

Section 91 Licence

Application 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)	Eduard McPeake		
2. Australian Business Number (ABN):	43 662 868 065		
3. Organisation name and position of applicant ^: (if applicable)	Manly Council Manager Environmental Programs		
4. Postal address ^:	PO Box 81 Manly NSW 1655	Telephone ^: B.H. 02 99761650 A.H.	
5. Location of the action (including grid reference and local government area and delineated on a map).	Balgowlah flying-fox camp (lat -33.789282° long 151.262116°) is located in urban bushland between Balgowlah Road and the Burnt Bridge Creek Deviation, Manly. Further detail is provided in the attached Balgowlah Grey-headed Flying-fox Camp Management Plan (Ecosure 2016) (Attachment 1). Location and management areas are shown in Attachment 1 Figures 1-3.		

^{*} 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.

6. Full description of the action and its purpose (e.g. environmental assessment, development, etc.)

The purpose of the proposed actions is to:

- minimise conflict between the camp and surrounding community
- ensure the long-term viability of the site as roost habitat
- provide the framework for Council to manage activities within the site itself.

Manly Council is seeking a five year Section 91 licence (or s95 certificate) to undertake the following activities. Further information is provided in Attachment 1.

Level 1 actions – routine management

Routine camp management activities within the Balgowlah camp include:

- weed removal (including Coral Trees and vines) and habitat restoration works
- trimming trees overhanging pathways
- maintenance of the gross pollutant trap located on the southern edge of the site (Attachment 1 Figure 1)
- mowing and other routine maintenance activities that may arise
- removal of limbs/trees which pose a health and safety risk to the public/Council employees if required (e.g. after a storm event)
- removing rubbish from the site.

Council is also proposing to construct a bioretention basin in an area that comprises weed ground cover (Attachment 1 Figure 2). The basin will improve water quality and the flow regime in Burnt Bridge Creek. Construction will involve:

- earthworks using trucks, excavators and rollers
- rock delivery and placement to create the embankments
- revegetation of the edges, drains and other areas disturbed during the work.

Noise associated with construction would almost certainly disturb the camp, and as such, works will be undertaken when flying-foxes are naturally absent (either if the camp empties for a period of time, or at night while flying-foxes are away foraging; see Attachment 1 for further detail).

Level 2 actions - buffers

Upon staged completion of Level 1 actions along each boundary (Attachment 1 Figure 9), Council will assess the requirement to

increase buffers between the camp and adjacent residents. For example, if amenity impacts to residents are not sufficiently mitigated through Level 1 actions in that area, vegetation within a buffer of up to 10 m (from dwellings or boundaries) may be selectively trimmed or removed to discourage roosting flying-foxes from this area (see Attachment 1 Figure 9).

Vegetation is mapped as Dry Sclerophyll Forest which is not a threatened ecological community. No threatened flora species have been recorded on site (OEH Bionet Atlas 2016¹), and only trees confirmed as non-threatened may be trimmed/removed. Further detail below and in Attachment 1.

7. Details of the area to be affected by the action (in hectares).

Flying-foxes are roosting in some Coral Trees proposed for removal as part of weed control and restoration works.

Attachment 1 Section 5 provides detail on proposed actions. Note that the Plan includes actions proposed after the five year period which do not require assessment as part of this application. Further detail on these 5+ year actions will be provided in a separate application at a later date.

Level 1 actions (excluding Coral Tree removal) proposed across the entire site as required.

Coral Tree removal has been separated into Management Stages to ensure suitable roost habitat is retained at all times (Attachment 1 Section 5.1, Table 3 and Figure 9). Management Stages 1- 4 (Level 1 actions during the 5 year life of the Plan and licence) comprise a total of 0.14 ha of the total 1.8 ha of suitable habitat.

Stage 5 (outside the life of the Plan; see Attachment 1 Figure 9 and Table 3) is a further 0.03 ha, and the core area proposed for removal in 5-10 years is 0.23 ha.

