

s.73

From: s.73
Sent: Tuesday, 24 December 2013 3:31 PM
To: s.73
Cc:
Subject: 131224 Statement of reasons_Charters Towers FF dispersal (KM amendments)
Attachments: 131224 Statement of reasons_Charters Towers FF dispersal (KM amendments).docx
Follow Up Flag: Follow up
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s.73

My statement of reasons for the Charters Towers DMP. Because of the change of legislative framework on the 29th November it is worth noting that the Charter Towers' dispersal was carried out under a flying fox roost management permit.

Whilst I have not followed the same format in the statement of reasons I would like to be clear that the issuing of that permit was based on the same reasons as the issuing of the DMP.

Regards

s.73

s.73

Director Wildlife
Environment and Heritage Protection
Telephone s.73



STATEMENT OF REASONS

Statement of reasons provided pursuant to section 33 of the Judicial Review Act 1991.

Applicant's name	Charters Towers Regional Council
Decision maker	s.73 the delegate of the chief executive in accordance with the delegation given under section 141 of the <i>Nature Conservation Act 1992 (the Act)</i>
Decision	Granted
Date of decision	21/10/2013

Introduction

On 16th October 2013, the Charters Towers Regional Council lodged an application for a damage mitigation permit (DMP) to enable the dispersal of the flying fox roost at Lisner Park, Charters Towers.

On 21st October 2013, after consideration of the material before me, I granted a DMP and signed a notice of decision to Charters Towers Regional Council confirming my decision.

Relevant legislation

The *Nature Conservation (Wildlife Management) Regulation 2006 (the Wildlife Management Regulation)* chapter 3, part 4, division 2 governs the grant of damage mitigation permits (DMP) for animals as follows:

S 181 Purpose of permit and div 2

- (1) The purpose of a damage mitigation permit for animals is to allow a person to do an authorised act affecting a protected animal if the animal—
- (a) is causing, or may cause, damage to property; or
 - (b) represents a threat to human health or wellbeing.
- (2) The purpose of this division is to ensure the grant of damage mitigation permits to do authorised acts affecting animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
- (a) allowing the chief executive to grant a damage mitigation permit to do an authorised act affecting an animal only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a damage mitigation permit; and
 - (c) regulating the activities of persons acting under a damage mitigation permit.

S 186 Restriction on grant of permit for threat to human health and wellbeing

The chief executive may grant a damage mitigation permit for a threat, or potential threat, to human health and wellbeing caused by a protected animal only if the chief executive is satisfied—

- (a) there is, or may be, a threat to a person's health and wellbeing resulting from harm caused by the animal to the person; and
- (b) action under the permit will not detrimentally affect the survival of the animal in the wild; and
- (c) the proposed way of taking the animal is humane and not likely to cause unnecessary suffering to the animal;

Section 25 of the *Nature Conservation (Administration) Regulation 2006* (the Administration Regulation) provides that in considering an application I must have regard to each of the following

- (a) The impact the activities that may be carried out under the DMP may have on the conservation of the cultural or natural resources of a protected area or native wildlife;
- (b) The effect the grant of the authority will have on the fair and equitable access to nature, having regard to, in particular, the ecologically sustainable use of protected areas or wildlife;
- (c) Any contribution the applicant proposes to make to the conservation of nature;
- (d) Any relevant Australian or international code, instrument, protocol or standard or any relevant intergovernmental agreement;
- (e) The precautionary principle;
- (f) Public health and safety
- (g) The public interest
- (h) Whether the applicant is a suitable person to hold the authority, having regard to the matters mentioned in schedule 2 of the Administration Regulation;
- (i) Any recovery plan for wildlife to which the authority applies. *Nature Conservation (Administration) Regulation 1996 (NCAR)*

Pursuant to section 25(2) of the Administration Regulation I may have regard to anything else I consider appropriate to achieve the object of the Act.

Material on which the findings of fact were made

In arriving at my decision I had before me the following material for consideration:

- The Act, the Wildlife Management Regulation and the Administration Regulation 2006
- Damage Mitigation Permit Application and supporting documentation submitted 16/10/2013
- Information from assessment report generated by s.73 (A/Senior Wildlife Ranger).

Findings of fact

I assessed the application against the requirements of the legislation and made the following findings of fact: Conditions are included in the findings of fact.

Legislative requirement	Finding
Section 181 (2) of the Wildlife Management Regulation	Both species of black and little red flying-foxes are listed as least concern under the NCA with the little reds being the widest ranging of four main species of flying-foxes in Australia.
Section 181(1)(a) and S 186 (b) of the Wildlife Management Regulation	I am satisfied that the animals are causing, or may cause damage because of the information provided in the application and the assessment (being complaints and the history of human behaviour in response to the roost) and the history of the wellbeing of the residents

	being affected.
Section 186(c)	<p>I am satisfied the proposed way of dispersing the flying-foxes is humane and not likely to cause unnecessary suffering to the animals because the applicant has proposed the following measures in the dispersal plan to minimise the likelihood of a 'take':</p> <ul style="list-style-type: none"> • The proposed method of dispersal is by sound, smoke, water and disturbance by movement in the trees by a paint ball gun. The intent is not to have direct contact with the animals. • Council has provided assurances that the helicopter will be used only as a barrier to prevent flying-foxes from heading in an undesirable direction and will not be used to 'muster' the animals as previously described. • In the event of any accidental take dispersal activities will be suspended.

Additional matters I have taken into account

Section 25(1)(a) of the Administration Regulation	I consider that the dispersal will have no impact on the conservation of the species. The applicant has identified 3 potential roost sites within 10km of the existing roost predominantly along the Burdekin River and Gladstone Creek therefore the likelihood of the animals relocating to a suitable location is enhanced.
Section 25(1)(b)	There will be no effect from the grant of the authority have on the fair and equitable access to nature, having regard to, in particular, the ecologically sustainable use of protected areas or wildlife.
Section 25(1)(c)	There is no contribution the applicant proposes to make to the conservation of nature;
Section 25(1)(d)	There are no relevant matters in this section.
Section 25(1)(e)	The grant of the permit has taken into account the precautionary principle.
Section 25(1)(f)	I have had regard to public health and safety in considering S 181 (1) and in condition PB6.
Section 25(1)(g)	<p>I have had regard to the public interest in understanding the situation of the township but also that granting a DMP may cause others distress and that the flying foxes may form or go to roosts that also impact on public wellbeing or economic loss. In some scenarios that impact may be greater than the current situation. Removal of trees is not feasible as the trees are heritage listed and restrictions are placed on the ability for CTRC to modify or remove them. The trees have been previously pruned.</p> <p>Council refers residents to EHP information on its website.</p> <p>Council has previously dispersed flying-foxes from the park.</p> <p>On balance I believe the granting of the DMP and the</p>

	safe dispersal of the roost is the best outcome in the public interest
Section 25(1)h)	I have established whether the applicant is a suitable person to hold the authority, having regard to the matters mentioned in schedule 2 of the Administration Regulation.

5. In the main, I accepted s.73 assessment report. Matters to note from that report are

- The public interest test, NCAR s25 (1) (g). This matter was discussed with the Mayor, and as the town's elected leader I take his advice on that matter.
- I noted the recommended conditions and in the main accepted those. I did however require changes.
- The conditions of the Permit, their rationale and legislative base are in the table below.

• Condition of Permit	• Rationale	• Legislative Base
PB1: EHP staff may direct works not to start or cease.	Gives on ground staff capacity to respond to changing conditions or breaches.	• NC(WM) RS 186 (c)
PB2: Dispersal activities must be carried out in accordance with the Roost Management Plan submitted by CTRC on 16 October 2013. Where this document and the permit conditions conflict, the permit conditions take precedence.	Direct link with proposal. If methods outside those nominated gives direct link to cease if needed. Application is basis for determining that requirements met.	• NC(WM) RS 186 (c)
PB3 Morning dispersal activities must cease by 7 am and evening dispersal activities (if undertaken) cannot be commenced until 5.30pm. Dispersal activities must not occur during the day between those times	• Humane dispersal	• • NC(WM) RS 186 (c)
PB4 EHP officers able to enter where activities occurring.	• Capacity for oversight of the operation	•
PB5 If flying foxes disperse to a location that is considered on reasonable grounds to be unsuitable by either Council or EHP , the permit holder must: <ul style="list-style-type: none"> • Take reasonable action to disperse the flying foxes from the unsuitable location • Seek permission to enter 	Mitigation strategy for outcome being less optimal in the public interest.	Section 25(1) (g) of the Administration Regulation

the land from the relevant landowners where entry to land not owned by Council is required to carry out the necessary dispersal activity.		
PB6 A registered wildlife carer or veterinarian (against ABLV) must be on call at all times that dispersal activities are undertaken.	<ul style="list-style-type: none"> If accidental harm happens then reduce the risk to the bats. If harm happens less risk in handling of bats 	NC(WM) RS 186 c Section 25(1) of the Administration Regulation
PB 7 A helicopter may be used as a barrier during dispersal activities only, where CASA has given approval for its use.	As this is a new technique aim is to minimise the potential for accidental take. CASA recognised authority.	<ul style="list-style-type: none"> NC(WM) RS 186 (c) Section 25(1) of the Administration Regulation
PB8: permit holder gives 48 hours notice prior to commencing.	Allows for staff to be organised so can oversee that action is carried out as per permit	NC(WM) RS 186 (c) Must be satisfied will be conducted humanely
PB9: Dispersal activities must immediately suspend and EHP notified if: <ul style="list-style-type: none"> flying fox killed or injured, harmed or suffering unnecessary, unreasonable stress 	Indicators that dispersal is not being conducted humanely. Allows for assessment.	NC(WM) RS 186 c

