

Section 95(2) Certificate

Threatened Species Conservation Act 1995



Office of
Environment
& Heritage

Your reference :
Our reference : C0000239
Contact : Marc Irvin, 02 6883 5300

Mr Martin Krogh
Water, Wetlands and Coastal Science Section
Office of Environment and Heritage
PO Box A290, Sydney South, NSW 1232

Dear Mr Krogh

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

I refer to your Section 91 licence application received by the Office of Environment and Heritage (OEH) on 04-Feb-2014 to install three piezometers. The OEH understands that piezometers will be installed in a 1 m² area at each location. Trimming of vegetation in this 1 x 1 m area may be undertaken only if necessary to allow proper installation and use of the piezometers. Once installed and functioning, the piezometers will be accessed every 4-6 weeks to collect data. The section 91 application applies to the removal of vegetation, and or harm to the specified location only, and does not allow for installation of additional piezometers in any other Newnes Plateau Shrub Swamp or other EECs.

I have assessed your licence application in accordance with the provisions of the *Threatened Species Conservation Act 1995* (TSC Act) and concluded that the proposal is unlikely to have a significant impact on threatened species, endangered populations or endangered ecological communities. Therefore, a licence is not required under the TSC Act for the proposed action.

The TSC Act makes provision for the issue of a certificate under section 95(2) for actions which technically constitute damage to the habitat of threatened species, but which are unlikely to have a significant impact. Accordingly, I have decided to authorise your activities and issue you with a Section 95(2) certificate. 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 Marc Irvin on 02 6883 5300.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Garry Germon'.

.....
Garry Germon
Team Leader, Ecosystems and Threatened Species
for the Director-General
Office of Environment and Heritage

Certificate No.: C0000239
Application Ref No. A02322-2014
Printed: 4:43:22 PM 25/02/2014

Section 95(2) Certificate

Threatened Species Conservation Act 1995



Office of
Environment
& Heritage

Issued To:

Martin Krogh

Water, Wetlands and Coastal Science Section
Office of Environment and Heritage

PO Box A290
Sydney South, NSW 1232

Certificate no. : C0000239
Issue Date: 25/02/2014
Expiry date: 30/06/2018

I certify that picking/harming of Newnes Plateau Shrub Swamp in the Sydney Basin Bioregion, Endangered Ecological Community, and other threatened species associated with these swamps, for the purposes of installation of three piezometers as described your Section 91 application, is unlikely to significantly affect threatened species, populations, ecological communities or their habitats and consequently the proposal does not require a licence under the *Threatened Species Conservation Act, 1995* pursuant to Section 95(2).

This certificate is a defence against prosecution under sections 118A-D of the *National Parks and Wildlife Act 1974*.

A handwritten signature in black ink, appearing to read 'Garry Germon'.

.....
Garry Germon

Team Leader, Ecosystems and Threatened Species

for the Director-General

Office of Environment and Heritage

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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.

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Office of
Environment
& Heritage

Section 91 application name

Newnes Plateau Shrub Swamp piezometer installation

Certificate No: C0000239

Certificated conditions

This section 95(2) certificate is issued subject to the conditions specified below

These conditions are issued under section 95(3) of the *Threatened Species Conservation Act 1995*.

Section 95(3) of the *Threatened Species Conservation Act 1995* allows for a s.95(2) certificate to be issued either unconditionally or subject to conditions. In accordance with section 95(3) of the TSC Act, the following conditions apply to the installation of 3 piezometers in Newnes Plateau Shrub Swamps on the Newnes Plateau. These conditions should be read and implemented in combination with the piezometer installation actions described in the attached decision report.

Conditions Attached to the Certificate

- Piezometers are to be placed away from permanently pooled, flowing, and or open water within the NPSS EEC to avoid direct impacts on the habitat of the Blue Mountains Water Skink.
- If vegetation is required to be removed to establish a piezometer site, only the absolute minimum should be removed, plants should be trimmed only (not entire plants removed). If removal of entire plants is required, consideration should be given to moving the site. Even if individual plants are not listed as threatened, they still form part of the listed EEC.
- Piezometers are to be placed greater than three meters from threatened plant species, and species considered to otherwise be rare (e.g. *Olearia quercifolia*), within the NPSS EEC to avoid direct impacts on these species. It is recommended a botanist conduct an inspection of the piezometer sites prior to installation.
- Do not remove fallen timber from the sites. Move the location of site to avoid disturbance of such habitat.
- Do not remove fallen timber from the EEC to make access to the site easier, or assist establishment of access tracks. In order to prevent trails from forming and damage to the EEC, no more than two persons are to walk into the EEC to collect bimonthly piezometer data.
- Wherever possible, approach and exit the piezometer sites within the EEC from different directions to avoid trails establishing in the ECC.
- Implement appropriate environmental hygiene protocols to avoid exotic seed, and or pathogens from contaminating the EEC. For example, clean footwear with tough bristled brush to remove foreign seeds; spray footwear with water/metho mix to kill pathogens (e.g. *Phytophthora cinnamon*); ensure clothing is free of burrs and other seed before approaching the EEC.

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