

# Section 95(2) Certificate

Threatened Species Conservation Act 1995

Department of Environment & Climate Change NSW



## Issued To:

SINGLETON COUNCIL,  
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**Certificate no. :** 1104788  
**Issue Date:** 24-Sep-2009  
**Expiry date:** 31 July 2010

I certify that picking/harming of trees used for roosting by Grey-headed Flying-fox *Pteropus poliocephalus* in the Burdekin Park camp for the purposes of removing dead and damaged trees that pose an imminent risk to life or property in Burdekin Park as described your Section 91 application, is unlikely to significantly affect threatened species, populations, ecological communities or their habitats provided the following conditions are met. Consequently the proposal does not require a licence under the *Threatened Species Conservation Act, 1995* pursuant to Section 95(2).

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

## RELEVANT CONDITIONS

1. Tree pruning and removal (tree works) must not be undertaken if flying-foxes are present in one or more of the following conditions:
  - a. Females in the last trimester of pregnancy (such that they may have a miscarriage as a response to the noise and movement associated with the tree works),
  - 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).
2. Singleton Council must utilise the services of a flying-fox carer who will be responsible for ensuring that:
  - a. the tree works are carried out in a manner that protects the flying-foxes, and
  - b. any flying-foxes injured or traumatised as a result of the tree works are rehabilitated.
3. 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 skills necessary to monitor and oversee any tree pruning and removal and make soundly-based decisions on the welfare of any flying-foxes present in Burdekin Park during tree works.
4. The flying-fox carer must inspect the flying-fox camp the day before and the morning of planned tree works and look for the presence of any flying-foxes in the conditions stated in Condition 1 above. If, in the opinion of the flying-fox carer, there are flying-foxes present in any one or more of those three states then tree works must not occur until flying-foxes in those states are not present.

Due to the breeding biology of Grey-headed Flying-foxes tree works are more likely to occur between May and July. These three months avoid the key stages of the breeding season when stress induced by disturbance activities are less likely to have an adverse affect on the life cycle of this species and work with the time when this species is more mobile.

5. If Grey-headed Flying-foxes are present, then tree works must not occur during periods of adverse weather conditions. Such conditions include strong winds, periods of several hours of sustained rain, ground frost and air temperatures that exceed 38 degrees Centigrade during the day prior to implementation of the intended tree works.
6. If, in the opinion of the flying-fox carer, the tree works being undertaken are causing significant "harm" to flying-foxes then all tree works must cease immediately. DECCW must be informed (initially by phoning DECCW's Environment Line on 131555 and then subsequently in writing) by Singleton Council of the apparent cause of the "harm" and the nature of the "harm". No further tree works may occur until DECCW has approved their recommencement. Significant "harm" includes tangible evidence of injured, dead, traumatised or abandoned animals or of any miscarriage that is likely to have occurred as a result of the tree pruning and felling activities. It could also include animals that have become so stressed by the activity in the park that they collide with objects in the local area. Significant "harm" does not include flying-foxes that appear to be distressed by the tree works but are still capable of fling or behaving in a way that is unlikely to result in obvious adverse physical effects.
7. Sick, injured or traumatised flying-foxes must only be handled by persons who have experience in handling bats or by qualified veterinarians.

8. 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.
9. Tree removal must be to the least extent necessary to reduce risks to life and property, and in a manner that minimises damage to other trees.
10. Singleton Council must inform, directly or indirectly, any persons or organisations likely to be affected by the proposed tree works actions of the proposed actions and likely application dates and times at least three days prior to the commencement of this program. Singleton 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.
11. 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. Document the number of Grey-headed Flying-foxes present in Burdekin Park at the start of the day or days prior to the planned commencement of any tree works
  - b. State whether on any day of planned tree works there were any Grey-headed Flying-foxes in each of the conditions outlined in Condition 1, and state approximately how many such animals there were in Burdekin Park
  - c. Describe the initial and on-going responses of flying-foxes (by species) to the tree works. Include details of flying-fox behaviour, percentage of population of each species responding, and if the bats dispersed, where the bats dispersed to, and any other features considered to be relevant
  - d. Document:
    - i. The number, species and nature of the physical or mental state of any flying-foxes found sick, injured, traumatised or dead in or near Burdekin Park during and up to seven (7) days after any tree works
    - 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, and
  - e. 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 the report.

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**Mr Grahame Clarke**  
**Regional Manager**  
**North East - Hunter**