

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)	Imogen Boas	
2. Australian Business Number (ABN):		
3. Organisation name and position of applicant ^: (if applicable)	Owner	
4. Postal address ^:	██████████, Manly NSW 2095	Telephone : B.H. ██████████ A.H. ██████████
5. Location of the action (including grid reference and local government area and delineated on a map).	██████████, Manly NSW 2095 Manly LGA ████████████████████ See Attached Maps and photos	

* 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. <i>environmental assessment, development, etc.</i>)</p>	<p>Removal of scaffolding from Little Penguin Critical Habitat B as requested by Manly Council. The Scaffolding and support props cover the cliff face and land on feet at several places on the lawn and garden as shown in the attached photos. The scaffolding is also over the rear of the boat shed.</p> <p>Removal will be completed within one day and will be carried out only in daylight hours.</p> <p>Removal of the scaffolding from the property will be via the road and not the harbour.</p>
<p>7. Details of the area to be affected by the action (in hectares).</p>	<p>The area affected is at the foreshore at rear of the property on and below the cliff and is within Critical Habitat B. The area is lawn and garden and is shown in the attached photos.</p> <p>The foot of each support foot is approximately 0.25m²</p> <p>There are approximately 20 support feet.</p>
<p>8. Duration and timing of the action (including staging, if any).</p>	<p>The activity is estimated to take no more than one day and will be done between – 10.00am and 4.00pm</p> <p>The removal will be within days of approval.</p>
<p>9. Is the action to occur on land declared as critical habitat*? (tick appropriate box)</p>	<p>Yes Critical Habitat B</p>
<p>* Critical habitat means habitat declared as critical habitat under Part 3 of the <i>Threatened Species Conservation Act 1995</i>.</p>	

10. Threatened species, populations or ecological communities to be harmed or picked.	<u>Scientific name</u> Eudyptula Minor	<u>Common name</u> (if known) Little Penguin Population and Manly	<u>Conservation status</u> (i.e. critically endangered, endangered or vulnerable) Endangered Population	<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) There is a penguin nest under the floor of the boatshed within 5 metres of the scaffolding. Evidence of the nest has been determined by an ecologist familiar with this species and is a large amount of Penguin tracks Every night and a strong indicative smell. Leading to the conclusion that penguins are likely to be using a nest under the floor boards. Removal of the floor boards to confirm the nest is considered to potentially be harmful and is not considered necessary. It is likely that there are eggs but not yet hatchlings.
11. Species impact: (please tick appropriate box) a) For action proposed on land declared as critical habtat; or b) For action proposed on land <u>not</u> declared as critical habitat.	Advise from Stuart Delphin of Manly Council has been received on the 2 nd November that OEH has determined that; in accordance with s111 [4] of the Threatened Species Conservation Act 1995 – a Species Impact Statement is not required for these works. an SIS is attached <input type="checkbox"/> No Items 12 to 25 have been addressed <input type="checkbox"/> Yes			
<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.	The scaffolding support feet are sitting on the garden, lawn and paving and is over the top of a wooden boat shed. The boat shed is suitable nesting penguin nesting and roosting habitat. The lawn and garden are not nesting habitat but are roosting/loitering habitat.			

