

Application for a



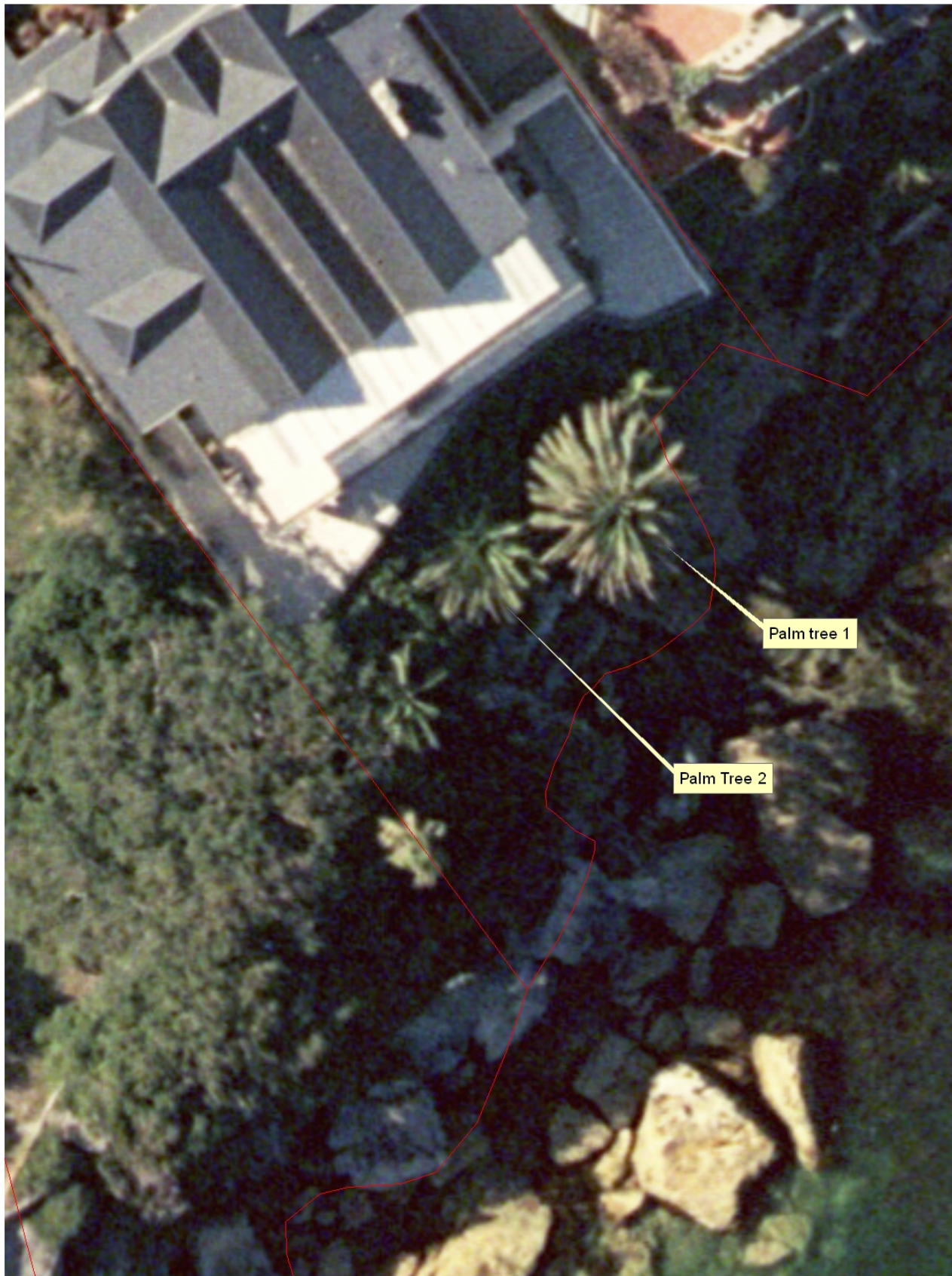
# Section 91 Licence

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)	Malcolm F. White	
2. Australian Business Number (ABN):	ABN 26 967 717 947	
3. Organisation name and position of applicant ^: (if applicable)	Executive Committee of the Owners Corporation of 2 Addison Road, Manly, STRATA PLAN NO. 76398 Mr Malcolm F. White, Chairman	
4. Postal address ^:	c/- Unit 1, 2 Addison Road, MANLY 2095	Telephone ^: B.H. 9977 8783 A.H. 9977 8973
5. Location of the action (including grid reference and local government area and delineated on a map).	On the cliffs at the rear of 2 Addison Road, Manly Strata Plan 76398, division of Lot 1089945	

\* 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.



**2 Addison Road, Manly**



<p>6. Full description of the action and its purpose (e.g. <i>environmental assessment, development, etc.</i>)</p>	<p>Removal of dead and dying fronds from two large palm trees as identified in the aerial photograph:</p> <ul style="list-style-type: none"> <li>• Palm Tree 1 – very tall tree rooted on lower of 2 cliffs</li> <li>• Palm Tree 2 – shorter, but wider tree rooted in garden on upper cliff (close to masonry verandah)</li> </ul> <p>A professional tree man will cut the fronds using a small chain saw. The property owners will supply the labour to carry fronds up to the street via the upper cliff only and Peace Park (permission from Manly Council to transit Peace Park received).</p>
<p>7. Details of the area to be affected by the action (in hectares).</p>	<p>The area of the canopy of Palm Tree 1 is approx. 63 sq. m. The area of the canopy of Palm Tree 2 is approx. 28 sq. m. However, only a proportion, not the whole of the crowns of these trees, are to be removed.</p>
