

Your reference :  
Our reference : DOC17/266798  
Contact : Liz Mazzer [REDACTED]

Ross Briggs  
Manager Regulatory Services  
Directorate - Planning & Compliance  
Tamworth Regional Council  
PO Box 555  
Tamworth NSW 2340

Dear Mr Briggs

**APPLICATION FOR LICENCE TO HARM THREATENED SPECIES, POPULATIONS,  
ECOLOGICAL COMMUNITIES OR TO DAMAGE THEIR HABITATS**

I refer to your application for a licence to harm threatened species, populations or ecological communities, and/or damage their habitats under section 91 of the *Threatened Species Conservation Act 1995* (TSC Act) by creating a buffer in the King George V Avenue grey-headed flying-fox camp, received by the Office of Environment and Heritage (OEH) on 8 May 2017.

I have considered the application and supporting information provided and I have determined that the proposed action is not likely to significantly affect threatened species, populations or ecological communities, or their habitats. Therefore, a licence is not required under the TSC Act for the proposed action.

A certificate to this effect has been issued (enclosed) under section 95 of the TSC Act subject to the conditions prescribed in the certificate.

OEH notes that the King George V Avenue camp, as part of the larger Peel River Camp, is recognised as nationally important to the grey-headed flying-fox. The current application is considered likely to have a low impact on the species. OEH would be concerned about potential cumulative impacts if any works of a similar nature were proposed for the camp in the future.

You should note that it is an offence under section 133(4) of the National Parks and Wildlife Act 1974 to contravene or fail to comply with any condition or restriction attached to the certificate.

If you have any further questions in relation to this matter, please contact Liz Mazzer, Conservation Planning Officer on [REDACTED] or email [REDACTED].

Yours sincerely



**STEVEN COX**  
Senior Team Leader, Planning

**North West Branch**

30 May 2017

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# Section 95(2) Certificate

Threatened Species Conservation Act 1995



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## Issued To:

Mr Ross Briggs  
Manager – Regulatory Services  
Directorate – Planning & Compliance  
Tamworth Regional Council  
PO Box 555  
Tamworth, NSW 2340  
Australia

**Certificate no. :** C0002769  
**Issue Date:** 30 May 2017  
**Expiry date:** 30 June 2017

I certify that the Proposed Action as described below is not likely to significantly affect threatened species, populations, ecological communities or their habitats and consequently the Proposed Action does not require a licence under the Threatened Species Conservation Act 1995.

An act that is the subject of this certificate is a defence against prosecution under sections 118A-118D of the National Parks and Wildlife Act 1974.

## DESCRIPTION OF PROPOSED ACTION

The proposed action:

To create a 50 metre buffer area around two residences, and a 15 metre buffer area from potential conflict areas in the Paradise Tourist Park, within the King George V Avenue section of the Peel River flying-fox camp. The buffer area will be created at the north-western end of the camp. The boundaries of the buffer area are shown in Appendix 1.

The buffer area will be created through the removal of exotic vegetation (including some environmental weed species) and five lemon scented gums (*Corymbia citriodora*), as well as trimming, but not removal, of indigenous native trees.

State Heritage listed Oak trees along King George V Avenue will not be trimmed or removed.

Indigenous native trees that occur in the buffer area and may need to be trimmed include (but are not limited to) *Eucalyptus tereticornis*, *Angophora floribunda* and *Eucalyptus melliodora*. Trimming of indigenous native trees will be done in accordance with arborist standards to ensure the tree is not at risk of dying. The proportion of each tree trimmed will vary depending on species, following advice from a qualified arborist to ensure native trees remain viable.

The total buffer area created would cover approximately 1.5 hectares. The potential roost habitat to be affected within this area totals approximately 1.1 hectares. Sufficient vegetation will be retained in the Peel River Camp to support the maximum number of flying-foxes recorded in the camp.

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Works associated with the action would be conducted over a two week period in May and June 2017, ensuring the action is completed before female grey-headed flying-foxes are in the final stages of pregnancy or potentially birthing or rearing young.

The action is consistent with the OEH Flying-fox Camp Management Policy, the Tamworth Regional Council *Flying-fox Camp Management Plan – Peel River Camp* (adopted by Council on 28 February 2017) and the mitigation standards in the *Referral guideline for management actions in grey-headed and spectacled flying-fox camps* (Commonwealth of Australia, 2015).

