



## Application for a Section 91 Licence

NSW Office of Environment and Heritage

Section 91 Licence under the Threatened Species Conservation Act 1995 to harm or pick a threatened species, population or ecological community\* or damage habitat.

1. Applicant's Name ^: (if additional persons require authorisation by this licence, please attach details of names and addresses)	Kristy McQueen (on behalf of Wyong Shire Council: Sam Budden, Stormwater Management Engineer)
2. Australian Business Number (ABN):	24924674371
3. Organisation name and position of applicant: (if applicable)	Coast Ecology Director (on behalf of Wyong Shire Council: Sam Budden, Stormwater Management Engineer)
4. Postal address :	PO Box 3005 Wamberal, NSW 2260
Telephone : B.H. A.H.	██████████
5. Location of the action (including grid reference and local government area and delineated on a map).	Wyong Shire Council LGA 391, 393 & 397 Lakedge Ave, Chittaway Point, NSW. -33.32902, 151.44178
6. Full description of the action and its purpose (e.g. environmental assessment, development, etc.)	<p>The existing Gross Pollution Trap (GPT) is a large wet sump which is difficult to maintain, with the water inside the GPT stagnant and turbid. The outlet comprises approximately 70 meters of open drain between the end of the GPT and the lake edge. The outlet is overgrown and there is risk of blockage (Plate 1). Since the lake is not tidal the water in the drains does not get flushed and remains stagnant and turbid. Council propose to upgrade the channel from the existing GPT to the lake.</p> <p>Council propose to:</p> <ul style="list-style-type: none"> <li>• construct a gravel access track approximately 3 metres wide along the southern edge of the existing channel,</li> <li>• lower the channel to 0.0 for the entire length to prevent oxidation of potential acid sulfate soils (PASS)</li> <li>• reduce the height of the existing GPT wall,</li> <li>• remove an existing rock groyne and</li> <li>• install a retaining rock wall along the channel.</li> </ul> <p>The removal of the existing GPT wall will reduce its capability as a GPT however the constructed wetland up</p>


	<p>stream of the GPT is designed to slow the flow of runoff and filter nutrients and sediments prior to it entering the lake.</p> <p>The proposed site compound and acid sulphate soil treatment areas are within previously cleared land on the adjoining Lot 393 (Figure 3).</p>  <p>Plate 1. Existing GPT</p>
<p>7. Details of the area to be affected by the action (in hectares).</p>	<p>The zone of possible disturbance includes an area 4 m wide along the existing channel (3 metre wide access track and 1 m buffer). Maintenance clearing works will also be conducted within the existing channel to remove vegetation. The approximate clearing proposed within the channel is 5 m from the southern edge. The zone of possible disturbance and the immediate surrounds are hereafter referred to as the Subject Site. The area of the Subject Site is approximately 0.54 ha and the area of impact is approximately 0.035 ha.</p>



Figure 3. Site Assessment: Vegetation Mapping  
Lakedge Ave, Chittaway Pt, Drainage Works  
WYONG SHIRE COUNCIL

Date: 15 February 2016 Job No: 151009

*Coast Ecology*

8. Duration and timing of the action (including staging, if any).	Works are expected to commence in March 2016 and be completed within 4 weeks of commencement.
9. Is the action to occur on land declared as critical habitat*? Yes/No	No