Reasons for making the decision

I am satisfied of all the matters set out in section 186 of the Wildlife Management Regulation have been met and accordingly I was able to grant a DMP with conditions.

s.73

Delegate

Department of Environment & Heritage Protection

Permit¹

This permit is issued under the following legislation:
S12(B) Nature Conservation (Administration) Regulation 2006

Flying-fox roost management permit

Permit number: WIFF13807313

Valid from: 01-NOV-2013 to 20-OCT-2014

Parties to the Permit

Role	Name	Address
Principal Holder	Charters Towers Regional Council 67 731 313 583	12 Mosman Street CHARTERS TOWERS QLD 4820

Permitted Location Activity Details

Location (s)	Activity (s)
Lissner Park 230 DV444 CHARTERS TOWERS REGIONAL	Deliberately disturb flying-foxes in a roost. Deliberately disperse flying-foxes from a roost.

Permit Details

Species Details

Location		Activity	
Lissner Park		All activities relating to this permit	
Common Name	Scientific Name	Category	Quantity
black flying-fox	<i>Pteropus alecto</i>	Live	Unlimited Animal/s
little red flying-fox	<i>Pteropus scapulatus</i>	Live	Unlimited Animal/s

¹ Permit includes licences, approvals, permits, authorisations, certificates, sanctions or equivalent/similar as required by legislation.

Conditions of Approval

Agency Interest: Biodiversity

- PB1 EHP staff may direct works not to commence or to cease at any time.
- PB2 Dispersal activities must be carried out in accordance with the Roost Management Plan submitted by CTRC on 16 October 2013. Where this document and the permit conditions conflict, the permit conditions take precedence.
- PB3 Morning dispersal activities must cease by 7:00 am, and evening dispersal activities (if undertaken) cannot be commenced until 5:30pm. Dispersal activities must not occur during the day between these times.
- PB4 The permit holder must ensure EHP officers can enter and remain at any location, at any time, during which dispersal activities are being undertaken.
- PB5 If flying-foxes disperse to a location that is considered, on reasonable grounds, to be unsuitable by either EHP or Council, the permit holder must:
- Take reasonable actions to disperse the flying-foxes from the unsuitable location.
- Seek permission to enter the land from the relevant landowner(s) where entry to land, not owned by Council, is required to carry out the necessary dispersal activity.
- PB6 A registered wildlife carer or veterinarian (inoculated against Australian Bat Lyssavirus) must be on call at all times that dispersal activities are undertaken.
- PB7 A helicopter may be used as a barrier during dispersal activities, only where CASA has given approval for its use.
- PB8 The permit holder must notify EHP at least 48 hours in advance of dispersal activities commencing, so that a conservation officer may conduct a site assessment.
- PB9 Dispersal activities must immediately suspend, and EHP notified, if:
- A flying-fox appears to have been killed, injured or harmed.
- A flying-fox appears to be suffering unnecessary or unreasonable stress.

sch4p4(6) Personal information

Signed

s.73

Delegate
Department of Environment and Heritage Protection

Notice of decision - permit¹ application

This notice is issued by the administering authority to advise of a statutory decision on a permit application.

Charters Towers Regional Council
PO Box 189
CHARTERS TOWERS QLD 4820

Our reference: 381436

Dear Sir/Madam

Re: Decision made in relation to your application

Your application received on 30-OCT-2013 has been assessed and the decision in regard to your application is specified below:

Permit applied for	Permit Number	Decision
Flying-fox roost management permit under Nature Conservation (Administration) Regulation 2006	WIFF13807313	Granted

For the permit applied for that has been granted, the conditions of approval are attached. Where applicable, a Statement of Reasons is provided in relation to the decision. Please note that for the approval, this Notice of Decision and the relevant attachments constitute the permit documentation. Please retain this approval documentation for your records.

Included with this notice is advice on review and appeal processes that may be available to you. Should you seek a review or appeal, you are advised to seek independent advice before taking such action.

If you require more information, please contact s.73 on the telephone number listed below.

Yours sincerely

sch4p4(6) Personal information

s.73

Department of Environment and Heritage Protection
Date

Enquiries:

Wildlife - Savanna - QPW
PO Box 5597
TOWNSVILLE QLD 4810

Attachment - Permit/Statement of Reasons

¹ Permit includes licences, approvals, permits, authorisations, certificates, sanctions or equivalent/similar as required by legislation.





CHARTERS TOWERS REGIONAL COUNCIL

Exceptional Service for an Exceptional Community

Charters Towers Regional Council

Flying Fox Management Plan

13 May 2011

(not for Publication)



CHARTERS TOWERS REGIONAL COUNCIL

Exceptional Service for an Exceptional Community

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1.0 Executive Summary:

A small colony of Black flying-foxes (*Pteropus Alecto*) has been roosting in Lissner Park in the centre of Charters Towers for at least fifty (50) years. The colony averaged 150 and remained constant until around 2001. From 2001, a species of flying-fox (previously foreign to the area and commonly known as little reds (*Pteropus Scapulatus*)) took up residence, and numbers soon spiraled out of control, reaching numbers exceeding 50,000.

Early in the peace, complaints received by Council were continuous. People were scared to put their washing on their clothes-lines, leave their cars in the open, let their children play outside. Businesses were outraged at huge losses caused by unbearable noise and stench and people stop visiting Lissner Park due to fear of falling branches, raining flying fox faeces etc. Council did attempt to increase community understanding and appreciation of the said flying foxes by engaging schools, holding public meetings and issuing press releases, however, the pressure soon mounted and Council made a decision to apply for a damage mitigation permit to relocate the flying foxes to a new home away from Charters Towers. This decision was soon vindicated when a public consultation survey conducted by the Council found that a majority of the community did not want flying foxes roosting within the city limits. In fact, only three (3) submissions out of (404) wanted the flying foxes to stay.

Goals

The following key goals have been developed for the plan.

1. Successfully develop a sustainable flying fox colony campsite on Gladstone Creek for black and little red flying foxes, approximately 4km from the centre of town.
2. Enhance vegetation and other environmental values in and near the Gladstone Creek site.
3. Minimise negative effects / impacts of flying foxes living adjacent to Lissner Park.
4. Increase community understanding and support for flying fox conservation in non human impact areas.

Actions

1. Establish and maintain a sustainable flying fox campsite on Gladstone Creek.
2. Implement a regeneration/re-vegetation plan for any areas negatively impacted by the colonization of flying foxes at the proposed Gladstone Creek site.
3. Take all necessary and appropriate actions to relocate and contain the flying foxes to the Gladstone creek site.
4. Monitor the size and location of the flying fox colony and any success / failures associated with the new campsite.
5. Continue to work with and inform the local and wider community about flying fox management.



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2.0 Introduction:

Flying foxes are considered vital for ecology, in pollinating sclerophyll forests and rainforests in a natural setting. However, living in man-made park like Lissner park, roosting in non-native trees, drinking from man-made water supplies and feeding on non-native plant species is contrary to protecting our native ecosystems. The flying foxes are feeding on Mangos (native to Asia), Chinese Apple (declared Pest – Land Protection (Pest and Stock Route Management) Regulation 2003), Neame Tree (Undesirable), Figs not native to the area etc. The flying foxes roosting in Lissner Park are having a detrimental affect on the well being of the community. Although tourists may benefit from observing these little creatures, the long term affect being felt by the town is real. Environmental nuisance in the form of noise and smell, loss of 100 year old trees, residents being deprived the use of their backyards for residential / recreational enjoyment, being unable to hang out their own washing, downturns in business and psychological affects being felt across the community.