## RELEVANT CONDITIONS

The holder of the certificate must ensure that:

### General

1. The action must be undertaken in accordance with this certificate.
2. The action is restricted to the buffer area (Appendix 1).
3. The action is restricted to the following works:
  - a) removal of exotic vegetation (including some environmental weed species) and five lemon scented gums (*Corymbia citriodora*)
  - b) trimming of indigenous native trees, including (but not limited to) *Eucalyptus tereticornis*, *Angophora floribunda* and *Eucalyptus melliodora*.
  - c) State Heritage listed Oak trees along King George V Avenue will **not** be trimmed or removed.
4. The action will be conducted during May and June 2017. No works are to be conducted outside this period.
5. All personnel will be appropriately experienced, trained and inducted. Induction will include each person's responsibilities under the Camp Management Plan.
6. All personnel will be briefed prior to works commencing each day, and debriefed at the end of the day.
7. Large crews (greater than ten) will be avoided where possible.
8. A flying-fox expert will attend the site daily to monitor flying-fox behaviour and ensure compliance. They must also be able to identify pregnant females, flightless young, individuals in poor health and be aware of climatic extremes and food stress events. This person will make an assessment of the relevant conditions and advise the supervisor/proponent whether the activity can go ahead. The requirements for a flying-fox expert are provided in Appendix 2.
9. At least one flying-fox rest day with no active management will be scheduled in every seven day period.

### Prior to the action commencing

10. Residents adjacent to the camp will be individually notified one week prior to on-ground works commencing. This will include information on what to do if an injured or orphaned flying-fox is observed, a reminder not to participate or interfere with the program, and details on how to report unusual flying-fox behaviour/daytime sightings. Relevant contact details will be provided (e.g. Program Coordinator). Resident requests for retention of vegetation and other concerns relating to the program will be taken into consideration.

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11. Information about the action will be placed on Council's website along with contact information.
12. OEH will be notified at least 48 hours before the action commences.
13. A protocol, in accordance with the NSW Code of Practice for Injured, Sick and Orphaned Flying-foxes (OEH 2012), for flying-fox rescue will be developed including contact details of rescue and rehabilitation organisations. This protocol will be made available to all relevant staff, residents and volunteers prior to the action commencing.
14. A licensed wildlife carer will be notified prior to beginning the action in the event that rescue/care is required.

### Stop work triggers

15. The action will cease and will not recommence or progress to subsequent levels without the approval of OEH if:
  - a) any of the animal welfare triggers in Table 1 occur on more than two days during the program, such as unacceptable levels of stress
  - b) there is a flying-fox injury or death in the buffer area
  - c) a new camp/camps appear to be establishing
  - d) unintended impacts are created for the community around the camp.

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**Table 1 Welfare Triggers**

Welfare trigger	Signs	Action
Unacceptable levels of stress	If any individual is observed: <ul style="list-style-type: none"><li>• panting</li><li>• saliva spreading</li><li>• located on or within 2 m off the ground</li></ul>	Works to cease for the day.
Unacceptable levels of stress	<ul style="list-style-type: none"><li>• females in final trimester</li><li>• dependent/crèching young present</li><li>• loss of condition evident</li></ul>	Works to cease immediately and OEH notified AND rescheduled
Fatigue	<ul style="list-style-type: none"><li>• more than 30% of the camp takes flight</li><li>• individuals are in flight for more than 5 minutes</li><li>• flying-foxes appear to be leaving the camp</li></ul>	Works to cease and recommence only when flying-foxes have settled / move to alternative locations at least 50 m from roosting animals.  Maximum of two unsuccessful attempts to recommence work before ceasing for the day.
Injury/death	<ul style="list-style-type: none"><li>• a flying-fox appears to have been injured/killed in the buffer area (including aborted foetuses)</li></ul>	Works to cease immediately and OEH notified AND rescheduled  OR adapted sufficiently so that fatal impacts (e.g. death/injury) are highly unlikely to occur, as confirmed by the approved flying-fox expert (see Appendix 2)  OR stop indefinitely and investigate alternative management options.

## Disturbance of flying-foxes

16. The use of loud machinery and equipment that produce sudden impacts/noise will be limited. Where loud equipment (e.g. chainsaws) is required they will be started away from the camp and allowed to run for a short time to allow flying-foxes to adjust.
17. Activities that may disturb flying-foxes will begin as far from the camp as possible, working gradually towards the camp to allow flying-foxes to habituate.
18. OEH will be immediately contacted if little red flying-foxes are present in the buffer area, or are identified as being in final trimester, or with dependent young.

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19. Works will not take place in periods of adverse weather including strong winds, sustained heavy rains, in very cold or hot temperatures, or during periods of likely population stress. The flying-fox expert will be consulted to determine whether the population appears to be under stress.
20. Any evening works may commence after fly-out. Noise generated by the works should create a first stage disturbance, with any remaining flying-foxes taking flight. Works should be paused at this stage to monitor for any remaining flying-foxes and ensure they will not be impacted. Works (including pack up) will cease by 1 am to ensure flying-foxes returning early in the morning are not inadvertently dispersed.
21. OEH may require changes to methods or cease the action at any time.

