



Our Ref: DOC17/428902  
Your Ref: Draft Rudder Park Flying-Fox Camp

General Manager  
Kempsey Shire Council  
West Kempsey NSW 2440

Attention Mr Bill Larkin

Dear Mr Rawlings

**Re: Response to additional information for the Draft Rudder Park Flying-fox Camp Management Plan**

Thank you for your email dated 16 August 2017 about the Office of Environment and Heritage (OEH) submission on the Draft Rudder Park Flying-fox Camp Management Plan, seeking clarification on points raised. I appreciate the opportunity to provide additional input.


With reference, to our previous comments dated 7 August 2017 on the Rudder Park Draft Flying-fox Camp Management Plan (listed as points below), and on review of the additional information provided by the Kempsey Shire Council and the consultation undertaken, we provide the following comments.

1. We acknowledge, that due to the nature, design and management of Rudder Park as noted by the council, the points (listed below) are no longer considered relevant, therefore no changes to the Draft Plan are required:
  - a. Point 1 - Include a section within *s1 Overview of the Plan*, describing the agencies, stakeholders and community organisations directly involved in the implementation of the Plan. As no stakeholder or community involvement in the management of Rudder Park is noted by Council.
  - b. Point 4 - Include a section within *s2 Context of the Plan*, describing any supplementary plans or documents which may apply to the site. No such documentation applies to the Rudder Park, as noted by Council.
2. We recognise the in-principle agreement by the council to include the following changes, or additions into the Draft Plan, as part of the final review. We also note that some of the agreed changes as referred to below are subject to the OEH providing standard text.
  - a. Point 2 - Revise *s2.2 Land Tenure*, to legally identify (Lot/DP) the public land subject to the Plan, will be undertaken by Council.
  - b. Point 3 - Include in *s9* as an action to consider/assess Aboriginal Cultural Heritage values in accordance with the *National Parks and Wildlife Act 1974* to occur on the drafting of a Vegetation Management Plan for Rudder Park.

- c. Points 5, 6 & 7 - Review *s4 Legislation and Policy Section*, and revise the legislative references in *s8 Camp Management Options*, of the Draft Plan. The OEH (North East Branch - Planning) has provided the standard changes to the sections, along with an updated term requirement to assist in **Attachment 1** to this letter. The standard text also includes references to offences (compliance) under the *Biodiversity Conservation Act 2016* in regards to Point 5, and term replacement over the entire plan as it relates to Point 7.
  - d. Points 9 and 11 - Review *s9* and *s10.3*, to ensure if weed removal, or any other form of vegetation modification is required, that works will remain consistent with an approved vegetation management plan.
  - e. Point 10 - Review *s9 Planned management approach*, to include an action for a site-specific vegetation management plan for any Level 2/ Level 3 action requiring management or modification of vegetation at Rudder Park (Flying-fox Camp).
  - f. Point 12 - Review *s11 Assessment of Impacts to other threatened species* to change the last paragraph as follows:  
*The above impacts are unlikely to have a negative impact on any other threatened flora and fauna species, or their habitats, and as such further assessment either under the Biodiversity Conservation Act 2016 or the EPBC Act is not considered to be required.*
3. The following action is suggested by the OEH to resolve the outstanding points on the strategic management implications:
- a. Points 5, 8 & 13 - Include an action for the council to develop an internal council procedure to address emergency, or arising issues (including compliance under the *Local Government Act 1993*), for Rudder Park, as appropriate.

If you have any further questions about this issue, Ms Rachel Binskin, Regional Operations Officer, Regional Operations, OEH, can be contacted on 6659 8247 or at [rachel.binskin@environment.nsw.gov.au](mailto:rachel.binskin@environment.nsw.gov.au).

Yours sincerely

 22 September 2017

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East**  
**Regional Operations**

Contact officer: RACHEL BINSKIN  
6659 8247

# APPENDIX E

## Attachment 1: OEH North East Branch - Suggested updates to Flying-fox Camp Management Template

### 1. Update of Terms:

- a. Replace the term *Threatened Species Conservation 1995* with the term *Biodiversity Conservation Act 2016*
- b. Replace the acronym TSC Act with the acronym BC Act
- c. Replace the term Section 91 Threatened Species Licence with the term Biodiversity Conservation Licence (Threatened Species)
- d. Replace the acronym s91 Licence with the acronym BC Licence

### 2. Update of Sections:

- a. **Replace existing Section 4.1.2 *Threatened Species Conservation 1995* with the *Biodiversity Conservation Act 2016*, section provided below.**

#### 4.1.2 Biodiversity Conservation Act 2016

The purpose of the *Biodiversity Conservation Act 2016* (BC Act) is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development including conserving biodiversity, maintaining the diversity and quality of ecosystems, regulating human interactions with wildlife, and supporting conservation and threat abatement action to slow the rate of biodiversity loss and conserve threatened species and ecological communities in nature.

