was submitted to the Office of Environment and Heritage (OEH), unless otherwise stated in the following conditions;
2. Any proposed variations to the proposal that were not mentioned in the section 91 licence application must be approved, in writing, by OEH before any new works occur. Requests for variations must include details of where any new seed collection works are proposed, the species to be collected, and an assessment of any potential impacts of the proposed variation on threatened species and their habitat;
3. The collection of seed, storage and propagation, and planting must be in accordance with best practice measures, specifications and principles outlined in the following Nationally accepted guidelines, namely 'Guidelines for the Translocation of Threatened Plants in Australia' (Vallee *et al.* 2004);
4. All propagation collecting activities, associated planting activities, management of propagation-produced plants and their monitoring must be supervised by a suitably qualified and experienced bush regenerator and/or ecologist;
5. The proponent must provide a written annual report to OEH that must be received by this office each year on the anniversary of the granting of this certificate. This report must include details of how many propagation-produced plants were planted in each area, where the propagation-produced plants were planted (shown clearly on at least one map), the maximum live-stem height of at random selection of at least 20 plants in each area (with clear photos of each plant), reproductive status at the time of survey (sterile, in bud, in flower, in fruit, ripe fruit present, old dehiscent fruit present), presence of new plants (both clones (renets) and seed-grown plants (genets); and
6. Resulting seedlings and /or propagules produced for this consent must only be used in the Offset Area and 'Conservation Area 2' as per consent DA/777/2008, and as described in the section 91 licence application. If the proponent wishes to use plants or propagules resulting from this project on other areas then the proponent must request so from OEH, in writing, and provide details of location of proposed revegetation, species to be used, plant/ seed sowing densities numbers, and await support (in writing) from OEH, this is, to ensure that any adverse impacts from proposed revegetation and modification to threatened species habitat can be avoided.

This certificate covers the collection of propagules (i.e. fruit, seeds, stem sections and rhizome sections) of Small-flower Grevillea, and all reasonable works involved in their propagation, planting-out and subsequent management at the recipient sites as specified in the consent for DA/777/2008.

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RICHARD BATH
Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

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INFORMATION AND WARNINGS

- This certificate is issued under section 95(2) of the *Threatened Species Conservation Act 1995*.
- It is an offence against section 133(4) of the *National Parks and Wildlife Act 1974*, for the holder of this certificate to contravene or fail to comply with any condition or restriction of this certificate.
- The maximum penalty for a corporation is 200 penalty units and, in the case of a continuing offence, a further penalty of 20 penalty units for each day that the offence continues.
- The maximum penalty for an individual is 100 penalty units and, in the case of a continuing offence, a further penalty of 10 penalty units for each day that the offence continues.