Section 91 Licence

Application 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)*	Megan Crowhurst	
2. Australian Business Number (ABN):	ABN 33 051 775 556	
3. Organisation name and position of applicant ^: *(if applicable)*	Telstra Corporation Limited Megan Crowhurst – Land Access Coordinator	
4. Postal address ^:	104 Lawson Street Hamilton NSW 2303	Telephone ^: [redacted]
5. Location of the action *(including grid reference and local government area and delineated on a map).*	The proposed installation works for project 2SLK-20 include: • a section of approximately 1.7 kilometres of new build (boring, trenching and pit construction) in an existing easement between Windsor Street and Lakes Way • a section of approximately 2.7 kilometres of new build (boring, trenching and pit construction) along the eastern side of The Lakes Way • approximately 250 metres of new build along an existing power easement from The Lakes Way to Paradise Drive and • approximately 650 metres of new build along Macwood Road and Paradise Drive.	

* 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.

	These sites are located within the Mid-Coast Council Local Government Area (LGA) and will collectively be referred to as the 'Study Area'.
6. Full description of the action and its purpose *(e.g. environmental assessment, development, etc.)*	Telstra Corporation Ltd (Telstra) is proposing to install telecommunications and infrastructure as part of the National Broadband Network (NBN) within Fibre Service Area Module (SAM) 2SLK-20 at Smiths Lake, NSW. The Study Area (see **Figure 1**) refers to those parts of the 2SLK-20 route for which trenching, directional boring and new build are expected to take place. The trenching will be up to 600 millimetres in depth and approximately 450 millimetres wide and boring will be approximately 600 millimetres in depth and approximately 150 millimetres in diameter. The entrance and exit trenches excavated for boring will be approximately 1 metre by 1 metre and approximately 600 millimetres in depth. Proposed electrical and communication pits and nodes will involve excavation to a depth of up to 600 millimetres in an area less than 2 by 2 metres. A total of 25 new pits are proposed to be installed. This Section 91 application was deemed as necessary due to potential minor direct and indirect impacts to Swamp Sclerophyll Forest EEC. Swamp Sclerophyll Forest EEC was identified at three locations either within, or immediately adjacent to the Study Area and hence could be impacted by the proposed works. In this case, the following potential impacts have been considered: [redacted]
7. Details of the area to be affected by the action *(in hectares)*.	The proposed installation works will require the creation and installation of 25 new pits along the entire route which in total will disturb a very small area of the EEC (boring under approximately 200m of EEC and construction of one pit in the EEC of an area of approximately 0.0001914 ha) within the Windsor Street/Lakes Way easement, and may impact root zones of overhanging EEC vegetation sporadically along the road reserve in the Lakes Way.

8. Duration and timing of the action *(including staging, if any).*	The proposed works will take approximately 1-3 months to complete (depending on how much rock is encountered) and will occur sometime within the next 24 months.
9. Is the action to occur on land declared as critical habitat*? *(tick appropriate box)*	☐ Yes ☒ No

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 number of individual animals, or proportion and type of plant material *(e.g. fertile branchlets for herbarium specimens or whole plants or plant parts)*
Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions EEC (TSC Act)	Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions EEC (TSC Act)	EEC	A small area of regenerating Swamp Sclerophyll Forest is present surrounding a small dam/water body within the easement, along with a remnant patch of this EEC outside of the easement. Two small sections of Swamp Sclerophyll Forest are located adjacent to the road reserve along two separate drainage lines (**Figure 1**). The EEC within the easement is likely to be subject to boring impact to approximately 200m and pit creation of 0.00001914 ha. The EEC adjacent to the road reserve may be subject to root disturbance sporadically along the route, however only where vegetation overhangs the existing road reserve and only in small areas.

11. Species impact: *(please tick appropriate box)* a) For action proposed on land declared as critical habtat or b) For action proposed on land not declared as critical habitat.	a species impact statement (SIS) is attached ☐ Yes ☒ No Items 12 to 25 have been addressed ☒ Yes ☐ No

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.