<p>10. Threatened species, populations or ecological communities to be harmed or picked. Scientific name Common name (if known) Conservation status (i.e. critically endangered, endangered or vulnerable) Details of no. of individual animals, or proportion and type of plant material (e.g. fertile branchlets for herbarium specimens or whole plants or plant parts)</p>	<p>Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions - Endangered Ecological Community The proposed works require the removal of 26 <i>Casuarina glauca</i> trees (Diameter at Breast Height (DBH) &gt;10cm) along with up to 60 <i>C. glauca</i> saplings (DBH &lt; 10cm) for the construction of a 3 metre wide access track (allowing for a 1 m wide buffer) which is to run alongside the existing channel.</p>
<p>11. Species impact: (please tick appropriate box) a) For action proposed on land declared as critical habitat; an SIS is attached No or b) For action proposed on land not declared as critical habitat. Items 12 to 25 have been addressed Yes</p>	
<p>12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.</p>	<p>The Swamp Oak forest consists of the following characteristics: <u>Upper Stratum</u>: Swamp Oak <i>Casuarina glauca</i>, Broad-leaved paperbark <i>Melaleuca quinquenervia</i> and occasional Rough barked-apple <i>Angophora floribunda</i> and Swamp Mahogany <i>Eucalyptus robusta</i> on the outskirts. <u>Middle Stratum</u>: <i>Phragmites australis</i> Native Reed <u>Lower Stratum</u>: The lower stratum is dominated by Buffalo Grass <i>Stenotaphrum secundatum</i>, with other species occurring only in sparse numbers such as: Rush <i>Juncus polyanthemus</i>, Slender knotweed <i>Persicaria decipiens</i>, Blue Flax Lily <i>Dianella caerulea</i>, Lantana <i>Lantana camara</i> and various other native and exotic grasses. <u>Habitat</u>: Swamp Oak forests typically are not a significant habitat for waterbirds however they do sometimes provide refuge and roosting opportunities. This community has been previously cleared of middle and lower stratum vegetation and is close to a public area. As such, refuge and roosting areas are limited. This vegetation community may provide a food resource for the threatened Glossy Black Cockatoo <i>Calyptorhynchus lathami</i> however this species has not been recorded at the Subject Site. The Subject Site has been highly modified through drainage alterations. It is a popular foreshore area with a recreation areas and picnic tables.</p>
<p>13. Provide details of any known records of a threatened species in the same or similar</p>	<p>Electronic Vegetation Mapping prepared on behalf of Wyong Shire Council by Bell (2008) mapped Estuarine Swamp Oak Forest as occurring within the Subject Site. In 2002, Bell mapped approximately 278.5 ha of this</p>



known habitats in the locality (include reference sources).	community within the Wyong LGA. This community is consistent with the SOFF EEC.
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).	N/A
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.	The Subject Site has approximately 0.2 ha of SOFF however of this, 26 <i>C. glauca</i> (DBH >10cm) (approximately 0.016 ha) requires clearing for the proposed works. Thus, the SOFF within the clearing area represents 0.0005% of SOFF within Wyong LGA.
16. Provide an assessment of the likely nature and intensity of the effect of the action on the lifecycle and habitat of the species.	The area is characterized by parklands, with turfed areas and planted species adjoining the Subject Site. The Subject Site is a constructed drainage channel with SOFF either side. While <i>C. glauca</i> is the characteristic species of this EEC, it is a commonly occurring tree capable of rapid recolonization. Replacement planting using species naturally occurring within this EEC has been recommended. This level of impact is unlikely to place the local occurrence of this EEC at risk of extinction.
17. Provide details of possible measures to avoid or ameliorate the effect of the action.	A Vegetation Management Plan has been recommended with replacement planting using species that naturally occur in this community and adjoining swamp communities.
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 24. Any additional information referred to in addressing these items must be attached to the application.	
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>A detailed Section 5A Assessment of Significance has been prepared for the following 13 threatened species which have either been previously recorded on the Subject Site or which are regarded as requiring consideration pursuant to Section 5A:</p> <p><i>Litoria aurea</i> Green and Golden Bell Frog  <i>Crinia tinnula</i> Wallum Froglet  <i>Botaurus poiciloptilus</i> Australasian Bittern  <i>Ixobrychus flavicollis</i> Black Bittern  <i>Calyptorhynchus lathami</i> Glossy Black-Cockatoo  <i>Xenus cinereus</i> Terek Sandpiper  <i>Calidris ferruginea</i> Curlew Sandpiper  <i>Limosa limosa</i> Black-tailed Godwit  <i>Mormopterus norfolkensis</i> Eastern Freetail-bat  <i>Miniopterus australis</i> Little Bentwing -bat  <i>Miniopterus schreibersii oceanensis</i> Eastern Bentwing-bat  <i>Maundia triglochinoidea</i>  <i>Melaleuca biconvexa</i> Biconvex Paperbark</p>