<p>13. Provide details of any known records of a threatened species in the same or similar known habitats in the locality (<i>include reference sources</i>).</p>	<p>The nearby habitat and nesting penguins in the locality are shown on the attached maps.</p> <p>According to OEH records there are nests being used at 19A Addison Road but no nests at 19,17,13,11, 9 or 7 Addison Road. It appears there were nests at 19 and 13 Addison Road last year.</p> <p>The 2014 Monitoring report for the Manly Little Penguin Recovery Program 2013/14 stated that there were 70 known breeding pairs present within the Critical Habitat Areas A and B combined. The 2014/15 is still in draft form and does not include any detail on this section of foreshore habitat.</p> <p>The site is also within the known distribution of the endangered population of the Long-Nosed bandicoot at North head. This species is not considered likely to be impacted by the proposed activity.</p>
<p>14. Provide details of any known or potential habitat for a threatened species on the land to be affected by the action (<i>include reference sources</i>).</p>	<p>Three of the feet of the scaffolding is within 5m (the closest is approximately 2m away) of a Little Penguin nest which is under the adjacent boatshed floor. The scaffolding is over the top of the rear of the boat shed. See the attached photos.</p> <p>Evidence of the nest has been determined by an ecologist familiar with this species and is a large amount of Penguin tracks every night and a strong indicative smell. Leading to the conclusion that penguins are likely to be using a nest under the floor boards.</p> <p>Removal of the floor boards to confirm the nest is considered to potentially be harmful and is not considered necessary. It is likely that there are currently eggs but not yet hatchlings.</p> <p>The nearby habitat and nesting penguins in the locality are shown on the attached maps. The location within this site is shown in the attached photographs and figures.</p> <p>This information should be regarded as confidential to ensure the safety of this nest.</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 foot of each support foot is approximately 0.25m²</p> <p>There are approximately 20 support feet.</p> <p>The workers will be active in the lawn and garden area and will not be inside the Boat House.</p> <p>The extent of penguin habit in the locality is approximately the whole of Manly Point foreshore and the foreshore from Collins Beach to Carnae Point.</p> <p>There are other small additional areas occupied by this population outside of the Critical habitat declared areas.</p> <p>The amount of Critical habitat is relatively small.</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 nature and the intensity of removing the scaffolding will be minor as the action will be of short duration and a one off occurrence and be outside of the boatshed.</p> <p>The nesting penguins are not likely to be disturbed if they are under the boat house.</p> <p>There will be a suitably qualified Ecologist - Mr Nicholas Skelton (Mob: [REDACTED]) – BSc [Hons] [USyd], M. App.Sc. [UNSW], ECANSW, ESA, EIANZ, AURISA, MRZS, MBA. Will be present during the removal of the scaffolding to ensure that work does not</p>

	commence if there are penguins on the property or on adjacent properties except for any penguins on the nest under the boat shed floor, that the noise and disturbance is minimised and to stop work if the penguins become disturbed by the works.
17. Provide details of possible measures to avoid or ameliorate the effect of the action.	<p>There will be a suitably qualified Ecologist - Mr Nicholas Skelton (Mob: [REDACTED]) – BSc [Hons] {USyd}, M. App.Sc. [UNSW], ECANSW, ESA, EIANZ, AURISA, MRZS, MBA. Will be present during the removal of the scaffolding to ensure that work does not commence if there are penguins on the property or on adjacent properties except for any penguins on the nest under the boat shed floor, that the noise and disturbance is minimised and to stop work if the penguins become disturbed by the works.</p> <p>The scaffolding will be removed via land not sea – all scaffolding will be removed and the site will be made safe.</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>	
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 will be impacted.
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	<p>The local population is viable in the short term. The proposed works to remove the scaffolding will be under the constant supervision of an ecologist who is to ensure that:</p> <p>work does not commence if there are penguins on the property or on adjacent properties except for any penguins on the nest under the boat shed floor,</p> <p>the works are completed within one day,</p> <p>works only occur between 10am and 4pm,</p> <p>that the noise and disturbance is minimised and work stops if the penguins become disturbed by the works.</p>

