

# 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)	Scott Hetherington	
2. Australian Business Number (ABN):	90 178 732 496	
3. Organisation name and position of applicant ^: (if applicable)	Tweed Shire Council Senior Program Leader Biodiversity	
4. Postal address ^:	PO Box 816 Murwillumbah NSW 2484	Telephone ^: B.H. 02 6670 2400 A.H. [REDACTED]
5. Location of the action (including grid reference and local government area and delineated on a map).	Frangela Reserve, Murwillumbah Lot 5 DP 239140 -28.3294 153.3789 (WGS84) Zone 56 537145 6866246 (GDA94) Tweed Shire	

\* 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.

<p>6. Full description of the action and its purpose (e.g. <i>environmental assessment, development, etc.</i>)</p>	<p>The proposed actions are to remove and prune Camphor Laurel at Frangela Reserve to contain available roosting area for Grey-headed and Black flying-foxes and create buffers to adjacent residences.</p> <p>Vegetation management actions are required to address significant community concern regarding noise, smell, property value and potential health impacts. Considerable community engagement including door knocking, provision of information packs, community meetings and consideration by Council have been undertaken in the development of the proposed actions.</p> <p>Vegetation management zones are detailed in Attachment 1.</p> <p>Flying-foxes have been recorded using the site since November 2013. Monitoring of the camp has been undertaken as part of the National Flying Fox Monitoring Programme.</p> <p>Grey-headed flying-fox numbers have varied between 0 animals and 330 animals with 200 present in May 2016. Black flying-fox numbers have varied between 0 animals and 1100 animals with 1100 present in May 2016. Based on five monitoring events where both species were present, GHFF represent an average of 49% of animals at the camp (range 10 – 100%).</p> <p>The camp is temporary with no animals present at 3 of 11 monitoring events between November 2013 and May 2016. The camp does not qualify as a nationally-important flying-fox camp pursuant to the Department of the Environment <i>Referral guideline for management actions in grey-headed and spectacled flying-fox camps</i>.</p>
<p>7. Details of the area to be affected by the action (in hectares).</p>	<p>Frangela Reserve is 3.8 ha.</p> <p>The flying-fox camp extent at May 2016 was approximately 4200 m<sup>2</sup>.</p> <p>Approximately 250 m<sup>2</sup> of the May 2016 camp extent are proposed to be included in the vegetation management work zones.</p>
<p>8. Duration and timing of the action (including staging, if any).</p>	<p>Vegetation management works are proposed to be undertaken between 1<sup>st</sup> August 2016 and 28<sup>th</sup> August 2016.</p> <p>Works are estimated to take 4 – 6 days.</p> <p>Works are preferentially scheduled to occur during daylight hours. If the flying-foxes do not vacate the site by way of normal seasonal movement, works may be undertaken at night.</p>
<p>9. Is the action to occur on land declared as critical habitat*? (tick appropriate box)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>* Critical habitat means habitat declared as critical habitat under Part 3 of the <i>Threatened Species Conservation Act 1995</i>.</p>	

10. Threatened species, populations or ecological communities to be harmed or picked.	<u>Scientific name</u>	<u>Common name</u> (if known)	<u>Conservation status</u> (i.e. critically endangered, endangered or vulnerable)	<u>Details of number of individual animals, or proportion and type of plant material</u> (e.g. fertile branchlets for herbarium specimens or whole plants or plant parts)
	<i>Pteropus poliocephalus</i>	Grey-headed flying-fox	Vulnerable	0 – directly 300 GHFF – maximum count at camp (August 2015)
11. Species impact: (please tick appropriate box) a) For action proposed on land declared as critical habitat or b) For action proposed on land <u>not</u> declared as critical habitat.	a species impact statement (SIS) is attached <input type="checkbox"/> Yes <input type="checkbox"/> No  Items 12 to 25 have been addressed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<p>N.B: Provision of a species impact statement is a statutory requirement of a licence application if the action is proposed on critical habitat.</p> <p>The provision of information addressing items 12 to 17 is a statutory requirement of a licence application if the action proposed is <b>not</b> on land that is critical habitat. Information addressing any of the questions below must be attached to the application.</p>				
12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.	<p>The vegetation present within the occupied flying-fox camp area is mapped as 'Highly Modified / Disturbed' by the Tweed Vegetation Management Strategy 2004 (2009 Update).</p> <p>The vegetation is located within a Public Reserve managed by Tweed Shire Council as a park for recreation purposes and off leash dog exercise area.</p> <p>The vegetation adjacent to the subject area is predominantly mown grass associated with the park, drainage reserves and buffers to nearby residential areas.</p> <p>Flying-foxes roost in Camphor Laurels which form the entire canopy. Native and introduced species are present in the understorey.</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>53 records of 19 species listed as Threatened under the TSC Act 1995 have been recorded since 01 January 1990 within 10 km of the site on the NSW BioNet Atlas (Accessed 27/6/16). This includes 10 bird species and 9 mammals.</p> <p>All recorded threatened species with the exception of Comb-crested Jacana, Albert's Lyrebird, Yellow-bellied Glider and Squirrel Glider have a potential likelihood of occurrence.</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>The vegetation to be modified is Camphor Laurel on the periphery of the currently occupied area. The camp first established in 2013 and has been occupied on a temporary basis up to and including the latest monitoring event in May 2016.</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>Grey-headed flying-foxes occur from between Mackay, Qld to Melbourne, Victoria. Within their range there are approximately 250 known regularly used roost sites.</p> <p>In the Tweed Shire, at least 12 camp sites are known to be used by Grey-headed flying-foxes.</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>The proposed actions are intended to have minimal effect on the lifecycle and habitat of Grey-headed flying-foxes.</p> <p>This will be achieved by undertaking works when animals are not present at the camp (due to seasonally vacating the site or if feasible, when vacant at night). The works will be scheduled to avoid periods when females are heavily pregnant or young are present.</p> <p>The scope of work will also minimise impact by limiting vegetation removal to approximately 250 m<sup>2</sup> (6%) of available roosting habitat and prevent expansion into nearby habitat that is close to residences.</p> <p>Sufficient roosting habitat will be retained at the site such that flying-foxes can continue to use the site whilst minimising impacts on nearby residences.</p>