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

12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.	A small area of regenerating Swamp Sclerophyll Forest EEC occurs around a water body within the easement, along with a remnant patch of this EEC outside of the easement. Characteristic species include broad-leaved paperbark (*Melaleuca quinquenervia*), swamp mahogany (*Eucalyptus robusta*), cabbage tree palm (*Livistona australis*), cheese tree (*Glochidion ferdinandi*), tall saw-sedge (*Gahnia clarkei*) and blady grass (*Imperata cylindrica*). The remainder of the easement is devoid of canopy trees and is dominated by a mixture of native and exotic species. Native species include large-leaf hop-bush (*Dodonaea triquetra*), common bracken (*Pteridium esculentum*), wallum heath (*Epacris pulchella*), spiny-headed mat-rush (*Lomandra longifolia*), blady grass (*Imperata cylindrica*), blue flax-lily (*Dianella caerulea*), kangaroo grass (*Themeda triandra*) and bordered panic (*Entolasia marginata*). Exotic species are prolific and include lantana (*Lantana camara*), whisky grass (*Andropogon virginicus*), narrow-leaved cotton bush (*Gomphocarpus fruticosus*) and *Senna pendula*. The remaining non-threatened remnant forest vegetation adjacent to the easement is dominated by the canopy species small-fruited grey gum (*Eucalyptus propinqua*), smooth-barked apple (*Angophora costata*), tallowwood (*Eucalyptus microcorys*), with flooded gum (*Eucalyptus grandis*) dominating the gullies. Two small sections of Swamp Sclerophyll Forest EEC dominated by leaved paperbark (*Melaleuca quinquenervia*) are located adjacent to the road reserve along two separate drainage lines (**Figure 1**). The road reserve is highly disturbed and regularly managed. Exotic species are common and include whisky grass (*Andropogon virginicus*), Parramatta grass (*Sporobolus africanus*) and Coolatai grass (*Hyparrhenia hirta*). The remaining non-threatened remnant forest vegetation adjacent to the road reserve is dominated the canopy species smooth-barked apple (*Angophora costata*). No habitat trees, threatened or migratory species, endangered populations, TECs nor habitat for *Lindernia alsinoides* were identified in this area.
13. Provide details of any known records of a threatened species in the same or similar known habitats in the locality *(include reference sources).*	See **Attachment 1** for threatened species, endangered populations and TECs listed under the TSC Act identified within 10 km of the Study Area from BioNet (2017). See **Attachment 2** for threatened species, endangered populations and TECs (listed under the EPBC Act) with potential or known to occur within 10 km of the Study Area from the Department of the Environment and Energy Protected Matters Search Tool (DoEE 2017). Database searches identified numerous threatened and migratory species, endangered populations and TECs listed under the TSC Act and/or EPBC Act with potential or known to occur within 10 km of the Study Area.

	The threatened flora species *Lindernia alsinoides* was subject of anecdotal records in the locality of the Study Area, however field surveys did not identity any records of this species. In addition, suitable habitat for *Lindernia alsinoides* was not identified within the Study Area due to the modified and disturbed nature of the existing environment.
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).*	Up to 200m of boring and pit creation of 0.00001914 ha will occur within the groundcover vegetation associated with Swamp Sclerophyll Forest EEC within the easement. Pit creation and installation is not anticipated to directly impact Swamp Sclerophyll Forest EEC adjoining (but not within) the road reserve, however there may be minor root disturbance in areas where vegetation from this EEC overhangs the road reserve. No hollow-bearing trees, threatened or migratory species, nests or aquatic habitats were identified in the Study Area. The threatened flora species *Lindernia alsinoides* was subject of anecdotal records in the locality of the Study Area, however field surveys did not identity any records of this species. In addition, suitable habitat for *Lindernia alsinoides* was not identified within the Study Area due to the modified and disturbed nature of the existing environment. No other threatened flora or fauna species, endangered populations or TECs were considered to have potential to occur or be impacted by the proposed works.
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.	Up to 200m of boring and pit creation of 0.00001914 ha will occur in groundcover vegetation associated with Swamp Sclerophyll Forest EEC within the easement. Pit creation and installation is not anticipated to directly impact Swamp Sclerophyll Forest EEC adjoining (but not within) the road reserve, however there may be minor root disturbance in areas where vegetation from this EEC overhangs the road reserve. Due to the small scale nature and extent of the project, the amount of habitat impact is negligible compared to the extent of similar and higher quality habitat for this EEC adjoining both the easement and the road reserve.
16. Provide an assessment of the likely nature and intensity of the effect of the action on the lifecycle and habitat of the species.	Due to the small-scale extent of the project, groundcover clearance for pit creation is unlikely to have an adverse effect on the life cycle of species within this EEC such that a viable local example of the community is likely to be placed at risk of extinction. Disturbance to EEC occurring within the Study Area will be limited to a regenerating variant within the easement and minor indirect impacts to adjoining EEC for the road reserve. Neither of these impacts is expected to cause tree death.

