

Our reference : NEHU021; Doc09/29147, Fil07/4768-03
Contact : Robert Gibson (02) 4908 6851

SINGLETON COUNCIL
PO BOX 314, SINGLETON, NSW

Dear Mr Fletcher

RE: Section 95 Certificate to extend the term of previously issued Section 95(2) Certificate (number 1089017) to relocate Grey-headed Flying-foxes from Burdekin Park, and urban areas of Singleton

I refer to your Section 91 licence application received by the Department of Environment, Climate Change and Water (DECCW) on 26-May-2009 for the extension of a certificate for relocating Grey-headed Flying-foxes from Burdekin Park, and the urban area of Singleton. DECCW understands that the previously issued Section 95(2) certificate expired before any planned relocation efforts occurred in 2009.

I have assessed your licence application in accordance with the provisions of the *Threatened Species Conservation Act* 1995 (TSC Act) and concluded that the proposal is unlikely to have a significant impact on threatened species, endangered populations or endangered ecological communities. The TSC Act makes provision for the issue of a certificate under section 95(2) for actions which technically constitute damage to the habitat of threatened species, but which are unlikely to have a significant impact. Consistent with this assessment and the requirements of the TSC Act certificate number 1102081 has been issued, and is attached to this letter for your records.

Your email of 19 October 2009 flags the possibility that some Flying-foxes will return to Burdekin Park following relocation. The amendments proposed by Council to the draft certificate have not been included in the certificate, however should this scenario eventuate DECCW is willing to discuss a specific proposal by Council for on-going maintenance of the disturbance regime.

If you have any further questions in relation to this matter, please contact Dr Robert Gibson on (02) 4908 6851.

Yours sincerely

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Mr Grahame Clarke
Regional Manager
North East - Hunter

Section 95(2) Certificate

Threatened Species Conservation Act 1995

Department of Environment & Climate Change NSW



Issued To:

SINGLETON COUNCIL,
ABN 52 877 492 396,
PO BOX 314,
SINGLETON NSW 2330
Fax: (02)65712874

Certificate no. : 1102081
Issue Date: 25-Nov-2009
Expiry date: 31 July 2010

THREATENED SPECIES CONSERVATION ACT 1995

SECTION 95(2) CERTIFICATE

I certify that the proposed actions, as described in the Section 91 licence application submitted by the applicant have been determined under Section 94(2) of the *Threatened Species Conservation Act 1995* as unlikely to significantly affect threatened species, populations, ecological communities or their habitats and consequently do not require a licence under the *Threatened Species Conservation Act 1995* pursuant to Section 95(2). That is provided that the measures described in the application and those listed below are implemented, in any attempt to relocate the threatened Grey-headed Flying-fox *Pteropus poliocephalus* from Burdekin Park or subsequently from any other sites within the urban area of Singleton to remnant woodland on public land away from the Singleton urban area.

This certificate is a defence against prosecution under sections 118A-D of the *National Parks and Wildlife Act 1974*.

Section 95(2) Certificate

Threatened Species Conservation Act 1995

Department of Environment & Climate Change NSW



In determining the conditions of this certificate the Department of Environment, Climate Change and Water (DECCW) have considered the following documentation:

- DEC NSW (2005) *Grey-headed Flying-fox Profile* [<http://threatenedspecies.environment.nsw.gov.au/tsprofile/profile.aspx?id=10697>]. Accessed 23 June 2008.
- DECC NSW (2007) *Flying-fox camp management policy*. NSW Department of Environment and Conservation – Biodiversity Conservation Unit. South Sydney, pp. 28.\
- Klose, S.M., Welbergen, J.A. and Kalko, E.K.V. (2009) Testosterone is associated with harem maintenance ability in free-ranging grey-headed flying-foxes, *Pteropus poliocephalus*. *Biology Letters* 18Aug2009: 1-4. [doi: 10.1098/rsbl.2009.0563]
- Nelson, J. (2008) *Report for the Department of Environment and Climate Change regarding management of Flying-foxes in Burdekin Park, Singleton*. Unpub. Report, pp. 15.
- Roberts, B. (2006) Management of Urban Flying-fox Camps: Issues of relevance to camps in the Lower Clarence valley, NSW. Valley Watch Inc., Maclean. <http://clarencevalleywatch.com/Roberts2006ManagementofurbanFFcamps.pdf> [Accessed 15 Sept. 2009]
- Roberts, B.J., Catterall, C., Kanowski, J. and Eby, P. (2008) Knowledge for improved management of the Maclean flying-fox camp relocation: satellite telemetry study. Maclean relocation research proposal. Unpub. <http://www.wildlifesos.org.au/media/Roberts%20et%20al%20May%202008%20Maclean%20relocation%20research%20proposal.pdf> [Accessed 15 Sept. 2009].
- Singleton Council Section 91 (under the *Threatened Species Conservation Act 1995*) licence application.
- Tidemann, C.R., Eby, P., Parry-Jones, K.A and Nelson, J.E. (2008) Grey-headed Flying-fox *Pteropus poliocephalus* Temminck, 1925. In *The Mammals of Australia: Third Edition*. S. van Dyck and R. Strahan (eds.) Reed Books, Sydney.

RELEVANT CONDITIONS

Disturbance Actions and Methods

1. The actions proposed by the applicant must be in accordance with the descriptions provided in the Section 91 licence application, unless the following conditions state otherwise.
2. The disturbance and herding of flying-foxes are to follow the 'Protocols for Relocation' in Nelson's (2008) report.
3. All persons that will be involved in disturbance actions must be adequately briefed and trained concerning their roles and responsibilities prior to the commencement of these actions.
4. Disturbance actions must not be undertaken if flying-foxes are present in one or more of the following conditions:
 - a. Females in late stage of pregnancy (such that they may abort as a result of disturbance)
 - b. Females carrying young, and
 - c. Juveniles incapable of independent flight (i.e. are left behind when the colony departs for its nightly foraging activities).