17. Provide details of possible measures to avoid or ameliorate the effect of the action.	<ol style="list-style-type: none"> <li>1. Works will be undertaken when animals are not present</li> <li>2. Works will not be undertaken during breeding period (September to March)</li> <li>3. Sufficient roosting habitat will be retained to ensure ongoing use of the site</li> <li>4. Works within the currently (May 2016) occupied area is limited to approximately 250 m<sup>2</sup></li> <li>5. Bush regeneration works will be undertaken at the site after vegetation management works to treat weed species present and improve overall biodiversity values.</li> <li>6. Quarterly monitoring in accordance with the National Flying Fox Monitoring Programme will be continued</li> <li>7. Council is concurrently investigating preparation of a Shire wide management plan in accordance with the NSW OEH Flying-fox Camp Management Policy 2015</li> </ol>
<p>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.</p>	
18. In the case of a threatened species, 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>The action will not have an adverse impact on the life cycle of Grey-headed flying-foxes (GHFF) such that a viable local population is likely to be placed at risk of extinction as:</p> <ul style="list-style-type: none"> <li>• The maximum number of GHFF known to use the site is 300</li> <li>• Sufficient roosting habitat will be retained to ensure ongoing suitability for use as a roost site</li> <li>• Works will not be undertaken during the breeding period (September to March) if flying foxes are present</li> <li>• Works will preferentially be undertaken when flying-foxes seasonally/temporarily vacate the camp</li> <li>• Works do not impact on available food resources</li> <li>• Frangela Reserve is one of 12 currently known camps for GHFF within the Tweed Shire</li> </ul>
19. In the case of an endangered population, 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.	Not applicable – GHFF population not listed as endangered.

<p>20. In the case of an endangered ecological community or critically endangered ecological community, 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 – vegetation to be affected is not listed as an endangered ecological community</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</p>	<p>The extent of vegetation removal and modification is shown in Attachment 1 and will constitute approximately 6% of habitat currently used by flying-foxes at Frangela Reserve.</p> <p>The vegetation management will occur on the periphery of the camp and so will not cause fragmentation or isolation. Sufficient roost habitat will be retained such that GHFF can continue to use the site as a camp.</p> <p>Bush regeneration works will be undertaken at the site after vegetation management works to treat weed species present and improve overall biodiversity values.</p> <p>The vegetation management proposal has been supported by representatives of the affected community as an acceptable solution and so is anticipated to reduce the likelihood of any future informal disturbance or requests for further management actions.</p>

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).	Not applicable – no critical habitat identified in NSW for Grey-headed flying-fox.
23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.	<p>The proposed actions are consistent with the objectives of the <i>Draft National Recovery Plan for the Grey-headed Flying-fox</i> (DECCW 2009). Specifically, the planned actions:</p> <ul style="list-style-type: none"> <li>• Protect and enhance roost habitat (objective 4)</li> <li>• Reduce negative public attitudes (objective 6)</li> <li>• Increase public awareness and understanding (objective 7)</li> <li>• Monitor population trends (objective 8)</li> <li>• Improve knowledge of demographics and population structure (objective 10)</li> <li>• Provide long term economic benefits associated with the protection of ecosystem services etc. (objective 13).</li> </ul>
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.	Clearing of native vegetation is one of the 33 key threatening processes listed in the <i>Threatened Species Conservation Act</i> . However, the extent of lopping and habitat modification proposed does not constitute significant habitat loss, due to the limited extent of clearing and the intent to maintain available roost habitat at the site.

# 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).

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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 OEH website at [Public register of section 91 applications, licences and certificates](#) 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) Scott Hetherington

Applicant's position and  
organisation (if relevant)  
(Please print) Senior Program Leader Biodiversity, Tweed Shire Council

Applicant's signature



Date 30 June 2016

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

**Greater Sydney**

PO Box 644  
Parramatta NSW 2124  
Phone: 02 9995 5000

**Hunter and Central Coast**

PO Box 1002  
Dangar NSW 2309  
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**Illawarra**

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Wollongong NSW 2500  
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**South east**

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**South west**

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Office of Environment and Heritage (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)

April 2016  
OEH 2016/0239

## Attachment 1 – Proposed vegetation management zones



### Legend



Approximate flying-fox camp extent May 2016



Proposed camphor laurel removal zone



Proposed vegetation management zone (pruning and removal of camphor laurel) – council land



Proposed vegetation management zone (pruning and removal of camphor laurel) - private land