

Your reference :  
Our reference : FIL10/4325  
Contact : Nick Corkish (02) 9995 6832

Mr Mark Ferguson, General Manager

PITTWATER COUNCIL  
PO BOX 882  
MONA VALE NSW 2103

Attention: Mr Steven Lawler, Acting Manager, Reserves and Recreation

Dear Mr Ferguson,

**RE: Section 95 Certificate to remove and prune trees in Gunyah, Cannes and Net Road reserves and adjoining private properties at Avalon**

Thank you for Pittwater Council's revised application, received by the Department of Environment, Climate Change and Water (DECCW) on 02-Jul-2010, for a licence under Section 91 of the *Threatened Species Conservation Act* 1995 (TSC Act) to remove and prune trees in Gunyah, Cannes and Net Road reserves and adjoining private properties at Avalon. The main purpose of the works is to modify the area of occupation of the reserves by Grey-headed Flying-foxes so as to reduce their impacts on nearby residents. DECCW understands there have been complaints about loss of amenity from noise and smell and damage to property as a result of an increase in Grey-headed Flying-foxes numbers in the camp particularly during the period from March to April 2010 when there was a substantial increase. The works have the potential to harm or damage threatened species or their habitat, as the trees to be removed or pruned are within an endangered ecological community – Pittwater Spotted Gum Forest – which is also habitat used by the threatened species Grey-headed Flying-fox, Powerful Owl and possibly Squirrel Glider.

DECCW is aware that flying-foxes have travelled a long way out of their normal range during 2010 and are now occurring in unusually large numbers in the Sydney area compared with what is normal for this time of the year. This is thought to be due to food shortages in the north of their range (NE NSW and SE Queensland) resulting from unfavourable weather conditions (cyclones and high rainfall) earlier in the year. Many of the Grey-headed Flying-foxes have had to travel long-distances to find food and wildlife carers in Sydney are reporting that consequently many Grey-headed Flying-foxes are underweight and hungry which has resulted in a high degree of stress on animals.

In order to avoid or minimise harm to the Grey-headed Flying-fox and further stress the animals the vegetation works are limited by the following conditions, reflecting the proposal as specified in item 17 of the application:

- Works must take place only during the June-July period when camp numbers should be lowest and Flying-foxes are not within a critical life cycle stage such as birthing, lactating or mating . Camp numbers will be verified by ongoing monitoring by Kate Blount and Nick Boyle who have been monitoring this colony since 2008. Council will be attending these counts from the week commencing May 17 2010.
- Camp assessment and local population counts must continue on at least a fortnightly basis until immediately prior to the proposed disturbance when a count will be done the day before the works, on the day after, one week later, and then monthly thereafter.
- An observer with knowledge and experience of behaviour of GHFF must be present throughout the duration of works to assist in monitoring the behavioural response of the bats to the disturbance. Council staff must also be present on site to supervise the works for the duration.

## Section 95(2) Certificate

Threatened Species Conservation Act 1995



- A licensed wildlife carer (Sydney Wildlife Rescue Service) must be present on the days of tree removal to rescue in the event of any injury to the Flying-foxes. A WIRES carer must also be within close contact range and on call if required.
- On each day of works, once the works begin, monitoring must take place to observe the response of the GHFFs. If 10% or more of the camp population (calculated from the previous day's estimated count) is still flying 10 minutes after commencing works, the works must cease for a period of no less than 10 minutes and until more than 90% of the camp population is resting in trees, before works are attempted again. No more than 2 such attempts in total (including the initial attempt) must be made before ceasing works altogether, in which case the proposal must then be reassessed in consultation with DECCW
- If any Flying-foxes are killed or injured, then works must stop immediately and the proposal must be reviewed in consultation with DECCW.
- Once the works are finalised, a report must be submitted to DECCW detailing the response of the GHFF to the works.
- Works must not take place should Flying Foxes be roosting in affected trees. Works may continue in trees immediately adjacent to roosting trees only where the contractor is certain the tree can be removed without physically harming the GHFF.
- Works must not take place in periods of adverse weather including strong winds, sustained heavy rains or on days of hot or very hot temperatures.
- All tree removal and pruning works must be carried out by an arborist with a minimum qualification of Certificate III in Horticulture (Arboriculture) who is a member of an appropriate professional body such as the National Arborists Association and carried out according to Australian Standard AS4373 (Pruning of Amenity Trees).
- Works on private land and Council land must be coordinated and supervised by Council.
- Any ropes tied to trees previously by residents for the purpose of disturbing roosting GHFFs will be removed.
- Residents immediately adjacent to where the works are taking place must be notified by phone where possible or by letter/email one week prior to the works taking place and informed that the noise may lead to unexpected behaviour or movement of the GHFF, either temporarily or permanently. Information about the works must also be placed on Council's website in the same location notified to the Cannes Reserve residents in recent correspondence.

Following consultation between DECCW and Council staff I am satisfied that that the proposal as described in this application is unlikely to have a significant impact on any threatened species or endangered ecological community or their habitat.

The TSC Act makes provision for the issue of a certificate under section 95(2) for actions which technically constitute harm to threatened species or damage to their habitat, but which are unlikely to have a significant impact. Hence, I have decided to issue you with the accompanying certificate to that effect. The certificate will expire at the end of July. Renewal or variation of this certificate to cover ongoing works in these reserves will be contingent on the finalisation of a Plan of Management which should be submitted as the basis of any future licence application.

If you have any questions please do not hesitate to contact Nick Corkish on 9995 6832.

Yours sincerely

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# Section 95(2) Certificate

Threatened Species Conservation Act 1995



Environment,  
Climate Change  
& Water

## Issued To:

PITTWATER COUNCIL,  
ABN 61 340 837 871,  
PO BOX 882,  
MONA VALE NSW 2103  
Fax: (02) 9970 1389

**Certificate no. :** 1115987  
**Issue Date:** 05-Jul-2010  
**Expiry date:** 31-July-2010

I certify that the tree removal and pruning works in Gunyah, Cannes and Net Road reserves and adjoining private properties, Avalon, as described your Section 91 application dated 02-Jul-2010, has been determined under Section 94(2) of the *Threatened Species Conservation Act 1995* as not likely to significantly affect any threatened species, population or ecological community or its habitat. Consequently, the proposal does not require a licence under the *Threatened Species Conservation Act, 1995* pursuant to Section 95(2).

If the activities are carried out as described in your licence application and in accordance with any conditions, this certificate provides a defence against prosecution under sections 118A–D of the *National Parks and Wildlife Act 1974*.

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**Ms Deb Stevenson**

**Acting Manager**

**Metropolitan Projects & Support Section**