2.1 Win-Win Solution:

The ideal solution is to relocate the nuisance flying foxes to a section of Gladstone Creek, outlined in this report. A flora and fauna study by Aecom Australia Pty Ltd outlines Gladstone Creek as a more suitable roosting site for the said flying foxes when compared to Lissner Park. In addition, relocation of flying foxes to a more friendly environmental setting will appease the abhorrence of the Charters Towers community at large.

2.1 Relocation of Flying Foxes from Lissner Park:

Relocation:

In order to determine the perfect flying-fox habitat, Council has invested considerable time in researching flying fox colonies. As part of this research Council believes a section of Gladstone Creek on Lot 8 DV 784 (refer Annexure A), has the required features to provide a perfect home for a large colony of Flying Foxes.

View of Gladstone Creek from the East Large Tamarind Trees common

Proposed benefits of Gladstone Creek as a new home for the flying foxes:

- Council owned land.
- No influence on or from neighbours.
- Water Supply present.
- Abundant Shade provided by sheer density of trees.
- Roosting Trees (Tamarind, Mango, Paper Barks, Figs).
- Food Source (Eucalyptus blossoms, Mango, Native figs, Wild Berry etc.).
- Food Source for young (as above).
- Only 4km from Lissner Park.

- Flight path between Lissner Park and Gladstone Creek is over non built-up areas.



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3.0 Flying Fox Impact:

3.1 Chronology of Events 2001-2008

The following table outlines a brief history of events relating to the management of flying foxes in Charters Towers.

Dates		Chronology of Events
April	2001	First sign of an increase with numbers of black flying foxes increasing from 250 to 800. Council inquired about the removal of the Colony.
April	2001	QPWS investigated and advised Council that their Policy for the management of Flying Foxes didn't allow Council to move the colony as it was an established colony.
June	2001	5,000 red flying fox moved into Lissner Park. Council monitored the park.
Sept-Oct	2001	First complaint received concerning excessive noise and stench.
Sept-Oct	2001	Little red flying fox numbers swelled to >20,000.
Sept-Oct	2001	Request by Council to move colony.
Sept-Oct	2001	QPWS Inspected – babies present. No Permit issued.
Oct-Nov	2001	QPWS and local carer inspect colony.
Dec	2001	Public meeting held re-complaints about noise and smell.
Dec	2001	Public survey results in 400 persons wanting the flying fox gone, with 7 saying they can stay.
10 Dec	2001	1 st Permit issued for little red flying foxes only.
Dec	2001	Council took 7 days to remove red flying fox, using 3 fogging machines, air horns, sirens, birdfrite and gas guns.
Dec	2001	Ceased on the 7 th night, only 250 black flying foxes remained in Lissner Park
21 Jan	2002	2 nd Permit issued for black fliing fox only.
Jan	2002	Black flying fox joined by 5,000 red flying foxes.
Jan-Feb	2002	Council started experimenting with additives to the fogging mix including curry power, chillies, peppers and different types of oil etc.
11 Feb	2002	3 rd Permit issued for black and red flying foxes.
Feb	2002	Experimented with foliage sprays, Council tried with things such as Charlie Carp, Neem Oil, Pyrethrum Oil, White Oil, Molasses and Aluminium Sulphate. This was successful until it rained on the 13.02.2002.



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Feb	2002	Proceeded to use small fogging machine, using different types of oils.
March	2002	Council changed its approach. Instead of being reactive and moving flying fox on once they were settled in the trees. Council tried to prevent them from landing their in the first place. Council purchased 3 bat guards and tried to set up a force field over Lissner Park using ultrasonic frequencies, to prevent the flying fox from landing. This had limited success.
27 Mar	2002	4 th Permit issued for black flying fox only. Council came to the conclusion that the black flying foxes are nearly impossible to relocate and with numbers at only 250, Council decided to monitor situation.
April	2002	3,000 red fling fox enter town, Council prevents them settling and moves them on before they find a roosting site.
May	2002	5,000 little red flying fox enter town, increasing numbers to around 8,000. Council was given a verbal recommendation not to apply for a permit as the reds have dependent young.
May	2002	Inspections by QPSW show a large number of dependent young red flying fox.
June	2002	Council applies for a damaged mitigation permit to move the colony, however, the application was refused.
Aug	2002	Public Meeting with Rob Katter 50-60 attended. Another meeting planned for the 16 August 2002.
Aug	2002	Little red flying fox numbers swell to 10,000 dependent young still present.
Aug	2002	Due to permit being denied, Council concentrates on foliage fertilizers consisting of molasses and alum sulphate.
Aug	2002	Queensland Parks and Wildlife (QPWS) Brisbane staff visited to inspect the situation and met with Council staff.
3 Sept	2002	Mayor Brian Beveridge and Minister Dean Wills sign a Memorandum of Understanding.
9 Sept	2002	Community Solutions Workshop – hosted by Christine Scott, MP.
2 Sept	2002	5 th Permit issued for red flying fox only and excluding a designated core of trees in Lissner Park. This permit also restricted Council the use of water. It took Council 10 days to move colony out of surrounding areas.
Sept	2002	Council turned to the help of s.73 with his revolutionary “Frite Kite”. The Frite Kites were large silver helium filled balloons with eyes painted onto the balloons. The balloons were moderately successful, however the full extent of their success could not be judged due to restriction on Removal Permits.
15 Oct	2002	Christine Scott, MP, arranged a meeting with the intent of establishing a Steering



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		Committee.
29 Oct	2002	The Steering Committee consisted of 2 x members of the public, 2 x representatives of Council and 2 x representatives of QPWS. The main objective of the Committee was to ensure that the short, medium and long term goals set down in the Memo of Understanding were achieved. It also gave Council an opportunity to put forward new ideas and argue for permission to try new things.
30 Oct	2002	Application for 6 th made. Permit not issued until 1 December 2002 for red flying fox only and allowed Council for the first time to disturb the little red flying fox morning and afternoon. Blacks were not disturbed.
Nov	2002	Council was granted permission to use fog and bird frite as water alone was proving inadequate. Council managed to move all flying fox from Lissner Park.
5 Nov	2002	All flying foxes were now in Centenary Park and Council continued to pursue the flying fox, using foggers, bird frite, air horns, etc. Council also trialed "salt shot" as well as "9 shot". The "salt shot" proved ineffective as it disintegrated upon firing. The use of "9 shot" was stopped by QPWS as a flying fox was found on the ground.
12 Nov	2002	There are no flying foxes in Lissner or Centenary Park. The flying foxes have found a new home in the Vulture, Anne and Craven Street area.
14 Nov	2002	The relocation attempt was stopped by QPWS due to dependent young.
Nov	2002	For the second half of November the flying foxes moved between Craven Lane and Lissner Park. Council was determined to keep Lissner and Centenary Park flying fox free while the residents were just as keen to keep them out of their trees. Numbers swelled to 4,000.
1 Dec	2002	6 th Permit Issued for black and red flying fox. Numbers stands at 300 black and 5,000 little red flying fox.
Dec	2002	Council carries out full scale assault using heavy foggers, bird frite and water. The effort is successful and the little reds leave town.
6 Dec	2002	2,000 little red flying fox move back into town.
10 Dec	2002	Council stopped from moving black flying foxes as they now have a new roost site in Craven Lane. Council continues to chase the little red flying foxes from surrounding area. Red flying fox chased out of town.
23 Dec	2002	Residents moved black flying fox from the Craven Lane area without Council's help and against the wishes of the QPWS.
Jan	2003	The flying fox were spread evenly through town and Council was finding it difficult to move the flying fox as some residents allowed access to their preemies while others refuse.



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Feb	2003	Trialled paint guns with great success. Trailed a new invention "K-Splat (a box with motion sensors, flashing lights, loud noises etc). Council trialled a CD recording of a flying fox roost site, in an attempt to draw the flying fox out of Charters Towers to an alternate roost site. Minimal success.
17 Feb	2003	7 th Permit issued for black and red flying fox. Numbers stand at 400-800 black. Permit valid until the 16 August 2003.
March	2003	Black flying fox prove nearly impossible to relocate. The flying foxes are moved from Craven Lane to Dan Lane to Mr Leyshon Road etc.
14 Apr	2003	The black flying foxes move into the showgrounds.
28 Apr	2003	Started to move the flying foxes from the showgrounds after complaints started coming in.
2 May	2003	300 Black flying fox now in Urquhart Park and Hackett Terrace.
2 May	2003	Council emails QPWS asking permission to cull the remaining 300 black flying fox.
7 May	2003	QPWS advised culling was not an option as the colony is an existing colony. 2,000 little reds come back into town.
4 June	2003	The number of little red flying foxes swells to 5,000. Council concentrates on chasing the flying foxes from Lissner Park and Centenary Park.
6 June	2003	Number of flying foxes back to 300 black flying foxes as the little reds leave town.
12 June	2003	300 black flying foxes arrive at Golf Club.
19 June	2003	Number of flying fox increases to 4,000 as little reds move back in.
20 June	2003	Council trials the use of a helicopter. The helicopter is successful at stirring the flying fox. The reds leave town and the 300 black flying foxes move back to Hewett and King Street.
23 June	2003	Council chase the black flying foxes back to the showgrounds.
June-July	2003	Council has a break as the 300 black flying fox are causing little problem at the Showgrounds. The nearby residents chase the flying fox from the Showgrounds.
July	2003	Council push the flying fox back to the Showgrounds using paint ball and fog.
27 July	2003	The Charters Towers show pushes flying foxes to Brisk and Yelland Street. Flying fox numbers remain consistant at about 300 of the black species.
17 Aug	2003	8 th Permit issued for black and red flying fox. Number stand at 300 black flying fox. Permit valid until the 16 th February 2004.