The Grey-headed Flying-fox is listed as a threatened species under the BC Act.

Part 2 Division 3 of the BC Act provides for the issuing of Biodiversity Conservation Licences to authorise the doing of an act likely to result in one or more of the following:

- a. harm or attempted harm to any animal that is of a threatened species or is part of threatened ecological community
- b. harm or attempted harm, dealing in, or liberating a protected animal
- c. the picking of any plant that is of a threatened species or is part of threatened ecological community
- d. picking or dealing in protected plants
- e. damage to declared areas of outstanding biodiversity value
- f. damage to any habitat of a threatened species or threatened ecological community.

Part 7 of the BC Act provides for the biodiversity assessment and approvals required under the *Environmental Planning and Assessment Act 1979* for development other than complying development, activities and state significant development and infrastructure.

An assessment of impacts is required for any threatened species or threatened ecological community, or their habitats, that are likely to be harmed by the doing of an act proposed in the Plan.

*Note: that the definition of 'harm' includes kill, injure or capture the animal, but does not include harm by changing the habitat of the animal, and attempt to harm an animal includes hunting or pursuing, or using anything, for the purpose of harming the animal. The definition of 'pick' includes to gather, take, cut, remove from the ground, destroy, poison, crush or injure the plant or any part of the plant. The definition of habitat includes an area periodically or occasionally occupied by a species or ecological community and the biotic and abiotic components of an area.*

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- b. Replace existing text in Section 4.1.3 *National Parks and Wildlife Act 1974* with the revised text provided below.**

### 4.1.3 National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NPW Act) provides for the conservation of nature, objects, places or features of cultural value and the management of land reserved under this Act. The Act protects Aboriginal objects and declared Aboriginal Places. An Aboriginal Heritage Impact Permit may be required under this Act to authorise camp management actions that may harm Aboriginal objects a declared Aboriginal Places.

- c. Replace existing text in Section 4.1.5 *Environmental Planning and Assessment Act 1979* with the revised text provided below.**

### 4.1.5 Environmental Planning and Assessment Act 1979

The objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) are to encourage proper management, development and conservation of resources, for the purposes of the social and economic welfare of the community and a better environment. It also aims to share responsibility for environmental planning between different levels of government and promote public participation in environmental planning and assessment.

The EP&A Act is administered by the NSW Department of Planning and Environment.

Development control plans under the EP&A Act should consider flying-fox camps so that planning, design and construction of future developments is appropriate to avoid future conflict.

Development given consent under Part 4 or activities assessed under Part 5 of the EP&A Act do not require licensing under the BC Act. Consent and determining authorities are required to consider the impacts of such proposals on threatened species, threatened ecological communities, and their habitats in accordance with Part 7 of the BC Act.

Where development consent under Part 4 or assessment under Part 5 of the EP&A Act is not required, a licence under the BC Act may be required to authorise the doing of an act that harms protected animals, threatened species, or threatened ecological community, or which damages the habitat of a threatened species or ecological community. This includes the doing of an act likely to harm any flying fox, or damaging the habitat of grey-headed flying-foxes.

Where a proposal to manage a flying-fox camp involves the cutting down, destruction, lopping or removal of a substantial part of a tree or other vegetation that is not covered by a development consent or assessment under Part 5 it may still require authorisation. Depending on the land on which the vegetation occurs and the character of the vegetation, it may require an approval or a permit under the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* or an approval under the *Local Land Services Act 2013*.

Where flying-fox camps occur or impact on private land, private land owners are advised to contact their local council to explore management options and the appropriate approval processes for addressing arising issues.

