

Assessment Guideline

Queensland Parks and Wildlife Service and Partnerships

Flying-fox roost management permits and flying-fox management plans

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Purpose

The *Nature Conservation (Animals) Regulation 2020* (the *Animals Regulation*) provides the authority to grant a flying-fox roost management permit (a permit) for the management of flying fox roosts. The *Animals Regulation* also outlines the purpose of the permits and details various restrictions on the granting of the permits.

The primary purpose of this guideline is to set out how the Department of Environment and Science (the department) assesses flying-fox roost management permits, with particular regard to the restrictions under sections 175, 176 and 241(k) of the *Animals Regulation*, and other considerations where relevant.

The *Animals Regulation* refers to 'approved property management plans' and states that applicants operating under such a plan may be granted permits for an extended term – up to 3 years. The *Animals Regulation* also outlines that an approved property management plan must provide for the conservation of wildlife on the land.

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The secondary purpose of this guideline is to set out how department assesses property management plans under the Animals Regulation.

Note: A permit is not needed if:

- a) the activity is already authorised under section 62 of the Animals Regulation (Low impact activities affecting a flying-fox roost) and the *Code of practice - low impact activities affecting flying-fox roosts*. For example, mowing, weeding and minor trimming of trees. For further information, please see the code at the following web address:
<https://environment.des.qld.gov.au/wildlife/animals/living-with/bats/flying-foxes/roost-management>.
- b) the activity is proposed to be conducted by local government within a defined *urban flying-fox management area* (urban area), and the activity is authorised under section 61 of the Animals Regulation and the *Code of practice - Ecologically sustainable management of flying-fox roosts*. For further information, please see the code and the urban flying-fox management area maps at the following web addresses: <https://environment.des.qld.gov.au/wildlife/animals/living-with/bats/flying-foxes/roost-management>.

Background

Flying-foxes are native nocturnal mammals that tend to travel significant distances during the night foraging in search of food (nectar and fruit), and congregate during the day for rest (or breeding at certain times of the year). The sites where they congregate are known as roosts or roost sites.

Flying-fox foraging plays a significant role in pollination and seed dispersal for native vegetation.

There are four species of flying-fox commonly found in Queensland - the black flying-fox *Pteropus alecto*, grey-headed flying-fox *P. poliocephalus*, little red flying-fox *P. scapulatus* and spectacled flying-fox *P. conspicillatus* - all of which are protected under the *Nature Conservation Act 1992* (the Act). The grey-headed and spectacled flying-foxes are also listed as vulnerable under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

Though highly mobile, flying-foxes tend to develop strong affinities with roost sites. Individual animals may use a different roost site on a short term (even nightly) basis but roost sites themselves are relatively more stable. Nonetheless the presence and number of animals at a roost site can change with seasonal conditions and the availability and distribution of food across the landscape.

Some communities have large flying-fox roosts in, or close to, urban areas (e.g. in town parks or cemeteries). Many of these places are known to the Department of Environment and Science (DES) and to local authorities, and are mapped and monitored. Roosts in urban areas can be objectionable to nearby residents due to the level of noise and smell generated.

Some flying-foxes also carry the Australian Bat Lyssavirus, a rabies-like virus and have also been recognised as playing a role in the transmission of Hendra Virus to horses. While these two viruses represent a concern for some members of the community, the health risks are known to be minimal.

For further information relating to flying-foxes and human health please refer to the Queensland Health website at: <http://conditions.health.qld.gov.au/HealthCondition/condition/14/33/14/Bats-human-health>.

Guideline statement

In *urban flying-fox management areas* (urban areas), local governments have an as-of-right authority under the Animals Regulation to disperse, or otherwise manage, flying-fox roosts, and therefore do not require a permit. Local governments operating under the as-of-right authority are required to comply with the

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Code of Practice - Ecologically sustainable management of flying-fox roosts, which requires that only non-lethal methods are to be employed.

Restriction of this 'as of right' authority for local governments to urban areas only is an acknowledgement that many roosts, particularly in rural areas, are causing little or no concern, and that dispersing these roosts risks the animals moving into urban areas, bringing them into closer proximity to a greater number of people and increasing the risk of conflict.

For roosts outside of urban areas, local governments are able to apply for a permit.

Other applicants such as landowners and business owners do not have an 'as of right' authority in urban areas however, they are also able to apply for a permit to disperse, or otherwise manage roosts, both inside and outside urban areas.