<p>8. Duration and timing of the action (including staging, if any).</p>	<p>We anticipate the work will be completed within 4 hours.</p>
<p>9. Is the action to occur on land declared as critical habitat? (tick appropriate box)</p>	<p><input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>DECCW advises that at least Palm Tree 1 rooted on the lower cliff, and possibly Palm Tree 2, rooted on the upper cliff, is within critical habitat of the endangered population of the Little Penguin at Manly.</p>
<p>* Critical habitat means habitat declared as critical habitat under Part 3 of the <i>Threatened Species Conservation Act 1995</i>.</p>	

<p>10. Threatened species, populations or ecological communities to be harmed or picked.</p>	<p><u>Scientific name</u></p>	<p><u>Common name</u> (if known)</p> <p>Critical habitat of the endangered population of the Little Penguin <i>Eudyptula minor</i> at Manly</p>	<p><u>Conservation status</u> (i.e. critically endangered, endangered or vulnerable)</p>	<p><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)</p>
<p>11. Species impact: (please tick appropriate box)</p> <p>a) For action proposed on land declared as critical habtat;</p> <p>or</p> <p>b) For action proposed on land <u>not</u> declared as critical habitat.</p>	<p>an SIS is attached      <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p>Items 12 to 25 have been addressed      <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>			
<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. 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>				