<p>of the species is likely to be placed at risk of extinction.</p>	<p>If the above conditions are met then there is is not likely to be an adverse effect on the breeding of the Little Penguin population at Manly such that the local population is placed at risk of extinction.</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>No Endangered Ecological Community will be impacted.</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>i. No habitat will be removed or modified as a result of the action;</p> <p>ii. No habitat is likely to become fragmented as a result of the action; and</p> <p>iii. Given the above, the long term survival of the population is not likely to be impacted by the action.</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>22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).</p>	<p>The proposed works to remove the scaffolding will be under the constant supervision of an ecologist who is to ensure that: work does not commence if there are penguins on the property or on adjacent properties except for any penguins on the nest under the boat shed floor, the works are completed within one day, works only occur between 10am and 4pm, that the noise and disturbance is minimised and work stops if the penguins become disturbed by the works.</p> <p>If the above conditions are met then there is is not likely to be a adverse effect on the Critical Habitat of the Little Penguin Population at Manly such that the local population is placed at risk of extinction.</p> <p>The action is not likely to directly or indirectly have an adverse impact on the critical habitat given the nature and short duration of the action.</p>
<p>23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.</p>	<p>A Recovery Plan for the Endangered Population of Little Penguins at Manly was released in October 2000. The overall objective of the document is to maintain and enhance the population of Little Penguins at Manly to a position of security in nature and have it de-listed as an endangered population from Part 2 of Schedule 1 of the TSC Act 1995. Specifically, the Recovery Plan aims to (1) To determine the current status of the population and extent of current habitat, (2) To identify and ameliorate impacts of current threats, (3) To maintain the population at current levels and increase the limits of potential habitat, (4) To continue community education, awareness and involvement, (5) To ensure the protection of the Little Penguin population at Manly and its habitat in the long term, (6) To support and coordinate research into the ecology of the population, and (7) To re-asses recovery program priorities. These aims are mostly not relevant to this proposal.</p> <p>This proposal is considered to be not inconsistent with the Draft Recovery 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 <i>TSC Act 1995</i> defines “threatening process” as “a process that threatens or may have the capability to threaten, the survival or evolutionary development of species, populations or ecological communities”.</p> <p>Key Threatening Processes known to affect the Little Penguin Population in the Manly point area are:</p> <ul style="list-style-type: none"> • Loss of suitable habitat (major threat): The proposal will not result in the loss of penguin habitat or access to habitat. • Habitat loss as a result of property renovation or development: The proposal is property renovation or development. The proposal will not result in a decrease in habitat. The proposal is not likely to have a significantly negative impact on the long-term survival of the species. • Predators such as dogs and foxes pose a threat as penguins move between water and their nests: The gate and driveway gates at the front of the property restrict dogs and foxes from entering the property from the street. There is already a legal restriction on dog access to the foreshore. • Domestic dog attacks: the proposal does not include increased dog access to this habitat area. • Movement, noise and light disturbance from nearby buildings and fishing activities: The proposal is not likely to result in the increase of the impact of movement, noise and light from nearby buildings. • Delayed arrival of penguins to their chicks when perceiving threats: The proposal is unlikely to increase human use of the site. Recommendations are made to reduce the chance of this impact. • Increased interest in the population by curious people as awareness of the population grows: The site is private land, where it is best that the owners are aware of the Little Penguin population so they can modify their behaviour in case of interaction and be aware of restrictions. • Weed removal around the foreshore: no vegetation will be removed. • Stormwater runoff and rubbish dumping can destroy nesting habitat and expose penguins to pollutants: As per our recommended ameliorative conditions, all rubbish and building materials must be removed from the area at completion of the works. • Industrial and urban inputs into the harbour can contaminate the penguins and/or their food source: Recommendations to ameliorate this impact are provided in this report. • Sea Level Rise: Not relevant to this DA. <p>The proposal is not likely to result in a significant increase of any Key Threatening Processes. The action is not likely to constitute, form part of or exacerbate any key threatening process.</p>
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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.

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

* 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*.

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.

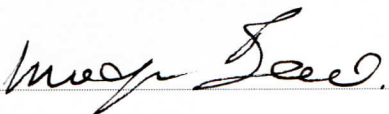
Copies of all applications and licences issued under section 91 and certificates issued under section 95 of the Act are available on the OEH website at www.environment.nsw.gov.au/threatenedspecies/S91TscRegisterByDate.htm or in hardcopy form from The Librarian, OEH, 59 Goulburn St, Sydney.

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)	Imogen Boas
Applicant's Position & Organisation (if relevant) (Please print)	Owner of the Property
Applicant's signature	
Date	5th November 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
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