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18 Aug	2003	The number of black flying foxes increases from 300 to 800.
Sept	2003	Numbers increase from 800 to 2,000. Council applies a full scale relocation program and proceed to disperse the flying fox all over town using fog, water and paint balls. Flying fox now in Marion, Prior, Anne and King Street, Racecourse Road and the Showgrounds.
22 Oct	2003	Rubber bullets trialled, no good. Numbers increase to 2,000 black and 2,000 little red flying foxes.
25 Oct	2003	Stopped by QPWS (Permit Suspended) babies present.
Nov	2003	Flying fox numbers have increased from 4,000 to 10,000 including 2,000 black and 8,000 little red flying foxes. The numbers are still increasing. Council continues to protect its parks and periphery areas surrounding the Showgrounds.
Jan	2004	Numbers remain over 10,000. Council relocation efforts are not working as planned. The flying foxes are segregating to all areas making relocation difficult.
08 Mar	2004	9 th Permit issued for black and red flying fox. Number stand at 300 black flying fox and 4,000 reds. Permit valid until the 7 th September 2004.
April	2004	Council decides to create an Environmental park on the outskirts of town adjacent to the Sewerage Treatment Plant. This location was chosen because it was a flying fox roost site in the past and only ceased to exist after a bush fire went through the area.
July	2004	Number of red flying foxes remain at around 4,000 across two locations; namely, Lissner Park and the Charters Towers Showgrounds.
August	2004	Queensland Parks and Wildlife (QPWS) considers purchasing the property next door to the showgrounds on the provision that the Charters Towers Showgrounds be set-up as an ecological bat reserve. Council rejects the idea.
August	2004	Hon John Mickel, MP visits Charters Towers to discuss the flying fox issue.
9 Sept	2004	10 th Permit issued for black and red flying fox. Number stand at 1,000 black flying fox and 4,000 red flying fox. Permit valid until the 7 th March 2005.
Sept	2004	Council applies to Department of Environment and Natural Resources to create an Environmental Park adjacent to the Sewerage Treatment Plant.
Oct	2004	Flying Fox numbers increase to 2,000 black and 10,000 red flying foxes.
Oct	2004	Three (3) large fig trees in Lissner Park are identified as suffering from Ganoderma, for which there is no cure. More trees are determined to be at risk from wind throw.
Nov	2004	Flying fox numbers swell to 15,000. Council concentrates on protecting key assets such as the town pool, the Lissner Park playground, etc.
Dec	2004	Council trials a wobbler sprinkler system in the trees at the showgrounds. Due to the summer heat, the flying foxes use the sprinkler system to keep cool. Abject failure.
Dec	2004	Numbers reach 20,000 and prove hard to move anywhere.
Jan	2005	Numbers ease off, but not as you would expect. 16,000 relocate naturally over the whole month and not all at once.
Feb	2005	Flying fox numbers steady at 4,000 and located at Lissner Park, Anne Street, Church Street and Mary Street.
March	2005	The red flying foxes leave town, leaving about 500 black flying fox in Lissner Park, Anne Street, Church Street and Mary Street.
17 March	2005	11 th Permit issued for black and red flying fox. Number stand at about 500 black



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		flying fox. Permit valid until the 6 th September 2005.
May	2005	Number of flying foxes start to increase, reaching 4,000 by the middle of the month.
June	2005	Council organises a little burst by allocating 5 men for a week. Numbers remain at 4,000 despite the relocation efforts.
July	2005	Council stops chasing and concentrates on protecting key community assets as before.
Sept	2005	The red flying fox numbers start to increase dramatically, reaching 10,000+ by 12 September 2005. Council continues to protect community assets.
7 Sept	2005	12 th Permit issued for black and red flying fox. Numbers stand at about 1,000 black flying fox and 8,000 red flying fox. Permit valid until the 6 th March 2006.
Nov	2005	Council sets up an automated phone message to deal with the relentless barrage of complaints regarding the stench, excessive noise and sheer number of flying foxes.
Nov	2005	Council develops an information flyer outlining health risks, Council obligations etc. Flyers were made available for collection from City Hall.
Dec	2005	Council organises a short burst of relocation efforts to give some respite to the more affected residents. In response, about 2,000 reds relocate from Mary, Church Street to Dan's Lane about 2km away.
Feb	2006	Council instigates a major relocation effort to start in mid-February. At this stage there are 1,500 black flying fox and 2,000 red flying fox.
Feb	2006	Council trials a speaker system in the Dan's Lane area, including a CD cut with ACDC and Eagles music as well as a recording of a distressed flying fox colony. Council also trials a CD recording of a happy colony in the Vulture Street area to try and draw the flying foxes to a new location.
7 March	2006	13 th Permit issued for black and red flying fox. Numbers stand at about 1,000 black flying fox and 10,000 red flying fox. Permit valid until the 6 th September 2006.
March	2006	Council receives confirmation that Lot 14 on plan SP185820 has been dedicated as a conservation reserve (flying fox sanctuary). Meanwhile, flying fox numbers increase to 20,000.
April	2006	Number of flying foxes reduces to around the 10,000 mark, including 1,000 black flying fox.
May	2006	Flying foxes are relocated to Vulture Street, Craven Street etc. (After an extending campaign Council ceases all relocation attempts and decides to concentrate on dealing with specific complaints and protecting Children's Playgrounds, schools and the town pool).
May	2006	The department sends two (2) investigative officers from Brisbane to investigate the inappropriate treatment of flying foxes by certain Council staff.
June	2006	A majority of the red flying foxes leave town on their own accord. This corresponds with a complaint from Ravenswood (60km away) concerning a colony of red flying foxes moving into the Ravenswood Showgrounds.
Jul to Sept	2006	"missing records"
7 Sept	2006	14 th Permit issued for black and red flying fox. Numbers stand at about 1,000 black flying fox and 3,000 red flying fox. Permit valid until the 6 th March 2007.
Oct	2006	Queensland Parks and Wildlife instructs Council to stay away from S-W corner of Lissner Park due to crèche of colony. Flying foxes make their way back to Lissner Park from the Vulture Street area.
Nov	2006	Council dedicates its efforts to establishing a flying fox sanctuary on the outskirts of town. Killing weeds, burning undergrowth, erecting fences etc.
Dec	2006	The number of flying foxes in Lissner Park are steady at about 4,000. Small numbers also found on private property adjacent to Anne Street and Deane Street.



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Jan to March	2007	"very little activity"
March	2007	Permit expires. Council does not renew.
May	2007	Council erects a fence around the designated flying fox sanctuary. Flying fox numbers are down to 600 black flying foxes with no red flying foxes.
May - Oct	2007	No relocation activities.
7 Nov	2007	15 th Permit issued for black and red flying fox. Numbers stand at about 600 black flying fox and 1,000 red flying fox. Permit valid until the 6 th March 2008.
Nov - March	07/08	Little activity – limited to protecting the duck pond, town pool and the Lissner Park children's playground.
March	2008	Charters Towers City Council amalgamates with Dalrymple Shire Council

3.2 Impacts on Users

Lissner Park: Lissner Park is a state heritage park complete with Boer war memorial, various amenities and 120 + year old fig trees. The Park was gazetted in 1891 and has been used for recreational activities ever since. The Boer War Memorial was completed in 1910. The park has always been a hive of activity for picnics, sporting events, visitors, recreational users, fetes, dog shows families, clubs and a variety of Council and privately run functions. The last eleven (11) years has seen a dramatic decrease in user participation with the exception of the Children's playground. But even the playground has seen a reduction in numbers. In fact 80% of the park remains void of community participation and the only regular visitor to a majority of the park is Council's Parks and Gardens maintenance superintendent.

