

# SPECIAL CIRCUMSTANCES FOR ISSUING LICENCES TO SHOOT FLYING-FOXES – TO APPLY FROM 1 JULY 2015

## Introduction

OEH currently issues licences to property owners to harm a limited number of flying-foxes by shooting as a last resort and only where flying-fox damage has occurred to property. These licences to harm flying-foxes are a class of biodiversity conservation licence granted under the *Biodiversity Conservation Act 2016*.

An independent review was commissioned in 2008 to assess the validity of the NSW licensing policy for the legal harm (including killing) of flying foxes. The key findings of the NSW Flying-fox Licensing Review Panel released in 2009 were that:

- the animal welfare issues arising from shooting flying-foxes are ethically and legally unacceptable;
- shooting is ineffective at reducing crop damage when large numbers of flying-foxes visit orchards. Full exclusion netting provides the most effective protection against flying-fox damage; and
- the NSW fruit-growing industry could rely solely on exclusion netting as the means of flying-fox crop damage mitigation.

From 1 July 2015, these licences to shoot flying-foxes to protect crops are only issued in special circumstances.

## Special circumstance conditions

From 1 July 2015, OEH only issues licences to shoot flying-foxes as a crop protection measure where it considers that flying-fox damage to orchards is the result of special circumstances. Licences will be issued to shoot flying-foxes for the duration of the incursion, subject to strict limits.

Orchardists can only apply for a licence where:

- the orchard is established before 1 July 2011 (as new orchardists should be aware of potential flying-fox impacts); and
- there is an **unprecedented incursion** (the flying-foxes are impacting on crop types never previously impacted in Australia); or
- where **topographical or physical constraints prevent netting**; or
- the flying-fox impact is **unanticipated and not regular** (a licence for a particular orchard can only be applied for in three years or fewer within any ten-year period).

Until 1 July 2020, orchardists will also be able to apply for licences if they had **previously been issued a licence** between 1 July 2001 and 30 June 2014. This acknowledges the medium term financial challenges faced by some small to medium-sized orchard enterprises in NSW and the historic role that shooting has played in their management of flying-foxes.

## Definitions

An **unprecedented incursion** is defined as:

- Flying-foxes impacting on a crop type that has never previously been recorded as sustaining flying-fox damage anywhere in Australia i.e. a crop type not listed in Table 1 below.
- Photos from the orchardist and a site inspection from OEH staff will be required.

Letters from two netting contractors and photographic evidence is required to support an application for special circumstances such as **topographical or physical constraints**.

An **unanticipated and not regular incursion** is defined as:

- Flying-foxes are present in an orchard impacting on fruit crops (as indicated by shooting licence applications) in **three years or fewer within any ten year period**, commencing 1 July 2011. The three years may be consecutive or non-consecutive. After a third licence has been issued within a ten year period for any given orchard, flying-fox damage may no longer be considered an *unanticipated incursion* for that orchard. OEH may take into account the number of licences previously issued to an orchardist.

OEH will maintain a register of all licences issued under the *Biodiversity Conservation Act 2016* and will publish these on the OEH website.