The government does not authorise the culling of flying-foxes for the purposes of roost management or dispersal. For the purposes of this guideline and the relevant code of practice, the government intends for all management of flying-fox roosts to be undertaken using non-lethal methods only, and therefore, all permits issued will also require permit holders to also use non-lethal methods.

Before the grant of any permit, the chief executive must be satisfied that, either:

- (a) flying-foxes are causing, or may cause damage, and that despite reasonable efforts by the landholder, the damage may lead to significant economic loss or harm to the ecological sustainability of nature; or
- (b) flying-foxes are, or may be, a threat to a person's health or wellbeing.

The chief executive must also be satisfied that action under the permit won't affect the survival of the species in the wild and that the proposed methods will be humane. Where the permit area is outside of urban areas, the chief executive is also required to consider whether action under the permit is likely to result in flying-foxes moving into urban areas.

Damage or loss

Statutory requirements

Nature Conservation (Animals) Regulation 2020

Section 175 (2) (a) – (c) states:

'The chief executive must not grant the permit unless the chief executive is satisfied—

- (a) the flying-foxes are causing, or may cause, damage; and
- (b) the landholder of the land on which the flying-foxes are causing, or may cause, damage has made a reasonable attempt to prevent or minimise the damage and the action taken has not prevented or minimised the damage; and
- (c) if the damage is not prevented or controlled—
 - (i) individuals may suffer significant economic loss; or
 - (ii) the ecological sustainability of nature is likely to be harmed'.

Procedure

Before granting a permit, the chief executive (or their delegate) must be satisfied that:

- (a) damage or loss is occurring, or may occur;

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- (b) reasonable attempts have been made to prevent or minimise the damage;
- (c) if the damage is not prevented/controlled the person may suffer significant economic loss.

N.B. Information may come from any relevant source, and is not necessarily limited to being supplied by the applicant. However, if the chief executive is unable to determine whether damage or loss may occur from the information provided and other relevant information already held by the department, the chief executive may ask the applicant for further information under section 242 of the Animals Regulation.

It will usually be reasonable to conclude that damage or loss may be caused by flying-foxes where:

- a flying-fox roost is located in the immediate vicinity of a person's residence or place of business;
- damage or loss has previously been experienced in a location, and the circumstances remains similar.

Examples of ways to substantiate damage or loss, or the threat of damage or loss, may include:

- receipts or financial statements showing expenditure relating to flying-fox damage;
- photographs showing a flying-fox roost in the immediate vicinity of a person's residence or place of business;
- financial statements showing the valuation of assets at risk, or projected earnings at risk.

Examples of reasonable attempts to prevent or minimise damage or loss may include:

- covering fruit trees with netting;
- moving cars or equipment to a sheltered location.

Human health or wellbeing

Statutory requirements

Nature Conservation (Animals) Regulation 2020

Section 188D(a) states:

'The chief executive must not grant the permit unless the chief executive is satisfied there is, or may be, a threat to a person's health or wellbeing resulting from harm to the person caused by flying-foxes that congregate at the roost'.

Procedure

Before granting a permit, the chief executive (or their delegate) must be satisfied that the flying-foxes are, or may be, a threat to a person's health or wellbeing.

It will usually be reasonable to conclude that flying-foxes might cause a threat to human health or wellbeing in situations that include but are not limited to those where:

- a flying-fox roost is located in the immediate vicinity of a person's residence or place of business;
- an applicant is experiencing excessive noise, odour or bodily excretions from flying-foxes;
- roost trees or tree branches have become unsafe or unstable.

Examples of ways to substantiate a threat to human health or wellbeing, may include:

- photographs showing a flying-fox roost in the immediate vicinity of a person's residence or place of business;

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- an applicant's written submission regarding the impact of noise, smell or bodily excretions on their health or wellbeing;
- measurements, reports or medical certificates relating to health or wellbeing impacts;
- personal observations of the site by DES staff.

Survival of flying-foxes in the wild

Statutory requirements

Nature Conservation (Animals) Regulation 2020

Section 175(d) and section 176(2)(b) state:

'action under the permit would not adversely [or 'is unlikely to detrimentally'] affect the survival of flying-foxes in the wild'.

Procedure

Before granting a permit, the chief executive (or their delegate) must be satisfied that the action under the permit would not detrimentally affect the survival of the species in the wild.

N.B Information may come from any relevant source, and is not necessarily limited to information supplied by the applicant.

