

Your reference : S91 Appl for 10 Add Manly Stairs  
Our reference : A07715-2014 (Ciram Application No.)  
Document no. : C0000435  
Contact : Melina Budden

Blake Dyer  
In House Solicitor

Manly Council  
PO Box 82,  
**MANLY, NSW, 1655**

Dear Dyer

**RE: Variation of Section 95 Certificate to investigation a staircase at 10 Addison rd., Manly  
within Little Penguin Manly Population Critical Habitat**

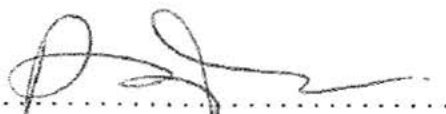
I refer to your Section 91 licence application received by the Office of Environment and Heritage (OEH) on 8 May 2014 via email, on behalf of Manly Council and relating to the Little Penguin Manly population.

The OEH understands that this variation is required to allow for additional inspections of a staircase at [REDACTED], Manly and vegetation and rock platform areas adjoining [REDACTED], Manly, which are also located within declared critical habitat for the Little Penguin Manly Population. OEH notes that these additional inspections will be undertaken in the same manner proposed in the original application and will be used for the for the Land and Environment Court case that is pending for the structure installed at 10 Addison rd., Manly.

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. 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 but subject to the conditions provided.

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](mailto:melina.budden@environment.nsw.gov.au).

Yours sincerely



DAVID TREWIN

**Regional Manager, Greater Sydney**

**Regional Operations**

17/6/14

**Issued To:**

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

**Certificate no. :** C0000435  
**Issue Date:** 17<sup>th</sup> June 2014  
**Expiry Date:** 30<sup>th</sup> July 2014

**BACKGROUND**

- A. The OEH issued Certificate No. C0000379 to Blake Dyer on 12th June 2104.
- B. The original licence application was 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 and is required within in area identified as declared critical habitat for the population.

**VARIATION OF SECTION 95(2) CERTIFICATE**

By this notice the OEH varies Certificate No. C0000379 in the following manner:

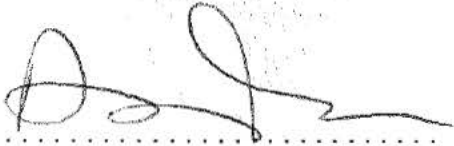
The one-off site inspection of the staircase at the rear of [REDACTED] Manly which is located within declared critical habitat for the Little Penguin Manly Endangered Population and is proposed to be undertaken within the known breeding period for the population, has now been amended to include an additional inspection of the staircase at the rear of [REDACTED] Manly and inspections of the vegetation and rock platforms areas at the rear of [REDACTED], Manly. The rear of these properties is also located with declared critical habitat for the population and the specified inspection date of these areas is set to occur during the same period.

This variation of the Section 95 Certificate enables the inspection to be undertaken at the additional properties but subject to the same conditions as the original certificate, which includes:

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

alternative entry point. If Nicolas Carlile finds any Little Penguins beneath vegetation it is recommended that all persons involved stay at least 5 meters from the individual(s).

4. The applicant must develop a sign on and off register, to be signed and dated by all persons entering the site for the inspections. 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

**Regional Manager, Greater Sydney**

**Regional Operations**

17/6/14