### Human safety

22. All personnel to wear protective clothing including long sleeves and pants; additional items such as eye protection and hat are also recommended. People working under the camp should wash their clothes daily. Appropriate hygiene practices will be adopted such as washing hands with soap and water before eating/smoking.
23. All personnel who may come into contact with flying-foxes will be vaccinated against Australian Bat Lyssavirus with current titre.
24. A wash station will be available on site during works along with an anti-viral antiseptic (e.g. Betadine) should someone be bitten or scratched.
25. Details of the nearest hospital or doctor who can provide post-exposure prophylaxis will be kept on site.

### Post-action reports

26. Reports for the action will be submitted to OEH and include:
  - a) pre- and post-action population counts as per condition 28 of this certificate
  - b) any information on new camps that have formed in the area
  - c) impacts at the Peel River camp that may have resulted from the action, and suggested amelioration measures
  - d) an assessment of how the flying-foxes reacted to the action with particular detail on the most extreme response and average response, outlining any recommendations for what aspects of the action went well and what aspects did not work well
  - e) an assessment of how the community responded to the action, including details on the number and nature of complaints before and after

### Monitoring

27. The flying-fox expert will undertake an on-site population assessment within the buffer area prior to, during and after the action has been completed, including:
  - a) number of each species
  - b) number of females in final trimester

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- c) number and approximate age of any pups present including whether they are attached or likely to be crèched
- d) visual health assessment of the population
- e) number of mortalities and injured animals

28. Counts will be undertaken within the buffer area at least:

- a) once immediately prior to the action
- b) daily during the action
- c) with 48 hours following completion
- d) one month following completion
- e) 12 months following completion.

### **Vegetation trimming/removal**

- 29. Standing dead wood and tree hollows will be retained on site where possible (for use by other species).
- 30. Vegetation chipping is to be undertaken as far away from roosting flying-foxes as possible (at least 100 metres).

### **Canopy vegetation trimming/removal**

- 31. Trees to be removed or lopped will be clearly marked (e.g. with flagging tape) prior to the action commencing to avoid unintentionally impacting trees to be retained.
- 32. Any tree lopping, trimming or removal is undertaken under the supervision of a suitably qualified arborist (minimum qualification of Certificate III in Horticulture [Arboriculture] who is a member of an appropriate professional body such as the National Arborists Association).
- 33. Trimming will be in accordance with relevant Australian Standards (e.g. AS4373 Pruning of Amenity Trees), and best practice techniques used to remove vegetation in a way that avoids impacting other fauna and remaining flying-fox habitat.
- 34. No tree in which a flying-fox is roosting will be trimmed or removed. Works may continue in trees adjacent to roost trees only where the expert assesses that flying-foxes are not at risk of being harmed. The person experienced in flying-fox behaviour is to remain on site to monitor the flying-foxes when canopy trimming/removal is required within 50 m of roosting flying-foxes.

**STEVEN COX**  
Senior Team Leader, Planning

### **North West Region**



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## INFORMATION AND WARNINGS

- This certificate is issued under section 95(2) of the Threatened Species Conservation Act 1995.
- It is an offence against section 133(4) of the National Parks and Wildlife Act 1974, for the holder of this certificate to contravene or fail to comply with any condition or restriction of this certificate.
- The maximum penalty for a corporation is 200 penalty units and, in the case of a continuing offence, a further penalty of 20 penalty units for each day that the offence continues.
- The maximum penalty for an individual is 100 penalty units and, in the case of a continuing offence, a further penalty of 10 penalty units for each day that the offence continues.

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## Appendix 1 Buffer area



King George V Avenue  
Flying-fox camp buffer area



Buffer area



0 15 30 60  
Meters

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## Appendix 2 Flying-fox expert requirements

The following are the minimum required skills and experience of the flying-fox expert which must be demonstrated to OEH.

### Essential

- Knowledge of flying-fox habitat requirements
- Knowledge and experience in flying-fox camp management
- Knowledge of flying-fox behaviour, including ability to identify signs of flying-fox stress
- Ability to differentiate between breeding and non-breeding females
- Ability to identify females in final trimester
- Ability to estimate age of juveniles
- Experienced in flying-fox population monitoring including static and fly-out counts, demographics and visual health assessments
- Australian bat lyssavirus vaccinated, with current titre
- Trained in flying-fox rescue.

### Desirable

- It is strongly recommended that the expert is independent of the proponent to ensure transparency and objectivity. OEH may be able to provide assistance with flying-fox experts.
- Local knowledge and experience.

The flying-fox expert must provide written documentation to OEH (North West Branch Senior Team Leader Planning) demonstrating their compliance with the essential criteria prior to the action commencing.