Should Council consider that buffers are required (Level 2), these will be a maximum of 10m from property boundaries/dwellings (Attachment 1 Figure 9). The total combined vegetated area within these two buffer zones is approximately 0.08 ha.

As such, should both Level 1 and Level 2 be required, over the five year life of the Plan this is removal of 0.22 ha of the 1.8 ha total, with potential for a further 0.26 ha in 5+ years (to be assessed at Plan review). This gradual and staged approach (and retention of Coral Trees within the core roost area for 5-10+ years), combined with improved habitat viability and revegetation/regeneration of suitable

¹ OEH (2016) Bionet Atlas of NSW wildlife data. Office of Environment and Heritage. Accessed: 7/4/16.

roost habitat, will ensure that sufficient (and in the long-term, additional) roost habitat for at least the maximum number of flying-foxes that have been recorded on site (~6,000 - see Attachment 1 Appendix 1) is retained at all times (as independently assessed by Principal Wildlife Biologist at Ecosure Pty Ltd during Plan review). Furthermore, restoration activities to date have provided an estimated 25% additional roosting habitat, and protected the viability of the remainder against weeds. Many of these rehabilitated areas, including plantings 5-10 years old, are currently being used by flying-foxes, with other areas anticipated to reach sufficient height over the next 2 - 5 years (Attachment 1 Figure 7). 8. Duration and timing of Please refer to Attachment 1 Table 3. the action (including staging, if any). Note that Stages 1 – 4 may be done in any order (for example, Stage 4 area may be done before Stage 1, etc.). Provided that sufficient roost habitat is available in other areas of the site (as advised by a person experienced in monitoring flying-fox camps), Stages 1 – 4 may be done over a two year period to expedite community conflict resolution. Stem injecting roost trees outside the buffer zone (as detailed in Attachment 1) will also ensure that tree structure remains available for roosting while other areas of the site are regenerating. 9. Is the action to occur on land declared as critical habitat*? ☐ Yes ⊠ No (tick appropriate box) Conservation Details of <u>Scientific</u> Common name 10. Threatened species, (if known) status number of name populations or individual animals, ecological Grey-headed or proportion and Vulnerable communities to be type of plant Pteropus flying-fox harmed or picked. material poliocephalus Maximum estimate of 6,000 (September 2015 see Attachment 1 Appendix 1). Critical habitat means habitat declared as critical habitat under Part 3 of the *Threatened Species* Conservation Act 1995.

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11. Species impact: (please tick appropriate box)	
 a) For action proposed on land declared as critical habtat 	a species impact statement (SIS) is attached
or b) For action proposed	
on land <u>not</u> declared as critical habitat.	Items 12 to 25 have been addressed

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 **not** on land that is critical habitat. Information addressing any of the questions below must be attached to the application.

12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.

In November 2015, the camp comprised about 0.59 ha of occupied/partially occupied roosting habitat for flying-foxes of the approximate 1.8 ha of suitable roost habitat (Attachment 1 Figure 2). Given this was close to peak occupancy, it is not expected to expand greatly although slightly higher numbers have been recorded in the past (Attachment 1 Appendix 1). As indicated in Figure 1, a mown grassed buffer separates a block of residential units from bushland at the eastern end of the site. Other residences in close proximity to the camp are on the southern side of Balgowlah Road.

Vegetation within the camp is mapped as Dry Sclerophyll Forest. Field investigation found that a substantial proportion of the site has been subject to bush regeneration or invaded by exotic species. There are no threatened ecological communities mapped as occurring on site. Exotic vines and other weed species are adversely impacting the roosting habitat as well as the broader ecology and amenity.

There is unrestricted public access through the subject site. The site features a sealed cycleway / pedestrian path (Figure 1). Direct vehicle access to the gross pollutant trap and proposed bioretention basin (Attachment 1 Figure 1) is from the adjacent Balgowlah Road.

Areas of habitat restored by Council to date have provided an estimated 25% additional roosting habitat, and protected the viability of the remaining habitat against weeds. Many of these rehabilitated areas, including plantings 5-10 years old, are currently being used by flying-foxes, with other areas anticipated to reach sufficient height to support roosting individuals over the next 2-5 years.