	<p>Following assessment of each of the above species, it was concluded that the proposed works are unlikely to have an adverse effect on the life cycle of these species such that a viable local population is likely to be placed at risk of extinction.</p> <p>As such, none of these threatened species are the subject of this Section 91 application.</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.	N/A
20. In the case of an endangered ecological community or critically endangered ecological community, whether the action proposed: (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 (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>Bell (2003) estimates that pre 1750 there was 518.90 ha and in 2003 there was 278.5 ha of SOFF within the Wyong LGA. The Subject Site has approximately 0.2 ha of SOFF however of this, 26 <i>C. glauca</i> (approximately 0.016 ha) requires clearing for the proposed works. Thus, the SOFF within the clearing area represents 0.0005% of SOFF within Wyong LGA. While <i>C. glauca</i> is the characteristic species of this EEC, it is a commonly occurring tree capable of rapid recolonization. This level of impact is unlikely to place the local occurrence of this EEC at risk of extinction. The proposed works are unlikely to result in increased weed invasion from edge effects as the Subject Site has already been impacted by edge effects from the planted lawn bordering the site and the constructed channel. The proposal is unlikely to substantially and adversely modify the composition of this EEC such that its local occurrence is likely to be placed at risk of extinction.</p>
21. In relation to the habitat of a threatened species, population or ecological community: (i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and (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 (iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species,	<p>The extent of the habitat to be removed for this EEC is 0.016ha. It will not result in further fragmentation as the area is already used as an artificial drainage channel. The vegetation is already disturbed due to its proximity to urban areas and the area of impact represents a small percent of their extent within the Study Area and LGA. The habitat of this EEC is not considered important to the long-term survival of this EEC.</p>

population or ecological community in the locality.	
22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).	N/A
23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.	No recovery or threat abatement plans have been prepared for this EEC.
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 (KTP).	This action contributes to the KTP of clearing of native vegetation. Following remediation of the site in accordance with a VMP however, the contribution will be negligible.

### 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 Office of Environment and Heritage (OEH) 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 as well as 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.

\* 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.

#### 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 OEH 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 OEH.

#### Disclosure of Personal Information in the Public Register of s91 Licences

The Public Register provides a list of licence applications and licences granted. A person about whom personal information is contained in a public register may request that the information is removed or not placed on the register as publicly available.

Copies of all applications and licences issued under section 91 and certificates issued under section 95 of the Act are available on the OEH website at

[www.environment.nsw.gov.au/threatenedspecies/S91TscRegisterByDate.htm](http://www.environment.nsw.gov.au/threatenedspecies/S91TscRegisterByDate.htm)  
or in hardcopy form from The Librarian, OEH, 59 Goulburn St, Sydney.



### Certificates

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

(Please print) Kristy McQueen

Applicant's Position & Organisation (if relevant)

(Please print) Director Coast Ecology. This application is made on behalf of Wyong Shire Council. Contact person Sam Budden, Stormwater Management Engineer.

Applicant's signature 

Date 08/12/2015

For more information or to lodge this form, contact the nearest branch of OEH's  
Conservation and Regulation Division:

Metropolitan Branch

F: 02 9895 6548

PO Box 644

Parramatta

NSW 2124

Email: [gs.complianceregulation@environment.nsw.gov.au](mailto:gs.complianceregulation@environment.nsw.gov.au)

North East Branch

P: 02 6640 2500

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Biodiversity Conservation Section

P: 02 6122 3100

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