- d. Include as part of Appendix 3 under State Environmental Planning Policies the text provided below.**

### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This policy aims to protect the biodiversity and amenity values of trees, and other vegetation in non-rural areas of the State. A person must not cut down, fell, up root, kill, poison, ringbark, burn or otherwise destroy the vegetation, or lop or otherwise remove a substantial part of the vegetation to which this policy applies without a permit granted by council, or in the case of vegetation clearing exceeding the biodiversity offset thresholds (as stated in Part 7 of the *Biodiversity Conservation Regulations 2017*), approval by the Native Vegetation Panel.

Proponents will need to consider whether State Environmental Planning Policy (Vegetation in Non-Rural Areas) applies to their proposal, and if any approvals are required under the BC Act.

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Our Ref: TE01R17

12 September 2017

The General Manager  
Kempsey Shire Council  
PO Box 3078  
West Kempsey NSW 2440

Attention: Bill Larkin

Dear Sir / Madam,

**RE: RUDDER PARK FLYING FOX CAMP MANAGEMENT PLAN 2017**

NSW Department of Industry – Lands & Forestry (the Department) is writing in response to your letter dated 27 July 2017 regarding Kempsey Shire Councils Rudder Park Flying Fox Camp Management Plan.

Crown land covered by this plan includes:

- Reserve 68503 for public recreation (Lot 7003 DP 1074171) under the management of Rudder Park Reserve Trust (Council). Proposed works on this reserve include vegetation removal / buffer area works.
- Part Parish Reserve 754419 for Future Public Requirements (Lot 7301 DP 1166394) under direct management of the Department. With the exception of the sprinkler buffer, no direct actions are proposed for this Crown Reserve managed by the Department.

The Department encourages Council to implement the OEH Flying Fox Camp Management Plan hierarchy with a preference for passive actions and property modifications on private lands to protect assets. The Department discourages the removal of any native species or Level 3 actions unless approved by OEH as necessary. As Trust Manager of Reserve 68503, Council must ensure all works are approved and undertaken in accordance with relevant legislation and policy. Should the adopted Plan identify works on Reserve 754419 managed by the Department, approval must be sought prior to any works being carried out.

The Department does not currently have any funds to contribute to this project. Council and/or private funds will need to be utilised, or external funding such as grant funding will need to be sought.

For any further enquiries, please do not hesitate to contact Jaimee Vlastuin using the details provided below.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Silas Sutherland'.

Silas Sutherland  
Area Manager North Coast  
NSW Department of Industry – Lands & Forestry

P: 02 6591 3586  
E: [jaimee.vlastuin@crowmland.nsw.gov.au](mailto:jaimee.vlastuin@crowmland.nsw.gov.au)

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### Bill Larkin

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**From:** Your Say Macleay <notifications@engagementhq.com>  
**Sent:** Tuesday, 22 August 2017 9:58 AM  
**To:** Bill Larkin  
**Subject:** Anonymous User completed a Draft Plan of Management Online Submission

Anonymous User just made a 'Draft Plan of Management Online Submission'. Please see below.

#### Your Name

[REDACTED]

#### Your Address

[REDACTED]

#### Phone Contact

[REDACTED]

**If you are making a submission on behalf of an environmental or fauna group please advise group details.**

No Answer

#### **Your feedback on the Draft Flying Fox Camp Management Plan.**

Thank you for the opportunity to comment on the draft management plan for the Rudder Park Flying Fox Colony . Unfortunately the time constraints set for the return of comments is insufficient for a comprehensive submission . I have read the Draft Plan. I have attended the Information Session. I am aware of the surrounding legislation protecting flying foxes. I am aware of the 2 levels of action that must be considered / implemented before any referral for Level 3 action . I consider the 1st and 2nd levels of action will not provide any long term success for co existence of bats and urban human habitation at Rudder Park. They reflect measures which require modification of human environment and human behaviour to manage the effects of bat odour, excreta and noise. I acknowledge all the stated measures in Level 1 & 2 may help ease the burden marginally on residents affected if implemented. But the bats will remain , in varying numbers at any given time, with the impact still present with odour, excreta and noise. The concept of an 15 metre exclusion zone is only proposed for the roosting / dense area at the back of the Rental Units / possibly the back yard of 1 - 2 houses. The impact of this exclusion zone will be to move the bats around further to those residents bordering the bamboo in Gabriel Avenue. I consider there should be no question that the exclusion zone should include all borders of residential contact. Further measures identified in the management plan to impact on the bats include a sprinkler system A . They are focussed on the roosting area within Rudder Park. Your plan identifies that the secondary areas are System B location ( closer to those residents living in Gabriel Avenue) could also be implemented if needed. I consider that there should be no question about establishing sprinkler systems in both areas. The evidence within the document identifies that the bats are highly likely to move from one end of the bamboo to another, as they have done in the past. My concern with sprinkler systems relate to minimal evidence available on the effects on large amounts of water on surrounding vegetation on a steep slope. Trees falling. Impact on other vegetation/ river. I apologise for the brevity of my reply. I apologise for the lateness of this reply. I hope it can be included for consideration by Council. I understand that there is no action proposed on the bat colony within the next twelve months, and it has not been included in the operating plan for the next twelve months

