



Office of  
Environment  
& Heritage

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)	Mark Beharrell Pittwater Council	
2. Australian Business Number (ABN):	61340837871	
3. Organisation name and position of applicant ^: (if applicable)	Pittwater Council Manager - Natural Environment and Education (NEE)	
4. Postal address ^:	PO BOX 882 Mona Vale NSW 1660	Telephone ^: B.H. 02 99701368 [REDACTED]
5. Location of the action (including grid reference and local government area and delineated on a map).	Cannes Reserve Avalon NSW 2107 Pittwater LGA E 344 577 44 N 278 037 12 (see attached map)	

\* 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. environmental assessment, development, etc.)</p>	<p>Pittwater Council proposes to undertake the removal of dead-wood within two (2) indigenous canopy trees (Coastal Littoral Rainforest Endangered Ecological Community EEC species) located in Cannes Reserve, Avalon. This action is currently required for safety purposes in continuing to undertake management of a Grey-headed Flying-fox camp located in the reserve, of which has recently been subject to a dispersal as outlined in the adopted Cannes Reserve Flying-fox Camp Management Plan 2015-2020.</p> <p>The proposed in-situ vegetation modification involves removal of dead branches/limbs in the upper canopy of two (2) Turpentine (<i>Syncarpia glomulifera</i>) trees which currently have dead crowns. As the bottom part of these trees are still alive and the trees can be retained, the removal of the upper deadwood will pose no threat to the overall health and viability of the reserve and will not compromise the viability of the Coastal Littoral Rainforest EEC. In addition, “pineapple” pruning of ten (10) adjacent Cabbage Tree Palms is also proposed, also which will not impact on the health and viability of these specimens or on the EEC.</p> <p>There are, as of making this application, no visual observations of GHFF roosting in any of the proposed specimens or anywhere in the adjacent canopy as the GHFF have recently departed from Cannes Reserve as a result of Council’s dispersal trial (as licenced under the Section 95C Certificate C0001089 issued to Council on 19 July 2015).</p> <p>The purpose of these proposed works is three-fold:</p> <ol style="list-style-type: none"> <li>1. To ensure the safety of staff and contractors working under the canopy as part of ongoing flying-fox management and bush regeneration works (a large branch has recently been observed breaking off and falling which is an obvious potential hazard)</li> <li>2. To reduce the likelihood of GHFF re-establishing in the reserve after the current dispersal trial.</li> <li>3. Modifying the habitat will further reduce risk to flying-fox welfare and breeding by reducing the amount of maintenance dispersal required, and the likelihood of requiring dispersal when females are heavily pregnant/carrying pups/lactating.</li> </ol> <p>The proposed vegetation removal would be conducted during daylight hours using a combination of ropes and mechanised equipment (pruning saws) to lop and pull down dead limbs in selected sections of these trees, and prune Cabbage Tree Palm fronds. The works will be undertaken by licenced arborists using a cherry-picker located on the rear yard of 29 Therry Street (owners consent will be sought). The contractors shall be given strict instruction that only dead tree limbs and palm fronds marked are to be removed, and no works are to occur if GHFF are observed in the reserve on the day.</p>
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	<p>It is envisaged that the proposed deadwood and palm frond removal would start as soon as possible once a licence is issued, given the absence of GHFF following the recent dispersal. The works will only apply to dead limbs/branches and selected palm fronds and these will be indicated to contractors and supervised by a Council Officer on the day of works. Works will not proceed if GHFF are observed to be present in Cannes Reserve on the scheduled day of works.</p> <p>All works on Council land will be undertaken in accordance with the provisions of the Section 91 Licence granted by The Office of Environment and Heritage (OEH).</p> <p>The proposed works will be carried out using best practice techniques including safety gear. A comprehensive risk assessment will be implemented along with a Work Health Safety Induction checklist which would be to both Council and the Contractor's satisfaction prior to any works being undertaken.</p>
7. Details of the area to be affected by the action ( <i>in hectares</i> ).	<p>Cannes Reserve is 0.67 hectares in total which includes 0.14 hectares of unformed road (Net Road). The adjoining Gunyah Place Reserve is 0.08 hectares, however much of this area is cleared parkland with little suitable roost habitat.</p> <p>The proposed deadwood removal works will be confined to two trees located in the lower half of Cannes Reserve near the bush edge and park interface. The proposed frond "pineapple" pruning will be confined to ten (10) Cabbage Tree Palms in the same area.</p> <p>(see attached map indicating locations of the subject trees)</p>
8. Duration and timing of the action ( <i>including staging, if any</i> ).	<p>Ideally the proposed deadwood and palm frond removal would be carried out as soon as possible, while the GHFF are absent from the reserve following the initial dispersal. It is expected that the duration of works will only be a few hours in favourable conditions.</p> <p>The works will be subject to weather events i.e. only during daylight hours and during favourable weather.</p>
9. Is the action to occur on land declared as critical habitat*? ( <i>tick appropriate box</i> )	<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 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)
	<i>Pteropus poliocephalus</i>	Grey-headed flying fox	Vulnerable	<b>Cannes Reserve</b> <b>1350 animals</b> <b>21/2/2015 –</b> <b>currently less</b> <b>than 10</b> <b>individuals</b>
	<i>Ninox strenua</i>	Powerful Owl	Vulnerable	<b>See SIS</b> <b>Ecological</b>
	<i>Miniopterus schreibersii</i>	Eastern Bentwing Bat	Vulnerable	<b>See SIS</b> <b>Ecological</b>
	<i>Mormopterus norfolkensis</i>	East Coast Freetail Bat	Vulnerable	<b>See SIS</b> <b>Ecological</b>
	<i>Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions</i>	Littoral Rainforest	Endangered Ecological Community	<b>Two (2) canopy trees (part of)</b>
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.	an SIS is attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Copy of SIS with OEH  Items 12 to 25 have been addressed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<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.</i></p> <p><i>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>				

