



Your reference 25954:MB:TL
Our reference ISEMS 1104677
Contact Marc Irvin, phone 6883 5300

CLARENCE COLLIERY PTY LTD

LEVEL 18, BT TOWER, 1 MARKET STREET, SYDNEY, NSW

Dear Miss Van den Berg

RE: Section 95 Certificate to install three ground water piezometers

I refer to your Section 91 licence application received by the Department of Environment, Climate Change and Water (DECCW) on 29-Jun-2009 to install four piezometers in Newnes Plateau Shrub Swamp in the Sydney Basin Bioregion, Endangered Ecological Communities (EEC). DECCW understands that piezometers will be installed by hand in a 1 x 1 m area at each location. Trimming of vegetation in this 1 x 1 m area will only be done if necessary to allow proper installation and use of the piezometers. Once installed and functioning, the piezometers will be accessed every two months to collect data.

This section 91 application applies to the trimming of vegetation, and or harm to the specified locations only, and does not allow for installation of additional piezometers in any other Newnes Plateau Shrub Swamp or other EECs. As well as the information supplied in the application and associate correspondence DECCW requires, and understands that Clarence Colliery has undertaken to implement, the following mitigation measures.

Mitigation Measures

- 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.
- Fallen timber will not be removed from the sites. The location of site will be chosen to avoid disturbance of such habitat.
- Fallen timber will not be removed 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.
- Where ever possible, approach and exit the piezometer sites within the EEC from different directions to avoid trails establishing in the EEC.
- 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

Section 95(2) Certificate

Threatened Species Conservation Act 1995

Department of Environment & Climate Change NSW



foreign seeds; spray footwear with water/metho mix to kill pathogens (e.g. Phytophthora cinnamom); ensure clothing is free of burrs and other seed before approaching the EEC.

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.

If you have any further questions in relation to this matter, please contact Marc Irvin on 02 6883 5300.

Yours sincerely

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Dr Robert Taylor

Manager Environment & Conservation Programs

North West

for the Director-General

Department of Environment Climate Change and Water

Section 95(2) Certificate

Threatened Species Conservation Act 1995

Department of Environment & Climate Change NSW



Issued To:

CLARENCE COLLIERY PTY LTD,
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SYDNEY NSW 2000
Fax: (02)63552720

Certificate no. : 1104677
Issue Date: 27-Aug-2009
Expiry date: 30-Oct-2009

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*.

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Dr Robert Taylor
Manager Environment & Conservation Programs
North West

for the Director-General
Department of Environment Climate Change and Water