

Your reference : S91 Appl for 10 Add Manly Stairs
Our reference : A07715-2014 (Ciram Application No.)
Contact : Melina Budden 9995 6813

Blake Dyer
In House Solicitor
Manly Council
PO Box 82,
MANLY, NSW, 1655

Dear Mr Dyer

**Application for Section 91 Licence relating to investigations within Little Penguin Manly
Population Critical Habitat**

I refer to your application for a section 91 licence relating to the Little Penguin Manly population, on behalf of Manly Council and which was received by the Office of Environment and Heritage (OEH) on 8 May 2014 via email. The licence application is to undertake a one-off site inspection of the staircase at the rear of [REDACTED] Manly. The inspection is required for the Land and Environment Court case involving the aforementioned structure.

I have considered the application and relevant monitoring reports and I have determined that the proposed action is not likely to significantly affect threatened species, populations or ecological communities or their habitats. Therefore, a licence is not required under the *Threatened Species Conservation Act 1995* (TSC Act) for the proposed action.

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 Melina Budden on 02 9995 6813 or email melina.budden@environment.nsw.gov.au.

Yours sincerely



DAVID TREWIN

Regional Manager, Greater Sydney

Regional Operations

12/6/14

Section 95(2) Certificate

Threatened Species Conservation Act 1995



Office of
Environment
& Heritage

Issued To:

Blake Dyer
Manly Council
PO Box 82,
MANLY, NSW, 1655

Certificate no. : C0000379
Issue Date: 30th May 2014
Expiry date: 30th July 2014

I certify that the Proposed Action as described below is not likely to significantly affect threatened species, populations, ecological communities or their habitats and consequently the Proposed Action does not require a licence under the *Threatened Species Conservation Act 1995*.

An act that is the subject of this certificate is a defence against prosecution under sections 118A-118D of the *National Parks and Wildlife Act 1974*.

DESCRIPTION OF PROPOSED ACTION

The proposed action:

- A. The licence application is to undertake a one-off site inspection of the staircase at the rear of [REDACTED] Manly. The inspection is required for the Land and Environment Court case involving the aforementioned structure during the known breeding period for the Little Penguin Manly Endangered Population.

RELEVANT CONDITIONS

The holder of the certificate must ensure that:

1. OEH officer and recognised Penguin ecologist, Nicholas Carlile, is present at all times during the inspection of the staircase.
2. Nicholas Carlile inspects the staircase area prior to any other persons entering the area, and checks potential roosting/nesting areas beneath the staircase for individual Little Penguins.
3. If Nicholas Carlile finds any Little Penguins present beneath the staircase during the initial check it is recommended that all persons involved seek to enter the critical habitat from an alternative entry point.

Section 95(2) Certificate

Threatened Species Conservation Act 1995



Office of
Environment
& Heritage

4. The applicant must develop a sign on and off register, to be signed and dated by all persons entering the site for the inspection. This register enables all persons to be covered by this certificate and subject to the conditions of the certificate. Prior to entering the site, all persons are to be briefed on the potential occurrence of the Little Penguins and if they are encountered, all attempts should be made to remain at least 5 metres from any Little Penguins during the inspection;
5. All persons that are covered by this certificate must follow the directions of Nicholas Carlile to reduce impacts on Little Penguins and their habitat.
6. Noise levels from all persons involved is kept to minimal level to prevent any disturbance to any roosting/nesting Little Penguins that may be in the vicinity;

DAVID TREWIN

Senior Manager, Greater Sydney
Regional Operations

12/6/14

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.