

Application for a



Office of
Environment
& Heritage

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 ^: <i>(if additional persons require authorisation by this licence, please attach details of names and addresses)</i>	Courtney Fink-Downes	
2. Australian Business Number (ABN):	47 504 455 945	
3. Organisation name and position of applicant ^: <i>(if applicable)</i>	Eurobodalla Shire Council Natural Resource Supervisor	
4. Postal address ^:	PO Box 99 Moruya NSW 2536	Telephone ^: B.H.4474 7493 A.H. [REDACTED]
5. Location of the action <i>(including grid reference and local government area and delineated on a map).</i>	Local Government Area – Eurobodalla Shire Council Water Gardens Reserve, Batemans Bay. Bounded by the Old Princes Highway, South Street, High Street, Short Street and Museum Place. The works will be undertaken within the following parcels of land – Lot 333 DP720903, Lot 331 DP720903, Lot 332 DP720903, Lot 228 DP755902, Lot 1 DP518783 and the LO ESC easement adjacent to SP75362. Please refer to the 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>Trimming and/or individual tree removal will be undertaken in 8 sites throughout the Reserve (please refer to the attached map which identifies the sites). The scope of works will be:</p> <ul style="list-style-type: none"> • Site 1 (92 metres in length): Trimming of <i>Casuarina glauca</i>, <i>Pittosporum undulatum</i> and Privet (environmental weed) branches to create a three metre buffer with the western boundary of 9 South Street. • Site 2 (61 metres in length): Trimming and removal of <i>Casuarina glauca</i>, <i>Pittosporum undulatum</i>, <i>Acacia mearnsii</i> and <i>Angophora floribunda</i> saplings to create a three metre buffer with the northern boundary of 9 South Street • Site 3 (140 metres in length): Trimming of <i>Angophora floribunda</i> branches to create a five metre buffer with the western boundaries of properties 32-40 High Street. Complete removal of an <i>Acacia mearnsii</i> tree and two <i>Angophora floribunda</i> saplings within the five metre buffer • Site 4: Complete removal of four <i>Angophora floribunda</i> and <i>Acacia mearnsii</i> and <i>Acacia longifolia</i> saplings. Complete removal and/or trimming of four <i>Angophora floribunda</i> with a DBH of no more than 20cm. • Site 5: Removal of a single <i>Grevillea robusta</i> • Site 6: Removal of a single <i>Robinia</i> • Site 7: Trimming of <i>Angophora floribunda</i> branches (35 metres in length) • Site 8: Trimming of <i>Angophora floribunda</i> branches along road easement (115 metres in length) <p>The purpose of these works is to remove the branches which overhang adjoining private property. Flying-foxes roost in these branches when large numbers of flying-foxes are in camp, resulting in faecal drop on clotheslines, roofs, cars, decks and other property. These works will provide a buffer between roosting flying-foxes and residences which will reduce the amount of faecal drop, odour and noise impacting these residents. Both Council and OEH have met onsite with concerned residents and have received verbal and written correspondence regarding these impacts.</p>
<p>7. Details of the area to be affected by the action (in hectares).</p>	<p>The Water Gardens Reserve is where the Grey-headed Flying-fox camp is located. This Reserve covers an area of approximately 9.85 ha. Approximately 60% is managed by Council with the remaining 40% in private ownership. This Section 91 Licence application encompasses all of the land tenures.</p> <p>The works will be undertaken on 0.12 hectares of the reserve, which equates to approximately 1.22% of the flying-fox camp habitat.</p> <p>Please refer the attached map which identifies: the location of the works, width of each buffer and individual trees which will be removed.</p>
<p>8. Duration and timing of the action (including staging, if any).</p>	<p>It is anticipated that the flying-fox numbers will be at their lowest during the month of August. Due to this, the works will be undertaken in late August 2015. The schedule of works are estimated to take no more than 3.5 work days which will be implemented (weather permitting) in the following manner:</p>

	<p>Friday – afternoon only Monday – all day Wednesday – all day Friday – all day</p> <p>This scheduling will provide at least 24 hours respite between each period of works to limit the extent of continuous exposure and to allow the flying-foxes to recover from the disturbance and resulting stress.</p> <p>Council will engage a contractor to have two teams working concurrently so as to reduce the total time flying-foxes will be exposed to noise and activity by 50%.</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>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><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><i>Pteropus poliocephalus</i></p>	<p>Grey-headed Flying-fox</p>	<p>Vulnerable</p>	<p>The camp comprises between 500- >20,000 flying-foxes depending on seasonal conditions. The works outlined in this Section 91 licence application will only be undertaken when the population will be at its lowest during the month of August 2015</p>
<p>11. Species impact: (please tick appropriate box)</p> <p>a) For action proposed on land declared as</p>	<p>an SIS is attached <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>				