Examples of situations where the survival of flying-foxes in the wild may be threatened:

- Where a significant proportion of roosts in a region are proposed for dispersal within the same season;
- Where multiple roosts containing the same threatened species are proposed for dispersal within the same season.

Humane and not likely to cause unnecessary suffering

Statutory requirements

Nature Conservation (Animals) Regulation 2020

Section 175(2)(e) and section 176(2)(c) state:

'the proposed way of taking action under the permit is humane [and not likely to cause unnecessary suffering to the flying-foxes]'.

Procedure

Before granting a permit, the chief executive (or their delegate) must be satisfied that the action under the permit would be humane and not likely to cause unnecessary suffering to the flying-foxes.

N.B Information may come from any relevant source, and is not necessarily limited to information supplied by the applicant.

As a general rule the chief executive (or their delegate) may be satisfied that this requirement will be met by including a permit condition that requires a permit holder to comply with the same code of practice that applies to local governments in urban areas: *Code of Practice - Ecologically sustainable management of flying-fox roosts*. For example:

'the permit holder must ensure compliance with the *Code of practice - ecologically sustainable management of flying-fox roosts* at all times that this permit is in operation'.

Examples of proposed management actions that could reasonably be considered to be humane and unlikely to cause unnecessary suffering:

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- Where an applicant proposes driving away flying-foxes from a roost, or clearing of greater than 50% of roost trees or under-story vegetation. The application includes:
 - a. a nominated project coordinator; and
 - b. a statement from the applicant that they intend to carry out management actions in accordance with the code of practice.
- Where an application does not propose driving away flying-foxes from a roost, or clearing of greater than 50% of roost trees or under-story vegetation. The application includes:
 - a. a statement from the applicant that they intend to carry out management actions in accordance with the code of practice.

Minimising the likelihood of new flying-fox roosts in urban areas

Statutory requirements

Nature Conservation (Animals) Regulation 2020

Section 241 (1) (k) states:

'(1) The chief executive must consider an application for an animal authority having regard to each of the following matters—

- (k) for a flying-fox roost management permit in an area (the permit area) outside an urban flying-fox management area—whether the flying-foxes in the permit area are likely to move to, and congregate at, a tree or other place within an urban-flying fox management area, having regard to—
 - (i) the proximity of the permit area to the urban flying-fox management area; and
 - (ii) the direction, from the permit area, of trees or other places suitable for the flying-foxes to move to and congregate at;

Procedure

Before granting a permit, the chief executive (or their delegate) must, where the permit area is outside an urban flying-fox management area, consider whether actions under the permit are likely to lead to flying-foxes moving into an urban-flying fox management area.

N.B Information may come from any relevant source, and is not necessarily limited to being supplied by the applicant.

Examples of situations where flying-foxes could reasonably be considered likely to move into an urban flying-fox management area include:

- Where the flying-fox roost is within approximately 50km of an urban flying-fox management area and after examining a regional context map, it is found that there are limited alternative places for flying-foxes to roost, other than places within an urban flying-fox management area.

If the chief executive considers that the flying-foxes are likely to move into an urban flying-fox management area the permit may be refused unless there are exceptional circumstances warranting the grant of the permit.

Other considerations

Statutory requirements

Nature Conservation (Animals) Regulation 2020

Section 241(1): 'The chief executive must consider each of the following—

- a. whether the chief executive is restricted from granting the authority under Chapter 4, Parts 3 to 18;
- b. whether the applicant is a suitable person to hold the authority;

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- c. the impact the activities proposed to be carried out under the authority may have on the conservation of native wildlife;
- d. the effect the grant of the authority may have on the fair and equitable access to nature, in particular, the ecologically sustainable use of wildlife;
- e. any contribution the applicant proposes to make to the conservation of nature;
- f. any relevant Australian or international code, instrument, protocol or standard or any relevant intergovernmental agreement;
- g. the precautionary principle;
- h. public health and safety;
- i. the public interest;
- j. any recovery plan for an animal to which the authority is proposed to apply;
- k. for an animal authority, other than a renewable licence, proposed to commence immediately after an existing animal authority of the same type expires—
 - (i) whether the existing animal authority was obtained on the basis of false or misleading information; and
 - (ii) whether the holder of the existing animal authority, or a relevant person for the holder, has failed to comply with a condition of the existing animal authority;
- l. any other matter stated in a conservation plan as a matter the chief executive must have regard to when considering an application for the authority’.

Section 241(2) ‘the chief executive may have regard to anything else the chief executive considers appropriate to achieve the object of the Act’.