**Table 1:** Crops known to be impacted on by flying-foxes

<b>Crop type</b>	<b>Scientific name</b>	<b>Reference</b>
Stonefruit (incl. peaches, apricots, plums, nectarines, cherries and hybrids)	All <i>Prunus</i> spp.	1998/99 annual report
Apples	<i>Malus</i> spp.	1998/99 annual report
Pears	<i>Pyrus</i> spp.	1998/99 annual report
Australian paradise pear	<i>Pyrus</i> spp.	Ullio (2002)
Nashi	<i>Pyrus pyrifolia</i> (inc. subsp.)	2005/06 annual report
Bananas	<i>Musa</i> spp.	1998/99 annual report
Grapes	<i>Vitis</i> spp.	1998/99 annual report
Citrus	<i>Citrus</i> spp.	Ullio (2002)
Mulberries	<i>Morus</i> spp.	1998/99 annual report
Guavas	<i>Psidium</i> spp.	1998/99 annual report
Avocados	<i>Persea americana</i>	2000/01 annual report
Figs	<i>Ficus</i> spp.	1999/00 annual report
Persimmons	<i>Diospyros</i> spp.	2001/02 annual report
Mangoes	<i>Mangifera</i> spp.	1998/99 annual report
Paw paws (papaya)	<i>Carica papyra</i>	1998/99 annual report
Loquats	<i>Eriobotrya japonica</i>	1998/99 annual report
Lychees	<i>Litchi chinensis</i>	1998/99 annual report
Longans	<i>Dimocarpus longan</i>	Ullio (2002)
Rambutans	<i>Nephelium lappaceum</i>	Ullio (2002)
Custard apples	<i>Annona reticulata</i>	Ullio (2002)
Coffee	<i>Coffea</i> spp.	2000/01 annual report
Passionfruit	<i>Passiflora edulis</i>	DECCW (2008)
Mulberry	<i>Morus</i> spp.	DECCW (2008)
Jackfruit/breadfruit	<i>Artocarpus heterophyllus</i>	Lim et al. (1993)
Breadfruit	<i>Artocarpus altilis</i>	Lim et al. (1993)
Starapple	<i>Chrysopyllum cainito</i>	Lim et al. (1993)
Hogs Plum	<i>Spondias mombin</i>	Lim et al. (1993)
Cashew	<i>Anacardium occidentale</i>	Lim et al. (1993)
Sapodilla	<i>Manilkara zapota</i>	Lim et al. (1993)
Bactris (peach palm)	<i>Bactris gasipaes</i>	Lim et al. (1993)
Waterapple	<i>Syzygium samarangense</i>	Lim et al. (1993)

## Procedure

- Orchardists will notify their local National Parks and Wildlife Service Area Office that fruit trees (including fruit and/or branches and twigs) have been damaged by flying-foxes or that damage is imminent. Orchardists will need to demonstrate this actual or imminent damage.
- OEH may issue shooting licences on the grounds that topographical constraints prevent netting installation where the slope of the land exceeds 20° and two netting contractors have inspected the property and identified that they are unable to net.

- OEH will only issue shooting licences on the grounds that powerlines, pipes or other infrastructure prevent netting if a contractor has inspected the property and identified that no options for netting exist, e.g. raising lines, throw over netting or lowering net heights. OEH may accept that powerlines prevent netting installation where the minimum clearance distance between the top of the netting structure and the powerlines is less than 3 metres. Licences may be issued for the area affected by the infrastructure, e.g. the powerline easement.
- Licences to shoot flying-foxes on the grounds that topographical or physical infrastructure constraints prevent netting will be issued to orchardists for up to three years from the date of the first application. This provides orchardists with additional time to acquire funds to meet extra costs associated with resolving issues associated with installing nets on difficult terrain or modifying their orchards to enable nets to be erected.
- OEH may issue shooting licences on the grounds of unprecedented incursion for un-netted crop types not previously recorded as sustaining flying-fox damage (refer to Table 1).
- If a licence application is received for an unprecedented incursion, the crop type and date of application will be added to Table 1 and published on the OEH website. OEH may issue the orchardist with a shooting licence for that crop type for a maximum of three years within any ten year period from the date of their first application (consecutive or non-consecutive years). This 'three year in ten' condition may only be considered for orchardists who planted this crop type before it was added to Table 1.
- If a local council declines a development application for installing full exclusion netting, a letter from council detailing the reasons must accompany the licence application.
- Until 1 July 2020, orchardists will also be able to apply for licences if they had **previously been issued a licence** between 1 July 2001 and 30 June 2014. An application for a licence under this 'Special Circumstance' will need to be accompanied with adequate information to identify the previous license issued. Licenses issued under this special condition will only be issued to the same named person (or persons) as the previous license was issued to for the same property.