17. Provide details of possible measures to avoid or ameliorate the effect of the action.	The following recommendations are provided to assist with the progress of the proposed works: • trench areas should be back-filled utilising the excavated soils to ensure the seedbank is retained • vegetation clearance limited to minimum required area and confined to the existing disturbed easements and road reserves • where possible disturbance to native vegetation should be minimised. The removal of native trees should be avoided • ensure that machinery is free of weed material before entering and exiting the study areas to avoid the introduction or spread of weed species • for trenching, backfill with excavated material as soil is likely to contain stored native seeds enabling re-establishment following the proposed works • where possible, trenching within the drip line of trees should be avoided • exotic species found to be noxious within Great Lakes LGA, including blackberry (*Rubus fruticosus* species aggregate), lantana (*Lantana camara*), Coolatai grass (*Hyparrhenia hirta*), fine-bristled burr grass (*Cenchrus* spp.) and fireweed (*Senecio madagascariensis*) should be removed and disposed of at an appropriate waste facility • erosion and sediment controls should be implemented around the works area and any associated stockpiles to avoid impacts to waterways via stormwater runoff.

N.B: The Chief Executive 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.	No threatened species are expected to be adversely impacted as a result of the proposed works.

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.	No endangered populations are expected to be adversely impacted as a result of the proposed works.
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.	The habitats provided for Swamp Sclerophyll Forest EEC are of a low quality due to historical and ongoing disturbance. The EEC (as it occurs within the Study Area) is of a low quality as it occurs within an existing managed easement and road reserve disturbed by regular management, existing infrastructure, presence of exotic species and proximity to main roads. The small scale nature and extent of the project is not expected to have an adverse effect on this extent of the EEC to the extent that its local occurrence is likely to be placed at risk of extinction. However, it is acknowledged that the proposed actions are likely to have very minor impacts such as removing diagnostic groundcover of the TECs and/or introducing or spreading weeds. However, these impacts are considered to be minor and are unlikely to substantially and adversely modify the composition of the EEC such that its local occurrence is placed at risk of extinction.
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	The project is likely to impact up to 200m of EEC through boring and approximately 0.00001914 ha of EEC due to pit creation in the easement. Within the road reserve, impacts will be minor and indirect, resulting from potential root disturbance to overhanging vegetation only. It is predicted that this will result in negligible changes to the floristic composition or extent of this EEC. Fragmentation or isolation from other areas of habitat is not anticipated for the EEC given the small-scale nature of the proposed works. The project is expected to be low-impact and confined to highly degraded patches of EEC. Vegetation within existing managed easements/road reserves are already heavily degraded and disturbed and small-scale groundcover clearance and potential impact to the root zone of a small amount of habitat is not considered to be important to the long-term survival of this EEC.

(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.	
22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).	The Study Area does not support any critical habitat for this EEC or any other threatened species or populations.
23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.	There is not currently a recovery plan or threat abatement plan which relates to this EEC. The proposed actions are not in contravention of the Saving Our Species program 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.	The proposed works will have a minor contribution to the following key threatening processes (KTPs): • Clearing of Native Vegetation.

Important information for the applicant

Processing times and fees

The *Threatened Species Conservation Act 1995* provides that the Chief Executive 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 Chief Executive 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 Chief Executive 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 Chief Executive 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 species impact statement (SIS), the Chief Executive 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 Chief Executive will advise the applicant of the need to prepare a SIS.

Chief Executive's requirements for a species impact statement

Prior to the preparation of a SIS, a request for Chief Executive'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 Chief Executive of Office of Environment and Heritage (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 Public register of section 91 applications, licences and certificates or in hardcopy form from The Librarian, Office of Environment and Heritage, 59 Goulburn St, Sydney.

Certificates

If the Chief Executive 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 Chief Executive 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.

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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.*

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.*

MEGAN CROWHURST

Applicant's name
(Please print)

LAND ACCESS COORDINATOR (TELSTRA)

Applicant's position and organisation *(if relevant)*
(Please print)

Applicant's signature

15th MAY 2017

Date

For more information or to lodge this form, contact the nearest branch of OEH's Regional Operations Group:

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