Procedure

If satisfied of the considerations under the Animals Regulation, the chief executive (or their delegate) must exercise his/her discretion and decide whether to issue a permit after taking into account the matters in section 241 (1) of the Animals Regulation above, including:

- the impact the permit activities may have on conservation of the flying foxes;
- public health and safety;
- the public interest;
- the other matters listed in s241 (1) of the Animals Regulation;
- anything else which is relevant and appropriate to achieve the object of the Act. This may include:
 - a. whether the chief executive considers that an alternative management approach may be more appropriate for the flying-fox roost ;
 - b. any decision already made by local government in relation to the flying-fox roost; and
 - c. any statement of management intent or approved flying-fox management plan published by local government for the area.

Monitoring and compliance considerations

- Permit holders are required under the Animals Regulation to submit returns within 10 working days after each three month period that the permit is in force, and within 10 working days of the permit ceasing to have effect. Blank 'Return of operations' forms (returns) can be supplied to permit holders when a permit is issued and can also be obtained from the department's website.
- In accordance with the powers outlined in section 145 of the Act, site inspections by DES may be undertaken:
 - while a permit is in operation, at the place where the permit is in operation,
 - at any other place a conservation officer determines, in order to find out whether the Act is being complied with.
- The permit application requests the applicant's consent for property access. Section 145(2)(a) of the Act allows a conservation officer to enter any place at any reasonable time of the day or night if the occupier consents to the entry. Where the applicant is not the occupier, any consent given on the permit application is not sufficient for the purposes of section 145(2)(a).
- Where occupier consent is not provided, general powers of entry and search under section 145(b) –(d) of the Act continue to apply and officers of the Queensland Government may use these powers on a case by case basis.
- Where a permit is already in operation, officers conducting site inspections should consider how the actions are being undertaken, and whether the actions are in accordance with the permit conditions and the code of practice.

Flying-fox management plans

Flying-fox Management Plans (FFMPs) may be appropriate planning tools for individual sites with long term management requirements or for large areas of land where the capacity exists to move animals from areas of high concern to areas of low concern (e.g. an entire local government area). The purpose of a FFMP is to provide, within a single planning document, a management framework which accommodates all expected flying-fox management actions for an area.

An approved FFMP operates as an 'approved property management plan' for the purposes of the Animals Regulation, and allows permits to be granted for a period of up to three years rather than the usual maximum duration of one year.

N.B. Various planning documents submitted prior to the commencement of this guideline, may or may not be "approved property management plans", see the relevant statutory requirements below.

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Statutory requirements

Nature Conservation (Animals) Regulation 2020

Section 254:

(1) 'The maximum term for each of the following animal authorities is as follows—

a. a flying-fox roost management permit—

i. if the applicant is operating under an approved property management plan for the land to which the permit relates—3 years, or

ii. otherwise—1 year;

'approved property management plan, for land, means a plan about the management of the land that—

(a) provides for the conservation of animals on the land; and

(b) is approved by the chief executive'.

Considerations

To meet the requirements of section 254, an FFMP must describe the proposed management of the land, provide for conservation of flying-foxes on the land and be approved by the chief executive (or their delegate).

Procedure

Before deciding that an FFMP is an 'approved property management plan', the delegate must consider whether the FFMP:

- is about management of the land; and
- provides for the conservation of wildlife on the land.

Relevant information in deciding whether to approve a FFMP may include:

- the extent of land to which the FFMP would apply;
- the number of roosts in this area of land and the species, population size and conservation status of flying-foxes at these roosts;
- the number of roosts where dispersal may occur under the plan and the species, population size and conservation status of flying-foxes at the roosts where dispersal may occur;
- the number of roosts where management actions may occur under the plan that could lead to flying-foxes moving from a non-urban area to an urban area;
- the number of roosts where no (or minimal) intervention is planned to occur;
- the area of suitable land, identified for potential new roosts;
- any proposed conservation or education strategy for the area;
- the likely conservation outcomes of implementing the approach over the area for, potentially, a period of up to 3 years; and
- anything else which is relevant and appropriate to achieve the object of the Act.

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Definitions

Breeding includes gestating.

Flying-Fox means a protected animal of the genus *Pteropus*.

Flying-Fox roost means a tree or other place where flying-foxes congregate from time to time for breeding or rearing their young.