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(information received from the public information day). I further understand that there may be the opportunity to apply for funds that are matched by council to potentially make a start on implementing a plan of management. I urge the Council to apply for those extra funds. I urge Council to consider amendment to the draft document to include standardised and complete Level 1 and Level 2 actions for all residents bordering the colony. This to be reflected in the final document for management of Rudder Park Flying Fox Colony. Should there be further information required . We are available given sufficient time and notice. Regards [REDACTED]

**You are welcome to upload any documents or images supporting your submission.**

No Answer

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### Bill Larkin

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**From:** Your Say Macleay <notifications@engagementhq.com>  
**Sent:** Monday, 14 August 2017 10:01 AM  
**To:** Bill Larkin  
**Subject:** Anonymous User completed a Draft Plan of Management Online Submission

Anonymous User just made a 'Draft Plan of Management Online Submission'. Please see below.

#### Your Name

[REDACTED]

#### Your Address

[REDACTED]

#### Phone Contact

[REDACTED]

**If you are making a submission on behalf of an environmental or fauna group please advise group details.**

No Answer

#### **Your feedback on the Draft Flying Fox Camp Management Plan.**

[REDACTED]

property prior to the camp developing although there had been intermittent reports of bat sightings from long term tenants. I purchased the property for the purpose of contributing to my retirement. My primary concerns with the bat camp are firstly continuing reports from my tenants of noise and bat droppings making it difficult for them to enjoy the property. Secondly, there is no doubt that the bat camp has had a significant negative impact on the value of the property. What impact that has had, I won't know until I try to sell the property although I have no immediate intentions of doing so. While I don't really like the idea of the bat camp on the council/state owned land adjoining my property, I recognise that there is little I can do about that. What I am concerned about is because the council/state have failed to adequately maintain the adjoining property, the giant bamboo - a noxious weed that continues to encroach upon my property and that council/state refuse to control, is exacerbating the problem. If council/state wish to let the bamboo grow on their property, that is up to them. Council however need to recognise that as the bamboo continues to send out runners and grows aggressively it has a big impact on my property. Left unchecked, the bamboo will inundate my back yard and bring the bats even closer to occupied property increasing the health concerns of my tenants. At the end of the day, council/state has an obligation to remove the weeds that have encroached on my property and keep the weeds on their property under control so it does not continue to encroach on my property. This also reduces the impact of the bat camp on the living conditions of the people living in adjoining properties.

**You are welcome to upload any documents or images supporting your submission.**

No Answer



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### Bill Larkin

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**From:** Your Say Macleay <notifications@engagementhq.com>  
**Sent:** Wednesday, 26 July 2017 8:26 PM  
**To:** Bill Larkin  
**Subject:** Anonymous User completed a Draft Plan of Management Online Submission

Anonymous User just made a 'Draft Plan of Management Online Submission'. Please see below.

#### Your Name

[REDACTED]

#### Your Address

[REDACTED]

#### Phone Contact

[REDACTED]

**If you are making a submission on behalf of an environmental or fauna group please advise group details.**

No Answer

#### **Your feedback on the Draft Flying Fox Camp Management Plan.**

I support Council in every effort to conserve and protect the flying fox and do not support any type of dispersal to relocate flying foxes which is ineffective and inhumane. I particularly support revegetation and land management to create alternative habitat and the regeneration of food trees.