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Note: Adults may occasionally not join the main foraging group of flying-foxes and remain behind on some nights.

A Flying-fox Carer must inspect the flying-fox camp and roosts at times and intervals agreed with the applicant for the presence of any flying-foxes in the three states described above prior to the implementation of disturbance events that would deter the return of flying-foxes to those locations. If, in the opinion of the Flying-fox Carer, there are flying-foxes present at any site in one or more of the above states then disturbance activities must not occur until flying-foxes in those states are not present.

The breeding biology of both species of flying-fox that camp in Burdekin Park will therefore impose constraints on the timing of disturbance activities. Grey-headed Flying-foxes give birth between September and November, and have dependent (suckling) young between December and March (DEC 2005, Tidemann *et al.* 2008), or even as late as April (Billie Roberts pers. comm., 07 Sept. 2009). Grey-headed flying-foxes have strong site fidelity in the breeding season when relocation attempts are less likely to be successful (Klose *et al.*, 2009). Therefore disturbance actions are less likely to adversely affect the Grey-headed Flying-foxes when undertaken between May and July inclusive.

5. Disturbance actions must not be undertaken during periods of adverse weather conditions. Such conditions include strong winds, periods of several hours of sustained heavy rain, ground frost and air temperatures that exceed 38 degrees Centigrade during the day prior to implementation of the proposed disturbance program.

Animal Welfare

6. Council must utilise the services of a Flying-fox carer who will be responsible for ensuring that:
 - a. the disturbance actions are carried out in a manner that protects the flying-foxes, and
 - b. any flying-foxes injured or traumatised as a result of the disturbance action are rehabilitated.
7. The Flying fox carer must:
 - a. Possess demonstrated significant experience in handling bats, preferably flying-foxes; and
 - b. Demonstrate that they possess sufficient knowledge of the biology of bats and have the skills necessary to monitor and oversee disturbance actions and to make soundly based decisions on the welfare of flying-foxes subject to disturbance actions.
8. If, in the opinion of the Flying-fox Carer, the disturbance action(s) being undertaken are causing significant "harm" to flying-foxes then all disturbance actions must immediately cease. DECCW must be informed (initially verbally, and subsequently in writing) by Council of the apparent causes of the "harm" and the nature of the "harm". Disturbance actions must not recommence until DECCW has approved their recommencement. Significant "harm" includes tangible evidence of injured, dead, traumatised, miscarriage or abandonment of young flying-foxes and which is likely to have occurred as a result of the disturbance actions. It could also include animals that have become so stressed by the disturbance actions that they collide with objects in the local area. Significant "harm" does not include flying-foxes that appear to be distressed by the disturbance actions but are still capable of flying or are behaving in a way that is unlikely to result in obvious adverse physical effects.
9. Sick, injured or traumatised flying-foxes must only be handled by persons who have experience in handling bats or by qualified veterinarians.

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10. Any flying-foxes that appear to the Flying-fox Carer to be sick, injured or traumatised must be placed in the care of a licensed and experienced wildlife carer, preferably one skilled in caring for and rehabilitating flying-foxes.

Consultation

11. Council must inform, directly or indirectly, any persons or organisations likely to be affected by the proposed disturbance actions of the proposed actions and likely application dates and times at least three days prior to the commencement of this program. Council must include in its information campaign details about the chance that flying-foxes could disperse from Burdekin Park and set up scattered roosts throughout the Singleton urban area, and that such new roosts would quickly become the focus of disturbance activities to “herd” the flying-foxes towards targeted vegetation away from Singleton.

Monitoring and Reporting

12. Council must keep a register of complaints made regarding flying-foxes in urban areas of Singleton, including details of whether the complainant considers that the complaint is related to the Council-induced flying-fox disturbance actions.
13. Singleton Council must submit a report outlining the actions taken and their results to the DECCW's Manager Hunter Region, Environment Protection and Regulation, within three (3) months of the expiry of this certificate. The report must:
 - a. Identify and detail the methods used in the disturbance actions and their implementation, including the dates, times of day, duration and approximate frequency of use.
 - b. Indicate the approximate numbers and species of flying-fox present prior to each disturbance event and whether any of the constraints in Conditions 8 and 9 apply.
 - c. Indicate the approximate numbers and species of flying-foxes found at other roost sites within Singleton township or in the vicinity and provide details of how long the animals remain at each site. The nature, size and location of these other roost sites must be provided.
 - d. Describe the initial and on-going responses of flying-foxes (by species) to each of the specified disturbance actions and events. Include details of flying-fox behaviour, percentage of population of each species responding, where the bats dispersed to, and any other features considered to be relevant.
 - e. Detail and discuss the success or failure of the disturbance methods used in relocation of flying-foxes from the Singleton urban area, and include ideas on why such disturbance methods may or may not have worked.
 - f. Document:
 - i. The number, species and nature of the physical or mental state of any flying-foxes found sick, injured, traumatised or dead at all sites where disturbance actions were employed
 - ii. The likely reasons for their adverse condition or mortality, and
 - iii. The name of the carer(s) or carer organisation to which sick, injured or traumatised flying-foxes were taken and the ultimate fate of those animals.
 - g. Provide an estimate of the numbers of each species of flying-foxes remaining in Burdekin Park or at other roosts in the Singleton urban area at the time of preparation of this report.

Section 95(2) Certificate

Threatened Species Conservation Act 1995

Department of **Environment & Climate Change** NSW



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Mr Grahame Clarke
Regional Manager
North East - Hunter