

Application for a



Office of
Environment
& 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)	Martin Krogh – OEH Principal Scientist Major Assessments Additional persons include staff members of the Water, Wetlands and Coastal Science Section and other field staff working with OEH under the direction of the applicant, Martin Krogh.										
2. Australian Business Number (ABN):	N/A										
3. Organisation name and position of applicant ^: (if applicable)	Water, Wetlands and Coastal Science Section Science Division Office of Environment and Heritage (OEH) Department of Premier's Cabinet										
4. Postal address ^:	PO Box A290 Sydney South NSW 1232	Telephone: [REDACTED] [REDACTED]									
5. Location of the action (including grid reference and local government area and delineated on a map).	<p>The piezometers will be installed at three swamps within Newnes State Forest, Lithgow LGA. The coordinates for the three sites are listed below:</p> <table><tr><td>Unnamed Swamp (NPHS)</td><td>238852E,</td><td>6303773N</td></tr><tr><td>Sunnyside East Swamp (NPSS)</td><td>239214E,</td><td>6303701N</td></tr><tr><td>Carne West Swamp (NPSS)</td><td>239516E,</td><td>6303461N</td></tr></table> <p>See also, map attached.</p>		Unnamed Swamp (NPHS)	238852E,	6303773N	Sunnyside East Swamp (NPSS)	239214E,	6303701N	Carne West Swamp (NPSS)	239516E,	6303461N
Unnamed Swamp (NPHS)	238852E,	6303773N									
Sunnyside East Swamp (NPSS)	239214E,	6303701N									
Carne West Swamp (NPSS)	239516E,	6303461N									

* 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 personal details of all Section 91 licences will be displayed in the register of Section 91 licences required under Section 104 of the *Threatened Species Conservation Act 1995*. See notes.

<p>6. Full description of the action and its purpose (e.g. environmental assessment, development, etc.)</p>	<p>The action involves the installation of two piezometers within Newnes Plateau Shrub Swamp (NPSS) EEC and one within Newnes Plateau Hanging Swamp (NPHS). The NPSS's are known as Sunnyside East Swamp and Carne West Swamp, while the NPHS is referred to in this document as Unnamed Swamp. The Unamed Swamp is approximately 300 metres NW from Sunnyside East Swamp. The hole required for the installation of piezometers is approximately 20cm diameter, with a depth of up to approximately 1.5m (but is dependant on depth of soil peat layer). The devices will be checked every 4-6 weeks. Access will be by foot from the nearest vehicle track.</p> <p>The purpose of monitoring the groundwater in the NPSS EEC and NPHS is to:</p> <ul style="list-style-type: none"> • Provide independent data to verify mining impacts (or lack of) • Monitor water levels at the unnamed swamp to provide early warning of potential problems of recently approved Longwall mining operations • Inform OEH comments on expanding mining plans for Springvale & Angus Place • Inform future decisions on management and extraction plans for Springvale & Angus Place mines • Assist in understanding and conserving threatened and endangered EECs and species.
<p>7. Details of the area to be affected by the action (in hectares).</p>	<p>The area initially disturbed to achieve installation is approximately 1m² for each piezometer. The piezometers are approximately 20cm in diameter. Even when combined with the limited foot traffic in the immediate area during installation, the area of swamp EEC to be affected is very small.</p>
<p>8. Duration and timing of the action (including staging, if any).</p>	<p>It is proposed that the piezometer wells will be constructed in February 2014 and monitored every 4-6 weeks for a period of 12-18 months.</p>

<p>9. Is the action to occur on land declared as critical habitat*? (tick appropriate box)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>			
<p>10. Threatened species, populations or ecological communities to be harmed or picked.</p>	<p><u>Scientific name</u></p>	<p><u>Common name</u> (if known)</p> <p>Newnes Plateau Shrub Swamp Endangered Ecological Community</p>	<p><u>Conservation status</u> (i.e. critically endangered, endangered or vulnerable)</p> <p>Endangered</p>	<p><u>Details of no. of individual animals, or proportion and type of plant material</u> (e.g. fertile branchlets for herbarium specimens or whole plants or plant parts)</p> <p>The total area of impact of NPSS EEC will be less than 2m². This includes area impacted by insertion of piezometers.</p>
<p>11. Species impact: (please tick appropriate box)</p> <p>a) For action proposed on land declared as critical habitat; or</p>	<p>an SIS is attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>			
<p>* Critical habitat means habitat declared as critical habitat under Part 3 of the <i>Threatened Species Conservation Act 1995</i>.</p>				