Residents: Council holds in its records a community survey conducted around 2002. In total 400 survey forms were submitted to Council out of a population of 8,000. Each form, completed by local residents lists a variety of problems encountered by having large numbers of flying foxes in the centre of town. Comments included in the survey include:

- ❖ Excessive Noise
- ❖ Putrid Smell
- ❖ Flying Fox feces stripping paint off cars, causing thousands of dollars damage
- ❖ Destruction of trees both on private and public land
- ❖ Loss of Lissner Park as a meeting place
- ❖ Feces in Town Pool, deterring residing from utilizing the pool.
- ❖ Dangerous limbs hanging off trees (with one near miss as it fell)
- ❖ Contaminated water in rainwater tanks
- ❖ Night shift workers close to Lissner Park not being able to sleep
- ❖ Flying fox numbers causing anxiety and depression to residents living near a colony
- ❖ Bat flies and lice prevalent in and around a colony

At times the community backlash was venomous and stressful to all involved. This included amongst other things being accosted/threatened by a resident at a remote location, empty shotgun cartridges in the mail with a clear death threat, various other death threats and assault with a deadly weapon etc.

Business: Council has received a number of complaints from businesses in the vicinity of Lissner Park. Businesses included

Attached (Appendix G) is a letter instigated by the and sent to Wilson/Ryan/Grose
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solicitors outlining loss of patronage caused by flying foxes roosting in Lissner Park. Financial losses of up to 75 percent have been mentioned in a variety of complaints received by Council.

3.3 Periodic Nature

Based on the chronology of events outlined in section 3.1, it is evident that the black flying fox species tends to set up permanent camps and never travel too far. Newspaper clippings reveal that a small colony of black flying foxes inhabited Lissner Park as early as 1922. Community knowledge suggests that Lissner Park has always housed a small colony of black flying fox numbering on average between 150 and 300.

The little red flying foxes tend to be more nomadic and there are no historical reports of them setting up a colony in Lissner Park prior to 2000. The red flying fox is not a problem by itself and there are times during the year when there are no flying foxes in Lissner Park. The problem arises when numbers swell beyond 4,000. When numbers reach 10,000, Lissner Park fails to cope and said flying foxes spill out onto neighbouring properties resulting in the impacts mentioned in previous sections.

3.4 Long Term Goal to Reduce Community Impact

Council's long term plan is to relocate the black and/or red flying-foxes from Lissner Park (Charters Towers) to Gladstone Creek. Through long term observation of habitat, Council believes that the current colony of red flying foxes will move out (leave town) early into a new year as food becomes abundant in surrounding areas. This trend is synonymous with the wet season events experienced in this area from November to March/April. Council's intention is to guide the colony of red flying foxes to the new Gladstone Creek site as they attempt to re-establish themselves in Lissner Park following the wet season. The black flying foxes will be relocated at the same time as they tend to co-mingle with the red flying fox colony.

4.0 General Flying Fox Management:

Flying foxes are a protected species under Nature Conservation Regulation and therefore, Council has undertaken the development of a strategy to deal with sick, orphaned and injured wildlife (flying fox). To date Council has been unable to find a qualified flying fox carer in the region. Discussions with the local branch of the wildlife division, the only veterinarian practice in Charters Towers and the licensed wildlife (other) carers in the area, has failed to identify a person willing to fulfill this important role for Council.

Charters Towers Regional Council is obligated in accordance with various legislation to perform a multitude of tasks across 76,000 square kilometers. As such, Council believes that the wildlife division of the department of Environment and Resource Management is in a better position to access and provide a person with the necessary qualifications to care for the said injured wildlife.

4.1 Education (Safety)

Prior to the commencement of flying fox relocation activities, Council will place an advertisement in the Northern Miner (local paper) on what to do, in the event that a member of the public comes across an injured flying fox.

A couple of signs will be erected in Lissner Park, outlining safety precautions and a strategy to deal with sick, orphaned or injured wildlife.



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4.2 Flying Fox Risk Management for Mortality

The best way to deal with reducing flying fox mortality is two fold. The best method is preventative. By relocating the said colonies away from an urban setting to more natural setting removes many of man made obstacles that have an effect on flying fox colony mortality. These might include power lines, towers, buildings, people, barbed wire fences etc.

The second method is to have trained experts readily available to help care for sick, injured or orphaned flying foxes.

5.0 Flying Fox Education Program:

Further to material referred to in section 4, Council will implement a three (3) stage educational program as summarized below:

- Stage 1: A series of Media Releases in the Northern Miner (local paper) detailing safety, ecology, flying fox habitat, feeding habits, species identification etc.
- Stage 2: Production of a fact sheet / promotional flyer to be made available at all Council facilities and Lissner Park detailing safety, ecology, flying fox habitat, feeding habits, species identification etc.
- Stage 3: Development of a series of educational signs to be erected in Lissner Park outlining safety, ecology, flying fox habitat, feeding habits, species identification etc.

6.0 Dispersal Operations:

Council will take all necessary and appropriate actions to relocate and contain the flying foxes to the Gladstone creek site. Details of such actions area listed below.

6.1 Safety

Council will develop a 'Work Safety Plan Procedure' for all proposed flying fox relocation activities as required under Section 22 of the Workplace Health and Safety Act including the use of a helicopter. All personnel involved will undertake the necessary training.

6.2 Additional Safety Requirement (Helicopter Operations)

s.73 – DERM requires written approval from CASA that clearly outlines that permission is granted for a helicopter to muster flying foxes and that said dispersal will meet the requirements of the Nature Conservation Act.

6.3 Communication (Operations)

All staff and contractors involved with the relocation programme will be briefed on the limitations and constraints of the Damage Mitigation permit (if approved), relevant Nature Conservation legislation, Workplace Health & Safety requirements and the detail of Council's Flying Fox Management Plan.



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6.4 Communication (other)

Council will run a media program to inform the community of Council's intentions prior to commencement of operations by way of radio and the local newspaper. Council will notify the Police, Emergency Services and the Fire Brigade as a matter of courtesy and legal responsibility.

6.5 Previous Relocation attempts and Summary

Council has a long history of relocation attempts (refer section 3.1 – Chronology of events). From experience we know without doubt that we can lift entire colonies in to air and move them to a new location using noise and fog (smoke). However, council only managed to get them out of Charters Towers completely on two (2) occasions over seven (7) years. This is the reason Council would like to trial the use of helicopters. Without the approval of helicopters, Council will not apply for any further damage mitigation permits, as we know that successful relocation would be unlikely.

Council will put everything into one (1) last relocation effort. If there is **little** success at the end of five (5) days Council will abort its goal of relocating flying foxes from Lissner Park and concentrate its efforts on managing Lissner Park as a flying fox sanctuary. If Council fails to relocate the said flying foxes to the Gladston Creek site or another site deemed appropriate by a flying fox ecology expert within ten (10) days, Council will abort all activities and allow said flying foxes to drift back into Lissner Park.

6.6 Relocation Techniques

Noise

Council will utilize sirens, horns, birdfrite, gas guns, mowers, whipper snippers etc.

Smoke

Council has two (2) black-hawk fogging machines and a fine spray misting machine.

Water

Council will utilize two (2) small water units on the back of utilities.

Guns

Council will utilize Birdfrite as a last resort. There will only be one appointed shooter and the use of firearm will only proceed with the permission of the Queensland Police and the Department of Environment and Resource Management.

Helicopter

Two (2) helicopters pilots will be contracted to Council to perform a mustering role. Refer sections 6.6 and 12.

Other

Council will encourage a whole of community approach, inviting community participation to partake in relocation efforts by making noise within the parameters of a damage mitigation permit, in order to relocate flying foxes to a safe and more natural setting.

6.7 Dispersal Techniques

Prior to Relocation activities Council will ensure:



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- All operational staff and contractors hold the correct qualifications to perform their separate roles.
- A qualified veterinarian is employed to be on site during relocation activities.
- All operational staff and contractors will be inducted on the planned relocation program, including required knowledge of Workplace Health & Safety, relevant legislation, Damage Mitigation Permit and Council's Relocation Management Plan.
- A media campaign is run (refer previous) alerting the community to Council's proposed activities.
- Relevant agencies including the Police and Fire Brigade are informed of Council's proposed activities.

All operational staff and contractors will be briefed the day before the commencement of operations. Dispersal activities will not proceed if conditions are foggy, it is raining, if winds are above 20 knots or if visibility is hampered in any way. At all times, helicopters will remain 50 meters above the highest flying fox and not closer than 50 meters laterally. If the helicopter pilots are working together they must abide by CASA regulations. All paid participants involved in the relocation attempt will carry CB radios and be able to contact each other as required.