Authorities

Nature Conservation Act 1992

Nature Conservation (Animals) Regulation 2020

Approved By

Kirstin Kenyon

10.9.2020



Signature

Date

Executive Director, Wildlife and Threatened
Species Operations, Department of Environment
and Science

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Human Rights Compatibility

The Department of Environment and Science is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this code of practice, officers must comply with that obligation (refer to [Comply with Human Rights Act](#)).

Disclaimer

While this document has been prepared with care, it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisers before embarking on any proposed course of action.

Appendix 1: Flying-fox Identification and distribution maps

The little red flying-fox—

- Reddish brown to dark brown.
- Fur on neck, shoulders, around the eyes and under the wing varies from brown to yellow. The top of the head tends to be grey.
- Distinguishable from other common flying-foxes by its small size; forearm length 125–156 mm and head and body length 195–235 mm.
- There is little to no fur on the legs.
- The ears are prominent.



Figure 1. Little red flying-fox

The black flying-fox—

- Short black fur with a slight silver frosting in older individuals.
- Brown rings around the eyes are found on some individuals which usually have dark grey-brown to light yellow hind neck and shoulder fur.
- There is no fur on the lower leg of this species.
- Largest of the Australian flying-foxes with a forearm length of 150–191 mm and a head and body length of 240–280 mm.

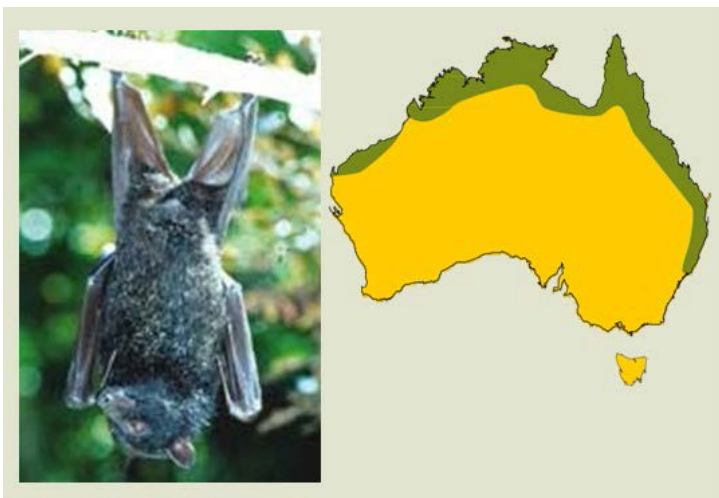


Figure 2. Black flying-fox

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The grey-headed flying-fox—

- Head and body covered in thick grey fur, with a reddish-yellow collar completely encircling the neck.
- Fur extends to the ankle.
- Large species with a forearm length of 138–180 mm and a head and body length of 230–289 mm.



Figure 3. Grey-headed flying-fox

The spectacled flying-fox—

- Almost black with prominent yellow neck ruff and prominent straw-coloured fur surrounding the eyes and along the muzzle. The ruff and head is silver-blond in some individuals.
- Yellow rings (spectacles) around the eyes.
- There is no fur on the lower leg of this species.
- Size of forearm is 160–189 mm and head and body length is 220–240 mm.



Figure 4. Spectacled flying-fox

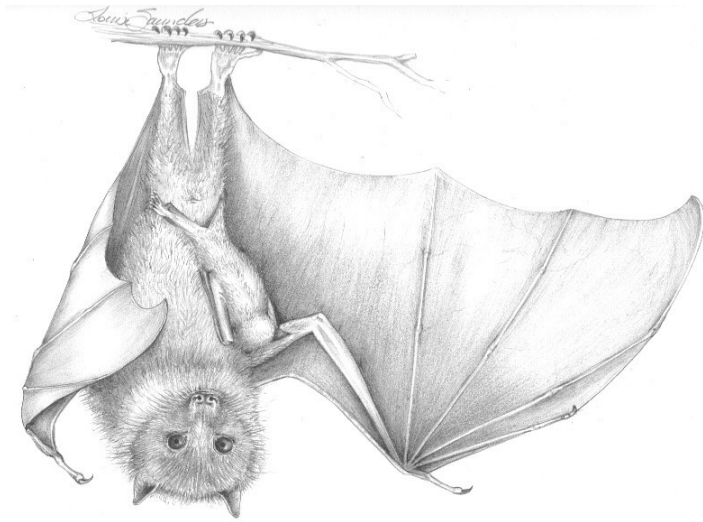


Figure 5. Flying-fox showing young in armpit. (Copyright Louise Saunders.)