b) For action proposed on land <u>not</u> declared as critical habitat.	Items 12 to 25 have been addressed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p><i>N.B: Provision of a species impact statement is a statutory requirement of a licence application if the action is proposed on critical habitat.</i></p> <p><i>The provision of information addressing items 12 to 17 is a statutory requirement of a licence application if the action proposed is <u>not</u> on land that is critical habitat. Information addressing any of the questions below must be attached to the application.</i></p>	
12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.	<p>The vegetation on the sites of the proposed installation of piezometers consists of two types:</p> <p>NPSS – Newnes Plateau Shrub Swamp; and NPHS – Newnes Plateau Hanging Swamp.</p> <p>The NPSS is listed under the TSC Act 1995 as an Endangered Ecological Community and is also listed under the EPBC Act 1995 as part of the Temperate Highland Peat Swamps on Sandstone TEC, along with NPHS.</p> <p>The NPSS community is dominated by shrubs such as <i>Baeckea linifolia</i>, <i>Grevillea acanthifolia</i> subsp. <i>acanthifolia</i>, <i>Epacris paludosa</i> and <i>Leptospermum</i> species. A cover of sedges is also characteristic in this community and the species varies inversely with shrub cover. Common sedges include <i>Baloskion austral</i>, <i>Empodisma minus</i>, <i>Lepryodia scariosa</i> and <i>Lepidosperma limicola</i>.</p> <p>The NPHS community is dependent on the seepage of groundwater from sandstone strata. This community consists of mid tall to tall shrubland dominated by <i>Leptospermum</i> species and <i>Gleichenia</i> sp.</p>
13. Provide details of any known records of a threatened species in the same or similar known habitats in the locality (include reference sources).	<p>While there are no records of threatened species within the locations where the piezometers will be installed, a number of Threatened species have been recorded in similar habitats within the region. These include:</p> <p>Boronia deanei Derwentia blakelyi Persoonia hindii Blue Mountains Water Skink (<i>Eulamprus leuraensis</i>) Giant Dragonfly (<i>Petalura gigantean</i>)</p> <p>(source: NSW Wildlife Atlas, January 2014)</p>
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).	<p>Blue Mountains Water Skink and Giant Dragonfly are both known to occur within Carne West Swamp, with records approximately 300m and 600m respectively, from the site where the piezometer is proposed. Persoonia hindii is also known to occur approximately 400m from the Carne West Swamp.</p> <p>No other threatened species are known to occur within the three swamps to be affected.</p> <p>(source: NSW Wildlife Atlas, January 2014)</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>The area of EEC or threatened species habitat to be disturbed during installation is <1m² at each site. Access to sites will be via vehicle using existing tracks, then on foot to each site. Inspections and data downloading will occur every 4-6 weeks.</p>
<p>16. Provide an assessment of the likely nature and intensity of the effect of the action on the lifecycle and habitat of the species.</p>	<p>The impact of the action is considered to be of low intensity and is unlikely to impact on the lifecycle or habitat of any threatened populations or ecological communities.</p>
<p>17. Provide details of possible measures to avoid or ameliorate the effect of the action.</p>	<p>A botanist (or person with qualified botanical/ecological knowledge and experience) will assist in an initial field assessment to identify threatened flora or fauna species or habitat at piezometer sites. If such species or habitat is found installation sites will be moved to avoid harmful impacts.</p>
<p><i>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.</i></p>	
<p>18. In the case of a threatened species, whether the action</p>	<p>Currently there are no threatened species records at the exact piezometer sites; however a final assessment will be conducted by a botanist (or person with qualified botanical expertise) to ensure no</p>

<p>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>threatened flora or fauna habitat is to be impacted. The final location of the piezometers may be subject to change pending such assessment. Thus no threatened species are likely to be adversely effected.</p>
<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 population is present on the subject site.</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</p>	<p>(i) The proposed action will not have an adverse effect on the extent of the NPSS EEC as the area to be impacted is <2m².</p> <p>(ii) Due to the very small impact the proposed action is not likely to substantially and adversely modify the composition of the NPSS EEC.</p>

<p>ecological community such that its local occurrence is likely to be placed at risk of extinction.</p>	
<p>21. In relation to the habitat of a threatened species, population or ecological community:</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>(i) The proposed action will result in a very small area of disturbance to existing NPSS EEC habitat as piezometers are no more than 20cm in diameter.</p> <p>(ii) The area of habitat is not likely to become fragmented or isolated from other areas of habitat as a result of the proposed action.</p> <p>(iii) The collection of data from the piezometers is important in understanding the impacts of Longwall mining nearby and underneath the swamps and will guide the future management of this EEC. The area disturbed will be very small and will not contribute to a decline in quality of the EEC.</p>
<p>22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).</p>	<p>No critical habitat is present on the subject site.</p>

23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.	<p>Although there is currently no recovery plan for NPSS EEC, the EPBC listed "Temperate Highland Peat Swamps on Sandstone" includes a series of actions including an action in the Blue Mountains Environmental Plan 2005 (Blue Mountains City Council) to identify seasonal and long term fluctuations in the water flows and water quality regimes within the swamps.</p> <p>The proposed action will provide further understanding of groundwater flows within the NPSS EEC and NPHS (part of the EPBC listing) which in turn will guide future recommendations for management and conservation efforts.</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.	The proposed action is not a key threatening process and is unlikely to result in the operation of, or increase the impact of, a key threatening process.

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*

* 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*.

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.

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/S91TSCaRegisterByDate.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) Martin Krogh

Applicant's Position &
Organisation (if relevant)
(Please print) Principal Scientist Major Assessments

Applicant's signature

Date

4/2/14

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

Metropolitan Branch

P: 02 9995 6802
F: 02 9995 6900
PO Box 668
Parramatta
NSW 2124

North East Branch

P: 02 6640 2500
F: 02 6642 7743
PO Box 498
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NSW 2460

North East Branch

P: 02 4908 6800
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PO Box 488G,
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NSW 2300

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P: 02 6883 5330
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Biodiversity Conservation Section

P: 02 6122 3100
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PO Box 622 Queanbeyan
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Office of Environment and Heritage (NSW)

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