Once activities start, Council will continue with efforts to relocate any stragglers by any of the means available under permit. Lissner Park will be temporarily established as a no go zone.

Day 1

Relocation activities will start at 7:00am. The dispersal team will lift the said flying foxes into the air by utilizing the relocation techniques described in section 6.6. **Helicopters will not be used on Day 1.** The idea is to monitor how the colony moves. For example, once lifted, do the said colonies (black flying fox and red flying fox) move in a northerly or southerly direction and/or do the said colonies split into 2 main groups or splinter into 50 separate groups. Day 1 will be a short burst and observations made will determine Council's approach.

Day 2

A helicopter will approach Lissner Park at a height well above that of the colony and from the west. The helicopter will descend from above the western fringe of Lissner Park and remain 50 meters or more above the colony or group of individual flying foxes, at all times. The noise of the approaching helicopter will lift the flying foxes into the air. The approaching helicopter from the west will push the flying foxes towards the east and the Gladston Creek Site. The downdraft from the helicopter blades in combination with the noise should ensure that the flying foxes leave Lissner Park.

Once the flying foxes are areal, Council's ground crews will attempt to keep the flying foxes moving east, using all ground activity techniques available.

Day 3 to Day 20

If the dispersal methods employed on the second prove moderately successful, Council will introduce a second helicopter and attempt to muster the flying foxes, like cattle, to the Gladston Creek site. Making assessments beyond this point would be guess work and not worth the paper it is written on.



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6.8 Containment

Further to section 6.7, Council will continue with efforts to relocate any stragglers by any of the means available under permit. Lissner Park will be temporarily established as a no go zone.

It is known that flying foxes react to disturbance and do not appreciate disturbance when endeavouring to roost after returning from night feeding. Aircraft are intended to be the main source of disturbance given the noise and commotion generated. The disturbance will centre about Lissner Park and other non preferred areas following the flying foxes until turning towards the preferred site. This will not immediately occur but is anticipated to occur over a short period of constant intervention. By creating continuous disturbance, it is believed that the bats can be educated to head in a direction away from disturbance where they are able to land and settle. By ensuring continuous disturbance, Council believes the flying foxes will move towards non disturbance areas of their own volition and will be guided in a direction by ensuring the disturbance remains behind them. It should be noted that a flying fox colony existed at 'Youngs Block' for many years, living in harmony with nature, and only fled after a fire. Interaction with the flying foxes is only proposed for short early morning intervals when same are returning to roost. The disturbance on each and every morning will, it is believed, dissuade the flying foxes from returning to the Lissner Park roost.

From lengthy observations, the preferred site for relocation is directly in the daily flight path of the flying foxes. By continuously disturbing the attempts to land early mornings, it is considered that over time, the flying foxes will land in a non disturbance zone along the preferred flight path not venturing into the disturbance area.

Obviously, the flying foxes will in the initial stages attempt to land in other available trees in the vicinity of the park. It is proposed that ground patrols will continue to chase the flying foxes causing disturbance and not allowing same to settle. The helicopter will continue to hold Lissner Park as a no go zone while the ground crews use traditional methods to keep the flying foxes moving.

Containment to the preferred areas will be ensured by the non disturbance. Continuous disturbance when attempting to roost early mornings will ensure the flying foxes do not return.

6.9 Welfare of Flying Foxes

Refer section 4.2.

Contrary to perceived opinion, it is not intended to utilise aircraft as a bludgeoning tool or projectile by charging same directly into the target.

Aircraft are simply proposed as the main source of disturbance, utilising the noise generated by the aircrafts, wind drafts and high pitched sirens intended to be attached. Aircraft are intended to operate no closer than fifty (50) metres from the targets for both animal welfare and safety concerns.

In the main, the flying foxes tend to steer clear of the source of disturbance (including helicopters) and it is considered that physical contact is unlikely, Council cannot guarantee that some animals, if disorientated will not be struck, but believes that same will be very few. This statement is based on Council's transparent belief that no undertakings as to the possibility of injury or death of any one flying



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fox from inadvertent contact with the aircraft can be given. To insist otherwise would be ludicrous, and is not, in Council's view, the STATED intent of the legislation, which you have correctly pointed out, allows for the take of an animal.

Council can only provide information within its knowledge and in that regard, believes that the foregoing forecast should not be read in isolation to the other matters outlined below.

"Discussions with operators confirm that accidental encounters with flying foxes during mustering activities rarely result in aircraft contact which indicates that the flying foxes steer well clear of the disturbance. There was no evidence of dead or injured flying foxes noted or reported from aircraft activities conducted at the golf club as previously advised to your Department."

Discussions with aircraft operators indicate that if contact were to occur, the most likely point would be with the main rotor. If that were to occur, death would be instantaneous given the velocity at which the rotors travel. There would be no suffering involved.

In the event that flying foxes were injured by the rotors, and fell to earth, Council as previously undertaken will have veterinarians on ground to administer euthanasia in quick response so as to mitigate against prolonged suffering.

It is considered that euthanasia would be the only avenue available given the extent of injuries likely to be sustained due to such contact.

The fact remains that, whilst Council repeats and relies upon the facts as set out in its previous submission, Council is unable to guarantee that casualties will not be suffered. There are many reported and documented circumstances of other protected animals being fatally injured during relocation exercises in accordance with department management plans and the activities proposed by Council should not be considered any differently.

It is Council's submission that the departments concern regarding the improper take of animals by such proposed activity is neither supported by Council's experience in the matter nor any factual information available to the department. On that basis, Council submits that approval to proceed, even if only on a trial basis, should be granted, as obviously, operations will be ceased by Council immediately if it eventuates that the operations are physically harming the species.

By maintaining a safe operating distance and backing off where necessary, minimal contact with flying foxes will occur.

The aircraft provide the source of constant annoyance/disturbance which inhibits the flying foxes ability to roost. The unsettling behaviour is the objective thus persuading the flying foxes to flee the disturbance zone.

Use of aircraft in this manner also enables tree hopping flying foxes to be quickly and effectively chased tree to tree, where able having regard to CASA constraints. Where unable, ground support as previously stated will be employed.



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Discussions with operators confirm that accidental encounters with flying foxes during mustering activities rarely result in aircraft contact which indicates that the flying foxes steer well clear of the disturbance. There was no evidence of dead or injured flying foxes noted or reported from aircraft activities conducted at the golf club as previously advised to your Department.

Council can only rely upon its previous experience and information offered to it as outlined above.

7.0 Movement of Colony:

The flying fox camps in Lissner Park will only be disturbed / relocated to a new site if:

1. Queensland Parks and Wildlife has granted approval for the activity
2. All conditions imposed by the Wildlife Division of the Department of Environment and Resource Management is adhered to.
3. No female flying-foxes are observed to be in a late stage of pregnancy.
4. Juvenile flying-foxes present are capable of independent flight.
5. Impacts of removal would have a lesser impact on local residents than the presence of the colony.
6. Council staff involved in relocation activities will be inoculated.
7. A Veterinarian will be on site during relocation activities.
8. All staff participating in relocation efforts will be briefed on Council's Strategy, intended work practices, damage mitigation permit constraints and conditions and workplace health and safety requirements.

7.1 Wildlife (Other)

During the relocation of flying foxes it is anticipated that other wildlife will get caught up in the movement of the colony. Wrong, after seven (7) years of careful observation through previous relocation attempts, it has been noted that no other wildlife have been observed during this period. In fact, the first thing that occurs when the flying foxes are moved on from Lissner Park is that other native wildlife that used to inhabit the park, return.

7.2 Town Planning Constraints

The site known as "Youngs Block" is owned by Council. It is freehold. The area proposed is located along Gladstone Creek which basically traverses the land north/south in approximately the middle of the allotment. Due to the nature of the land and issues associated with development adjacent riparian areas, soil type and flood zones, the location proposed is not suitable for development.

The land was purchased by the then Dalrymple Shire Council for industrial development purposes – recreation reserve and gravel reserves.

In consequence of amalgamation and activities concerning native title extinguishment on unallocated state lands within the former Charters Towers City Council area, Young's Block is no longer required for industrial purposes. Recreational pursuits are still being considered for the north eastern part of the land.



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In any event, given the size of the land (2000 acres), Council is in a position to ensure that development does not encroach upon the area proposed as a bat habitat.

Prior to commencement of relocation activities, Council will determine by resolution a marked area of 100 hectares, as a 'flying fox conservation area'.

Appropriate setbacks from potential future competing uses will be determined on consultation with your agency once appropriate tenure requirements are determined.

8.0 Training and Skills:

A risk assessment for each removal technique/activity will be completed prior to relocation of a flying fox colony. On-site Inductions will be completed to ensure each person involved in the relocation process is fully equipped to perform his or her duties.