<p>12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.</p>	<p>Two large palm trees on foreshore cliffs on east side of Manly Point</p>
<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>DECCW has informed us that:</p> <ul style="list-style-type: none"> <li>• There are two known Little Penguin nest sites on the cliffs of this property, both of which have been used for nesting in prior years.</li> <li>• The first is at the base of the upper cliff, about 3 metres below and about 4 metres to the south-east of Palm Tree 2. Chicks were raised in this nest earlier this season and it is possible that the parents may return yet this season for a second clutch, as they have tended to do so in previous years, but at the time of this application no penguins were present.</li> <li>• The second nest at the base of the lower cliff has had no activity this season, but the removal of covering lantana and other vegetation earlier this year may have influenced this.</li> </ul>
<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>See item 13.</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 amount of habitat to be affected is very minor in terms of area, especially compared with the total area of critical habitat for the Little Penguin population at Manly, which extends from 11a Oyama Avenue around Manly Point to 26 Addison Road. Additionally, only fronds from the canopy of the palm trees are to be removed, so this is unlikely to affect use of the site by penguins.</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 following aspects of the action could, but are unlikely to, affect the lifecycle of the Little Penguin:</p> <ul style="list-style-type: none"> <li>• Chainsaw noise and movement of workers could discourage birds from returning to the nest or cause them to abandon it and eggs if are already being incubated.</li> <li>• Palm fronds could fall and injure or kill birds.</li> </ul>
<p>17. Provide details of possible measures to avoid or ameliorate the effect of the action.</p>	<p>Chainsaw noise will be of short (up to approx 4 hours) duration only.</p> <p>Palm fronds from Palm Tree 1 and any that fall to the lower cliff from Palm Tree 2 will be carried directly up to the upper cliff and carried out to Peace Park along the top cliff beside the balustrade of the rear balcony, avoiding any pedestrian traffic past either of the two known nest sites.</p> <p>Neither of the trees is directly above the known nest sites. The closest of the two palm trees is Palm Tree 2 which is approx. 4 metres horizontally from the upper nest, which is also protected from any falling fronds by being well in under an overhanging cliff. Furthermore, works will be carried out only in daytime when penguins, if present, are likely to be in the burrows.</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>	
<p>18. In the case of a <b>threatened species</b>, 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.</p>	<p>Not applicable</p>

<p>19. In the case of an <b>endangered population</b>, 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.</p>	<p>For the reasons set out above, the action proposed is unlikely 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.</p>
<p>20. In the case of an <b>endangered ecological community or critically endangered ecological community</b>, 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>Not applicable</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>(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>(i) See item 15.</p> <p>(ii) See item 15. No fragmentation of habitat will occur.</p> <p>(iii) See item 15. the vegetation to be removed is not of importance to the species or the endangered population.</p>
<p>22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).</p>	<p>No adverse affect on critical habitat.</p>
<p>23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.</p>	<p>The works are not inconsistent with the objectives or action of the recovery plan for the endangered population of Little Penguins (<i>Eudyptula minor</i>) at Manly.</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 action is not a key threatening processes or likely to result in the operation of, or increase the impact of, a key threatening process.</p>



## **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 Department of Environment, Climate Change and Water NSW (DECCW) 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 DECCW 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 DECCW

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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*.

## 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 DECCW website at

[www.environment.nsw.gov.au/threatenedspecies/S91Tscaregisterbydate.htm](http://www.environment.nsw.gov.au/threatenedspecies/S91Tscaregisterbydate.htm)

or in hardcopy form from The Librarian, DECC, 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)

MALCOLM FRANK WHITE

Applicant's Position &

Organisation (if relevant)

(Please print)

CHAIRMAN BODY CORPORATE  
2 ADDISON ROAD MANLY 2095

Applicant's signature



Date

NOVEMBER 1st 2010

For more information or to lodge this form, contact the nearest branch of DECCW's Environment Protection and Regulation Group:

#### Metropolitan Branch

P: 02 9995 6851

F: 02 9995 6900

PO Box 668

Parramatta

NSW 2124

#### Metropolitan Branch

P: 02 4225 1455

F: 02 4225 3545

PO Box 5436

Wollongong

NSW 2515

#### North East Branch

P: 02 6640 2500

F: 02 6642 7743

PO Box 498

Grafton

NSW 2460

#### North East Branch

P: 02 4908 6800

F: 02 4908 6810

PO Box 488G,

Newcastle

NSW 2300

#### North West Branch

P: 02 6883 5330

F: 02 6884 9382

PO Box 2111

Dubbo

NSW 2830

#### South Branch

##### South East Region

P: 02 6122 3100

F: 02 6299 3525

PO Box 622

Queanbeyan

NSW 2620

#### South Branch

##### South West Region

P: 02 6022 0600

PO Box 544

Albury

NSW 2640

Department of Environment, Climate Change and Water (NSW)  
PO Box A290, Sydney South NSW 1232  
Phone: 131 555 (Environment Line) Fax: 9995 5999  
Email: [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au)