Areas where restoration (or maintenance of restored areas) has been restricted, due to the requirement to maintain a 20m exclusion zone from roosting flying-foxes in the expired s132C licence, are

	heavily infested by v	veeds. These areas	need to be accessed	
	urgently (and on an or	ngoing basis) to proted	ct the ecological values ation (and detailed in	
	,			
13. Provide details of any known records of a threatened species in the same or similar known habitats in the	The following threatened species have been recorded within a 2 km radius of the site.			
	Scientific name	Common name	NSW status	
	Pseudophryne australis	Red-crowned Toadlet	V,P	
locality (include reference	Diomedea exulans	Wandering Albatross	E1,P	
sources).	Ardenna carneipes	Flesh-footed Shearwater	V,P	
	Pandion cristatus	Eastern Osprey	V,P,3	
	Burhinus grallarius	Bush Stone-curlew	E1,P	
	Ninox strenua	Powerful Owl	V,P,3	
	Phascolarctos cinereus	Koala	V,P	
	Cercartetus nanus	Eastern Pygmy- possum	V,P	
	Miniopterus schreibersii oceanensis	Eastern Bentwing-bat	V,P	
	Flora			
	Tetratheca glandulosa	Glandular Pink-bell	V,P	
	Epacris purpurascens var. purpurascens	Port Jackson Heath	V,P	
	Chamaesyce psammogeton	Sand Spurge	E1,P	
	Acacia bynoeana	Bynoe's Wattle	E1,P	
	Prostanthera junonis	Somersby Mintbush	E1,P	
	Prostanthera marifolia	Seaforth Mintbush	E4A,P,3	
	Eucalyptus camfieldii	Camfield's Stringybark	V,P	
	Eucalyptus nicholii	Narrow-leaved Black Peppermint	V,P	
	Syzygium paniculatum	Magenta Lilly Pilly	E1,P	
	Persoonia laxa		E4,P	
	Pimelea curviflora var. curviflora		V,P	
	None of these species have been recorded at the Balgowlah site (OEH Bionet Atlas 2016) and they are not expected to be affected by the proposed actions. As such the remainder of the application relates to <i>P. poliocephalus</i> only.			
14. Provide details of any known or potential habitat for a threatened species on the land to be affected by the action (include reference sources).	Please refer to point 7.			
15. Provide details of the amount of such habitat	The Balgowlah site is the only camp within Manly Council local			

to be affected by the government area (LGA). There are a number of roosts in action proposed in surrounding LGAs (as shown in Attachment 1 Figure 3), and relation to the known potential roost habitat is mapped in Attachment 1 Appendix 5. distribution of the species and its habitat No net loss of roost habitat will be caused by proposed actions. in the locality. As demonstrated throughout Attachment 1, proposed Level 1 and 2 actions aim to protect and restore the site and will therefore benefit rather than impact the local population. 16. Provide an assessment As detailed in Attachment 1, works are proposed to be gradual and of the likely nature and passive with minimal disturbance to roosting flying-foxes. intensity of the effect of the action on the lifecycle and habitat of Seasonal restrictions for each activity are detailed in Attachment 1 the species. Section 5 to ensure the lifecycle of GHFF at the site is not impacted. Welfare standards and stop-work triggers detailed in Section 5.3 of Attachment 1 will be complied with at all times to further protect flying-foxes at the site. 17. Provide details of Seasonal restrictions, welfare standards and stop-work triggers possible measures to detailed in Attachment 1 will be complied with at all times. avoid or ameliorate the effect of the action. Any flying-fox roost (or foraging) habitat will be offset by maturing of planted roost trees and ongoing restoration works at the site (to ensure no net habitat loss). N.B: The Chief Executive 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. 18. In the case of a As demonstrated in Attachment 1, proposed Level 1 and 2 actions threatened species, aim to protect and restore the site and will therefore benefit rather whether the action proposed is likely to than impact the local population. 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.