Inductions will include:

- Movement Strategy
- Workplace Health & Safety – Risk Aversion factors
- Legal implications
- Environmental Issues
- Contingency Planning

9.0 Primary Relocation site on Gladstone Creek:

- Lot 8 on plan SP221819
- Please refer Aerial Photo in Annexure 1 – Section 3 of report (Gladstone Creek Flora and Fauna Study) by Aecom Australia Pty Ltd

Future plans for the above-mentioned parcel of land, may include a borrow/extraction pit, landfill site, industrial estate or Sports Reserve. However, the area surrounding the immediate vicinity of the proposed Gladstone creek habitat site will not be impacted on by the above-mentioned activities due to setbacks and other criteria to be observed pursuant to Environmental Protection legislation.

9.1 Alternate Roost sites

Council cannot guarantee success in relocating the flying foxes to the proposed Gladstone Creek site. Therefore, a number of other sites have been investigated as possible sites. Employees of Council do not have the expertise to evaluate suitable flying fox habitat, however, we can highlight a number of sites that have provided suitable habitat for over 10,000 flying foxes. These sites include:

- ❖ adjacent to the Burdekin River about 1 km west of the Charters Towers Weir;
- ❖ in the Rishton Scrub adjacent to the Burdekin River about 10km east from the intersection of the Burdekin and Broughton River; and,
- ❖ on the northern side of the Flinders Highway about 5km east of Charters Towers on the Gladstone Creek.



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Council will contract a said flying fox ecology expert to further evaluate these sites if necessary.

10.0 Management Plan (if Flying Foxes stray from the Gladstone Creek site):

Council will abide by the conditions of the 'Damage Mitigation Permit'. If the said flying foxes stray onto adjacent residential land, Council will pursue the flying foxes towards the nominated site. This will not cease until Council is successful. As a last resort, if it becomes evident that relocation may not succeed Council's first option will be to return flying foxes to Lissner Park where community tolerances are understood.

Council has applied for, and been granted approximately fourteen (14) 'damage mitigation permits' to disperse flying foxes from Charters Towers. Nearly all of these applications have concentrated on protecting the town's show piece park "Lissner Park" from flying foxes. Council has not enjoyed success. The flying foxes always return to Lissner Park. Observations highlight that individual flying foxes change camps on a regular basis. This is best highlighted by the huge variation of flying fox numbers that frequent Lissner Park. For example, numbers can build from 400 to 10,000 over a six-week period then proceed to vary in number, up and down, over the following months.

Therefore, if it becomes evident that relocation may not succeed, Council will simply cease all activities and allow the flying foxes to return naturally. The deterrent factor is the continuous disturbance and unsettling activities preventing flying foxes the peace to land and settle. Not allowing them the opportunity to land and settle is the deterrent factor. It is believed that the use of aircraft will provide such ability for continuous disturbance necessary to facilitate the relocation.

In the event the flying foxes find an alternate Roost site, away from residents, Council will assess the new site and make an informed decision with input from Queensland Parks and Wildlife staff.

10.1 Long Term – Protection of Lissner Park

If Council is successful in relocating the said flying foxes to the Gladstone Creek site, Council will monitor Lissner Park. In the event flying foxes return to Lissner Park, Council will reactivate the disturbance processes to move the said flying foxes on with both traditional methods and aircraft before they become re-established.

An extract from a report by s.73 'Commercial in Confidence' on the heritage-listed trees in Lissner Park is attached in Annexure 2.

11.0 Monitoring and Reporting:

If Council's application for a Damage Mitigation Permit is approved, Council will establish a flying fox monitoring template to record flying fox movements within in a 50km radius of Charters Towers. This information will be on public record and included in the Regulatory Services report to Council.



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12.0 Environmental Assessment:

12.1 Vegetation Survey (Gladstone Creek site):

Please refer Annexure 1 – Aecom Australia (Flora and Fauna Assessment of Gladstone Creek)

12.2 Animal Survey (Gladstone Creek site):

Please refer Annexure 1 – Aecom Australia (Flora and Fauna Assessment of Gladstone Creek)

13.0 Information supporting – Helicopter Mustering:

13.1 Civil Aviation Safety Authority (CASA) – Legal

- Civil Aviation Act 1988
- Civil Aviation Regulation 1988
- Civil Aviation Safety Regulation 1998
- Civil Aviation Order 29.10

To Council's knowledge after research and legislation that covers the interaction of aircraft with flying foxes other than for the Nature Conservation Act, and being the reason for the necessity to seek damage mitigation permits.

s.73 Flying Operations Inspector of the North Queensland Field Office for CASA has confirmed that information supplied by email from business/commercial/professional/financial affairs to Council regarding the following statement is correct "Providing operations remain within the stated guidelines CASA does not have any issues allowing the removal of the flying foxes from Lissner Park using a helicopter".

s.73 further confirmed that any pilot performing such activities must obtain a current 'Low Flying Permit'

Please find attached a copy of business/commercial/professional/financial affairs 'Low Flying Permit' complete with CASA conditions and valid to 31 August 2015 and a copy of an email from business/commercial/professional/financial affairs to Council. Refer Annexure 3.

In the absence of CASA legislation that relates specifically to the interaction between helicopters and flying foxes, a Work Safety Plan developed under Section 22 of the Workplace Health and Safety Act will be developed and implemented prior to commencement of operations to assess and control safety risks and concerns.

Council will address all relevant matters concerning public health and safety by providing a brief to pilots outlining the risks and associated measures to be taken to address each risk. Only one aircraft will operate within the residential precinct.. Other aircraft in tandem will be considered to move flying foxes in the rural sector if necessary.

13.2 Pilot Experience

The pilot proposed is sch4p4(7)(1)(c) Business/commercial/professional/financial affairs has been an accredited mustering pilot for twenty (20) years.



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(1)(c) Business/commercial/professional/financial has experience with flying foxes due to encounters with same in the wild was involved with Council activities at the Golf Club.

It is impossible to imply that any person has experience in 'mustering flying foxes' as same is not a lawful occupation.

Council repeats and relies upon the several statements previously made as regards CASA approval. Council will manage the potential risks to safety in the manner as aforesaid by adopting the previous stated procedures, particularly as regard the operating distance between aircraft and target. It is not anticipated that potential fatal contact between aircraft and flying foxes will occur.

As precautionary safeguard and in accordance with CASA requirements, the aircraft will not operate over residential areas. Aircraft activities will be restricted to open space area, particularly Lissner Park and other trees located in areas on the outskirts of town. The aircraft activities will be supported by ground crews.

Lissner Park will be closed to the public at all times that relocation operations are occurring. Council's existing public liability policy provides appropriate cover for the activities proposed.

It is not proposed to use firearms with the exception of paint guns. Bird frite will not be used.

Council has budgeted \$100,000.00 towards the relocation project. Based on advice from your Departmental staff concerning the two or so week opportunity based on the breeding cycle as aforesaid, it is anticipated that aircraft hours possible in the initial instance will be approximately fifty (50) hours.

Council is committed to ensuring the operation succeeds and is prepared to commit additional hours (if necessary), but will abide by the conditions of permit issued.

12.3 Referenced Support

Work by s.73 – Chief Conservation Management Officer for Parks and Wildlife in the Northern Territory and outlined in an extract by s.73 (refer Annexure 4), refers to the successful displacement of flying foxes from Mataranka. Quote "The substitution of fixed-wing aircraft with a **helicopter**, and commencement of disturbance as soon as occupation has commenced (i.e. before females have given birth), has resulted in the successful displacement of flying-foxes from this site."

Council has been unable to locate the person responsible s.73 former Chief Conservation Management Officer of the Parks and Wildlife Commission of the NT, for successfully displacing little red flying foxes from a camp in Mataranka. However, based on information supplied by s.73 (Senior lecturer – Australian National University in Canberra), Council can provide the following correspondence from s.73 in relation to this matter. Please refer below

" s.73 your comments on the Mataranka events summarise it well enough. I believe the efforts you mention to move them on in 1998/99 were only commenced weeks after their establishment and following birth of young. **When we commenced the mustering by helicopter in 2000 it was the only method used until after 4-5 days we supplemented its use with bird frite and some live shot to move on the**



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few persistent stragglers. To let you know how the rice shot has progressed, we have graduated from that somewhat. After trying rice and various other components such as soy beans, mung beans, sorgham, split peas and pepper corns we came up with the perfect solution for pre-prepared duck stew. Seriously however, using various loads we couldnt come up with a suitable pattern or degree of penetration using these components. The good news is that we have now developed a load using 2mm plastic beads (those that they thread on bracelets, necklaces, etc) and have found that a consistent pattern and minimum penetration at 15-20 meters is possible.