<p>critical habitat; or b) For action proposed on land <u>not</u> declared as critical habitat.</p>	<p>Items 12 to 25 have been addressed X 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.</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>	
<p>12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.</p>	<p>The core area of Water Gardens reserve is comprised of degraded Swamp-Oak Floodplain Endangered Ecological Community with scattered individual Eucalypt and exotic tree species surrounding the perimeter of the reserve. Some of the land affected by the action may have degraded elements of Swamp Oak Floodplain Forest Endangered Ecological Community. However, most of the vegetation within the Water Gardens area is either degraded due to environmental weed infestation and ongoing human use or was planted as part of the Water Gardens establishment.</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>The only known threatened species that is likely to be affected from the action is the Grey-headed Flying-fox. The flying-foxes have also temporarily roosted near the Catalina Golf Course (Lot 386 DP248840) in habitat similar to that found in the Water Gardens.</p> <p>There are other threatened species recorded to occur in similar habitat within the Water Gardens reserve vicinity. These include the Gang-gang Cockatoo, Glossy-black Cockatoo, Barking Owl, Powerful Owl, Masked Owl, Sooty Owl, Yellow-bellied Glider and Squirrel Glider.</p>
<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>The Water Gardens Reserve provides habitat for a Grey-headed Flying-fox camp and may also provide habitat for other threatened species including Glossy Black-cockatoos.</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 Grey-headed Flying-fox species is endemic to Australia, with distribution ranging from Bundaberg, Queensland to Melbourne, Victoria. The Water Gardens reserve is the only known location of a regularly utilised camp for the Grey-headed Flying-fox in the Batemans Bay urban area. The works will be undertaken in 0.12 hectares of the reserve which equates to 1.22% of the flying-fox habitat available at the Water Gardens.</p> <p>There are other reserves within the vicinity which have been confirmed as suitable Grey-headed Flying-fox habitat covering a total area of 64.4 hectares:</p> <ul style="list-style-type: none"> • Catalina wetland : 23.2 ha • Joes Creek Reserve: 19 ha • Lincoln Downes and Surfside Reserve: 11ha

	<ul style="list-style-type: none"> • Cullendulla wetland: 11.2ha.
16. Provide an assessment of the likely nature and intensity of the effect of the action on the lifecycle and habitat of the species.	The works will have minimal negative impact on the roosting habitat for the Grey-headed Flying-foxes at the Water Gardens Reserve. As outlined in question 6, 1.22% of the available vegetation will be trimmed and individual trees will be removed. The area where tree works are occurring are only utilised by flying-foxes when the camp is extremely 'full'. This does not occur every year as the population does fluctuate with the availability of food resources. The timing of works will not impact significantly on the lifecycle of the flying-foxes as it will be conducted in the non-breeding season and will only cause temporary diurnal disturbance to animals for a total of three and a half days, with respite periods in between each disturbance period. This will limit the amount of energy expended by the flying-foxes during this time as the respite days will be an opportunity for the flying-foxes to recover. During the period of when the works will be undertaken there will be no heavily pregnant or young flying-foxes present at the Water Gardens Reserve.
17. Provide details of possible measures to avoid or ameliorate the effect of the action.	<p>There will be a minimum of 1 day between each work day to provide respite time to allow recovery from disturbance. As outlined in question 8, works will be scheduled for a Friday, Monday, Wednesday and a Friday. The works on the Friday will only occur in the afternoon which will minimise the stress on flying-foxes because late in the afternoon they are unsettled while preparing to disembark to forage for the night. Two arborist teams will be undertaking the work concurrently to halve the amount of time that could possibly impact on the flying-foxes. The contractor undertaking the works will also be using a crane which will further increase efficiency and reduce the amount of time the flying-foxes will be disturbed.</p> <p>Council's Natural Resource Supervisor will be at the Water Gardens Reserve whilst the work is being undertaken. A bat specialist WIRES volunteer will be informed of the scheduled works and will be 'on call' to attend in the event of flying-foxes requiring treatment.</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>	
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.	The Water Gardens flying-fox camp is the only known local population of this species. The works will be undertaken when the flying-fox population at this site is at relatively low numbers and will not occur during the breeding season. The works will not have an impact on the life cycle of the Grey-headed Flying-fox to the extent that the local population is placed at risk of extinction. It is not anticipated that there will be an impact on the reproductive effort and success of the flying-foxes. It is also not expected that there will be any mortality or abandonment of the camp as a result of the tree works.
19. In the case of an endangered population,	The Grey-headed Flying-fox camp at Water Gardens Reserve is not an endangered population listed under the TSC Act.

<p>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>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 works will be undertaken on the edge of degraded areas of Swamp-Oak Floodplain Forest Endangered Ecological Community vegetation. The works will have a minimal adverse effect on the extent or composition of the ecological community as the vegetation, which is already heavily modified, is not being substantially modified.</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</p>	<p>The works outlined in this application will only slightly modify already heavily modified native vegetation. The proposed actions are confined to the southern and western boundaries of the Reserve and will not fragment or further isolate the habitat at the Water Gardens Reserve. This vegetation has only been utilised by the flying-foxes as a 'last resort' when the population is very large and the main roosting sites in the centre of the reserve are already occupied. The habitat which is to be trimmed or removed will not impact on the long-term survival of the Grey-headed Flying-foxes and the Water Gardens camp.</p>

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).	N/A – there is no listed Critical Habitat at the site.
23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.	<p>The on ground works are not consistent with the objectives of the Draft National Recovery Plan for the Grey-headed Flying-fox (July 2009), however Council’s Natural Resource Supervisor has been and will continue to address the two below actions:</p> <ul style="list-style-type: none"> • Action 5: Provide information and advice to managers, community groups and members of the public that are involved with controversial flying-fox camps <p>Action 6: Produce and circulate educational resources to improve public attitudes toward Grey-headed Flying-foxes, promote the recovery program to the wider community and encourage participation in recovery actions.</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.	The works (proposed action) constitutes the Key Threatening Process “Clearing of Native Vegetation” listed under the TSC Act. However, the extent of clearing is at a relatively minor scale such that it is considered not to impact significantly on local populations of threatened entities or threatened ecological communities.

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 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/S91TSCaRegisterByDate.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.

* 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*.

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 <i>(Please print)</i>	Courtney Fink-Downes
Applicant's Position & Organisation <i>(if relevant)</i> <i>(Please print)</i>	Natural Resource Supervisor – Eurobodalla Shire Council
Applicant's signature	<i>Courtney Fink-Downes</i>
Date	31/7/15

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

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F: 02 9995 6900
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NSW 2124

North East Branch

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