**You are welcome to upload any documents or images supporting your submission.**

No Answer

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### Bill Larkin

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**From:** Your Say Macleay <notifications@engagementhq.com>  
**Sent:** Wednesday, 26 July 2017 5:48 PM  
**To:** Bill Larkin  
**Subject:** Anonymous User completed a Draft Plan of Management Online Submission

Anonymous User just made a 'Draft Plan of Management Online Submission'. Please see below.

#### **Your Name**

[REDACTED]

#### **Your Address**

[REDACTED]

#### **Phone Contact**

[REDACTED]

**If you are making a submission on behalf of an environmental or fauna group please advise group details.**

No Answer

#### **Your feedback on the Draft Flying Fox Camp Management Plan.**

I support every effort to conserve and protect flying foxes and think the level 1 actions appear appropriate and moderate particularly point 8.1.6 Revegetation and land management to create alternative habitat. Flying foxes have a right to exist and as pointed out their movement and increase in numbers can be attributed to the Kempsey bypass as well as other land clearing. We must do all we can to protect flying foxes and support the neighbouring premises to the camps to this end. Human caused climate change and loss of habitat and food have caused this issue and now we must solve it. As flying foxes are a keystone species our environment and industry such as forestry rely on these long distance pollinators to ensure the forests survival. As a ratepayer I am more than happy to support Council in the conservation and protection of the flying fox and it's ecology. I do not support dispersal methods of any kind.

**You are welcome to upload any documents or images supporting your submission.**

No Answer

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### Bill Larkin

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**From:** Your Say Macleay <notifications@engagementhq.com>  
**Sent:** Wednesday, 26 July 2017 5:45 PM  
**To:** Bill Larkin  
**Subject:** Anonymous User completed a Draft Plan of Management Online Submission

Anonymous User just made a 'Draft Plan of Management Online Submission'. Please see below.

#### Your Name

[REDACTED]

#### Your Address

[REDACTED]

#### Phone Contact

[REDACTED]

**If you are making a submission on behalf of an environmental or fauna group please advise group details.**

No Answer

#### **Your feedback on the Draft Flying Fox Camp Management Plan.**

I support every effort to conserve and protect flying foxes and think the level 1 actions appear appropriate and moderate particularly point 8.1.6 Revegetation and land management to create alternative habitat. Flying foxes have a right to exist and as pointed out their movement and increase in numbers can be attributed to the Kempsey bypass as well as other land clearing. We must do all we can to protect flying foxes and support the neighbouring premises to the camps to this end. Human caused climate change and loss of habitat and food have caused this issue and now we must solve it. As flying foxes are a keystone species our environment and industry such as forestry rely on these long distance pollinators to ensure the forests survival. As a ratepayer I am more than happy to support Council in the conservation and protection of the flying fox and it's ecology. I do not support dispersal methods of any kind.

**You are welcome to upload any documents or images supporting your submission.**

No Answer

[Redacted]

Kempsey  
NSW 2440

[Redacted]



August 23, 2017

The General Manager and Councillors  
Kempsey Shire Council  
Elbow Street  
West Kempsey 2440

**RE: Rudder Park Flying Fox Camp Management Plan**

Dear Madams/Sirs,

I have read the RPFCCMP and commend Ecosure for an informative and thorough document.

I can sympathise with the affected residents who live with the noise and pollution and the associated health consequences from the traffic in Lord Street on one side and the noisy, smelly flying foxes on the other. The Rudder Park flying fox camp increased in numbers after the camp on Crescent Head Road was disturbed by the construction of the Kempsey Bypass. The State Government has to take responsibility for the major disturbance to this camp which had been there for a long time and the consequences.

I think that offering subsidies for property modifications and services, sprinklers, noise attenuation fencing and buffer zones and all the other management activities which will be required by Council could become very expensive in the long term and may not effectively manage or protect these flying foxes. I also think it is easier to move a dozen people than 5000 bats.

My considered solution to the human-flying fox conflict at Rudder Park is for the State and/or Federal Government to buy the properties from the affected nearby residents, pay them a fair price and create a Flying Fox Research and Education Centre. Kempsey is an ideal location for such a facility as there are several flying fox camps in the area. The houses could be used for accommodation for a Manager/caretaker, research scientists and students, laboratory facilities and an education centre for the public. This would be a win for Kempsey and the flying foxes.

Federal and State government funding and expressions of interest from Universities or other Research institutions should be sought as soon as property acquisition is agreed.

Thank you,

Yours faithfully,

[Redacted signature block]