endangered population, whether the action proposed is likely to have an adverse effect

19. In the case of an

N/A

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. N/A 20. In the case of an endangered ecological community or critically endangered ecological community, whether the action proposed: (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 (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. 21. In relation to the habitat (i) Please refer to Points 7 and 17. of a threatened species. (ii) Although fragmentation is not highly relevant to the mobile population or ecological GHFF, minimal buffer works (if deemed to be required as community: discussed above and in Attachment 1), will not further isolate (i) the extent to which or fragment this patch of urban bushland. habitat is likely to be (iii) The Balgowlah site is the only camp within Manly Council removed or modified as LGA. It is a maternity camp and considered important as part a result of the action proposed, and of a required network of camps within the GHFF range, however is not considered a nationally-important GHFF (ii) whether an area of camp (see Point 22 below). The intention of the proposed habitat is likely to actions are to mitigate impacts to the community while become fragmented or allowing the camp to remain in-situ, and restore and improve isolated from other roost habitat to ensure its long-term viability. This is expected areas of habitat as a result of the proposed to contribute to the long-term survival of the species in the action, and local area. (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.	
22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).	Nationally-important GHFF camps are defined as those that have contained ≥ 10,000 grey-headed flying-foxes in more than one year in the last 10 years, or have been occupied by more than 2,500 grey-headed flying-foxes permanently or seasonally every year for the last 10 years (DoE 2015²). The Balgowlah camp does not currently meet this criteria.
23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.	As demonstrated throughout Attachment 1, proposed Level 1 and 2 actions aim to protect and restore the site and will therefore benefit rather than impact the local population. These actions are therefore consistent with objectives of the draft National Recovery Plan for the GHFF (DECCW 2009³).
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.	Habitat loss and fragmentation is considered a key threatening process for the GHFF. As detailed above there will be no net loss of roost (or foraging) habitat as part of proposed actions, and the intent of activities is to ensure long-term viability of the camp site, therefore the action will not contribute to this key threatening process. Other threatening processes on GHFF are not relevant to proposed actions.

² DoE 2015, *Referral guideline for management actions in GHFF and SFF camps*, Department of the Environment, Canberra, viewed 12 January 2016, http://www.environment.gov.au/system/files/resources/6d4f8ebc-f6a0-49e6-a6b6-82e9c8d55768/files/referral-guideline-flying-fox-camps.pdf.

³ DECCW 2009, *Draft National Recovery Plan for the Grey-headed Flying-fox Pteropus poliocephalus*, prepared by Dr Peggy Eby for Department of Environment, Climate Change and Water NSW, Sydney, viewed 12 January 2016, http://www.environment.nsw.gov.au/resources/threatenedspecies/08214dnrpflyingfox.pdf.

Important information for the applicant

Processing times and fees

The *Threatened Species Conservation Act 1995* provides that the Chief Executive 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 Chief Executive 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 Chief Executive is required to advise prospective applicants of the maximum fee payable before the licence application is lodged. Therefore, prospective applicants should contact the Office of Environment and Heritage (OEH) 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 Chief Executive 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 species impact statement (SIS), the Chief Executive 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 Chief Executive will advise the applicant of the need to prepare a SIS.

Chief Executive's requirements for a species impact statement

Prior to the preparation of a SIS, a request for Chief Executive's requirements must be forwarded to the relevant OEH 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 Chief Executive of Office of Environment and Heritage (OEH).

^{*} Protected fauna means fauna of a species not named in Schedule 11 of the *National Parks and Wildlife Act*

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 OEH website at <u>Public register of section 91 applications</u>, <u>licences and certificates</u> or in hardcopy form from The Librarian, Office of Environment and Heritage, 59 Goulburn St, Sydney.

Certificates

If the Chief Executive 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 Chief Executive 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)

Eduard McPeake

Applicant's position and

Manly Council

organisation (if relevant)

Manager Environmental Programs

(Please print)

Applicant's signature

Date

For more information or to lodge this form, contact the nearest branch of OEH's Regional Operations Group:

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