12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.	See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)
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> ).	See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)
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> ).	See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)
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 .	See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)

<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 Coastal Littoral Rainforest EEC will not be impacted during the proposed deadwood removal as only the deadwood in the upper canopy of the two trees will be removed; the remaining part of the trees still alive and will reshoot in the future. Similar with the palm frond pruning, no trees will be removed and will also reshoot fronds in the future.</p> <p>The “intensity of effect” remains negligible as the works proposed are very minor.</p> <p>The proposed vegetation removal works in no way will affect the GHFF camp as no animal is currently roosting within these trees and any animals attempting to return to the reserve will find that roosting area has been limited and seek alternative roosting either elsewhere in the reserve or at another location.</p> <p>Council's Bushland Management Officer (BMO) will be present on site during the course of the works to ensure that the contractor is implementing the works according to the specifications which will be made available to OEH.</p> <p>A complete GHFF static count will be conducted prior to any works being undertaken. Works will not be conducted if GHFF are present or during periods of adverse weather including strong winds or sustained heavy rains.</p>
<p>17. Provide details of possible measures to avoid or ameliorate the effect of the action.</p>	<p>The proposed works to remove deadwood from two trees and prune fronds of ten palms will not impact on the Coastal Littoral Rainforest EEC and will not result in any tree removal, as such replacement plantings of canopy species will not be required.</p> <p>All dead wood and fronds will be scattered onsite and left as habitat.</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 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>	<p>The Grey-headed Flying-fox is a listed threatened species, however the proposed works will not have an adverse effect or place the species at risk of extinction.</p> <p>For other listed threatened species refer to:</p> <p>See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)</p>

<p>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.</p>	<p>The Grey-headed Flying-fox is not listed as an endangered population. There are no listed endangered populations which will be adversely affected by the proposed works.</p>
<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>The Coastal Littoral Rainforest EEC present in Cannes Reserve will not be adversely affected by the proposed works or placed at risk of extinction as no live tree specimens will be removed.</p>
<p>21. In relation to the habitat</p>	<p>Although the dead sections of the two Turpentine trees as well as the ten Cabbage Tree Palms have historically been used as roost trees, the removal of these sections will not adversely impact on habitat for the GHFF as any individuals returning to the reserve will have alternative roosting trees, plus the removal of these sections may deter the GHFF population from increasing, therefore meeting the objective of the Cannes Reserve Flying-fox Camp Management Plan</p> <p>See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)</p>

<p>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>22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).</p>	<p>See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)</p>
<p>23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.</p>	<p>See attached disc: Cannes Reserve Flying-fox Camp Management Plan 2015-2020 (Ecosure) and Species Impact Statement Cannes Reserve Avalon 2012 (Eco Logical Australia)</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.	While the loss of habitat is a key threatening process for the GHFF, the proposed works are considered justified primarily for safety reasons. Works to remove deadwood will not lead to major loss of habitat in the reserve.




Cannes Reserve, Avalon  
Section 91 Licence Application July 2015



 Cannes Reserve boundary

 Turpentine trees to be deadwooded (2)

 Cabbage tree palms to be 'pineappled' (10)

GDA 1994 MGA Zone 56  
Projection: Transverse Mercator  
Datum: GDA 1994  
Units: Meter



Scale:  
1cm = 8m

Data Sources: Pittwater Council, 2015; Aerial image: © Land and Property Information, 2014

## 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 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 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

\* 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*.



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 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 Director-General of OEH.

### 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

[www.environment.nsw.gov.au/threatenedspecies/S91TscRegisterByDate.htm](http://www.environment.nsw.gov.au/threatenedspecies/S91TscRegisterByDate.htm)

or in hardcopy form from The Librarian, OEH, 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                      Mark Beharrell  
(Please print)

Applicant's Position &  
Organisation (if relevant)  
(Please print)

Manager Natural  
Environment and  
Education NEE

Applicant's signature

Date



For more information or to lodge this form, contact the nearest branch of OEH's Conservation and Regulation Division:



Metropolitan Branch

P: 02 9995 6802  
F: 02 9995 6900  
PO Box 668  
Parramatta  
NSW 2124

North East Branch

P: 02 6640 2500  
F: 02 6642 7743  
PO Box 498  
Grafton  
NSW 2460

North East Branch

P: 02 4908 6800  
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PO Box 488G,  
Newcastle  
NSW 2300

North West Branch

P: 02 6883 5330  
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PO Box 2111  
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