We have trialled them recently with P. alecto in Katherine township and they seem to be working well enough to load for future use, especially in town where the Police have supported their use. The other interesting method which we have combined with bird frite, tree lopping, noise, etc is the use of food grade Capsicum Spray and by spraying on the roost trees have had good success with them not returning

to those sites. Its still difficult to move on the animals with young or the young which arent yet flying but with these two options available gives us some hope if the P.scapulatus begin to move back into town this year. Things have quietened down again in Mataranka after some more helicopter mustering last month and seems the colony have established well down stream.

Will be in touch

Regards

s.73

13.3 Third Party Support

Information supplied by a number of Helicopter Pilots who muster cattle for a living have made reference to numerous encounters with flying foxes during their routine flights. At no time, did the pilots have any concerns relating to the close interaction with flying foxes. Further substantiated comments in the region have highlighted that flying fox colonies rarely re-congregate in existing roosts disturbed due to ongoing mustering operations.

Direct evidence available to Council concerns the golf club. It was noted that flying foxes had been roosting for approximately two to three weeks. Action taken was employing aircraft to disturb the roost early mornings when the flying foxes were returning from nightly routines. Disturbance was for a period of 1-2 hours daily. Disturbance was also afforded during late evenings when flying foxes were noted to be in an agitated state preparing to depart. Late evening intervention was not considered effective as it simply caused early departure and was discontinued.

The early morning activities continued for three (3) days and discontinued on direction from the Department. Notwithstanding discontinuance on direction of the Department, the flying foxes failed to return to the site after the three (3) days of disturbance. On the second day of disturbance, it was noted that the flying foxes were proceeding in a direction away from the aircraft in semi orderly fashion.

Information provided to Council indicates that following such intervention, a colony was noted to have re-established on the banks of the Burdekin River approximately twenty (20) kilometres east of Charters Towers. The roost at the Burdekin River had not been occupied for some considerable time.

As earlier indicated no dead or injured flying foxes were noted or reported from such activity.



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The flying foxes have not returned to the Golf Club. Impact on individual flying foxes was negligible and the survival of the colony did not appear compromised in any way. No mortality of flying foxes was observed during the trial.

13.4 Council Experience

In 2006, Council used a helicopter to relocate flying foxes from the Charters Towers Golf club. The flying fox colony has not returned to the site.

14 Conclusion:

Over nine (9) years Council has attempted all avenues available, under restrictive permit conditioning to relocate black and red flying foxes from Lissner Park to a more natural ecological environmental setting. After reviewing various locations, Council believes it has an ideal location in Gladstone Creek.

The nominated area on Gladstone Creek would be a perfect habitat for the flying fox. Not only would it enhance the natural eco-system but would allow Lissner Park to recover some of its already lost former glory as a public meeting place for the city.

At the end of the day, Council has invested large amounts of time, money and resources in addressing a native wildlife concern with very little help from the Wildlife division of the Department of Environment and Resource Management.

In fact, an email from s.73 in 2005 highlights the shortcomings in dealing with this real issue. It states "Only way forward in my view is dedicating staff to issue as well as keeping Council primarily responsible" – refer Annexure 5.



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Annexure 1 -

Report by AECOM Australia Pty Ltd

RTI DL RELEASE - EHP



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Annexure 2 –

Extract from report by s.73 ‘Commercial in Confidence’

RTI DL RELEASE - EHP



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Annexure 3 -

Civil Aviation Safety Authority (CASA) - approvals

RTI DL RELEASE - EHP



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Annexure 4 -

Extract from Ecological Management & Restoration Vol 4 No. 3 December 2003 by s.73
s.73 (School of Resources, Environment & Society, Building 48, Australian National University, ACT 0200 regarding the 'Displacement of a flying fox camp'.

On page three of the attached extract there is a reference to the successful displacement of a flying fox camp using helicopters

RTI DL RELEASE - EHP



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Annexure 5 -

Internal Email commenting on Council's responsibility

RTI DL RELEASE - EHP



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Annexure 6 -

Letter from lawyers representing a client's financial losses in association with operating a business in close proximity to Lissner Park.

'Commercial in Confidence'

RTI DL RELEASE - EHP



Australian Government
Civil Aviation Safety Authority

Copy

Instrument Number: CSFO 10/181

I, ^{s.73} a Delegate of CASA, make this instrument under subregulation 157(4)(a), 215(3) and under subregulation 303A(1)(b) of the Civil Aviation Regulations 1988.

.....
s.73
Team Leader
Flying Operations
Northern Region Office (Cairns)

13 December 2010

Permission — to operate at heights lower than that prescribed in Civil Aviation Regulation 157(1)(a)

1 Duration

This instrument commences on 13 December 2010 and ceases to have effect on the earlier of:

- (i) at the end of 31 March 2011 or;
- (ii) the operator ceasing to hold a valid Air Operator's Certificate authorising these operations

2 Application

This instrument applies to the following:

- (a)
- (b) sch4p4(7)(1)(c) Business/commercial/professional/financial affairs

3 Permission

The operator is permitted to fly over Lassetor Part in the town of Charters Towers at a height lower than 1000 feet as prescribed in sub regulation 157 (1) (a) of the Civil Aviation Regulations 1988 only when engaged in Aerial work operations as laid down in the above operators company operations manual.

✦ Conditions

The permission is subject to the conditions mentioned in Schedule 1.

Schedule 1 Conditions

- (i) The aircraft is engaged in aerial work operations that require low flying. The operation must be conducted in accordance with the operator's, operations manual;
- (ii) The pilot in command must have completed low flying training, conducted by a pilot approved for the purpose by CASA, in accordance with paragraph 7.1 (b) of the civil aviation order 29.10, or as otherwise approved in writing by CASA;
- (iii) The pilot in command will be the sole occupant in the helicopter during any operation permitted by this instrument;
- (iv) The aircraft is not flown over Lissner Park below 500 feet within a horizontal radius of 300 metres from any building likely to be occupied unless the building's resident owner or tenant have been notified of the intended operation;
- (v) The pilot in command must plan to arrive and depart Lissner Park tracking over the water drainage course as shown on the map provided by the operator and highlighted by blue lines. The map will be noted as "appendix 1" and will form part of this permission. The flight arriving and departing Lissner Part will be conducted not lower than 1000 feet;
- (vi) All access around Lissner Park must be blocked off and attendants provided to ensure no persons or vehicles enter the area while the intended operation is in progress;
- (vii) An aircraft flown over an area prescribed in subparagraph (iv), above, is flown in a manner such that in the event of any in-flight emergency the aircraft will avoid colliding with the building.

Note 1. This instrument only applies to low flying. Other legislative requirements also apply to operations mentioned in schedule 1.

Note 2. This instrument does not affect any rights the owner or occupier of the land, buildings or vessels on or over which the operations are carried out in relation to injury to persons or damage to property caused directly or indirectly by the helicopter.

Memorandum

Enquiries
Telephone
Email
Our reference

s.73
@ehp.qld.gov.au

17 October 2013

To: s.73 Director, Wildlife Management, EHP

Through:

From: s.73 Acting Senior Ranger, Wildlife Operations,
Nature Conservation Services, EHP

Subject: Application from Charters Towers Regional Council for a Damage Mitigation Permit to disperse a flying-fox roost from Lissner Park, Charters Towers.

Charters Towers Regional Council has applied for a Damage Mitigation Permit (DMP) to disperse a flying-fox roost from Lissner Park in Charters Towers.

This memorandum is the assessment report for the application and considers the relevant statutory elements of the legislation to assist with the decision making process.

Your decision on the application is sought

Background

- The Director Wildlife Management holds the required delegation to determine this application.
- On the 16th October 2013 the Charters Towers Regional Council (CTRC) submitted a DMP application associated with the flying-fox roost in Lissner Park, Charters Towers. The application proposes to disperse flying-foxes from Lissner Park which is located in the heart of Charters Towers. Lissner Park historically has been used since 2002 by a small number of black flying-foxes (approx. 500 – 1000) and seasonally it has seen very large numbers of little red fling-foxes move in (up to 300,000).
- Large spill-over events involving little red flying-fox have previously seen flying-foxes located throughout the neighbouring yards surrounding the park.
- CTCR has previously been granted DMP's to disperse flying-foxes from Lissner Park (2002 to 2013) by noise, smoke and Bird Frite®.
- Little red flying-foxes ordinarily:

- Conceive in October to November
- Give birth in May
- Have dependent young up until July
- These dates vary depending on climatic conditions, food availability and other factors.
- Black flying-foxes:
 - Conceive in May to June
 - Give birth in October to December
 - Have dependant you up until March
- The little red and black flying-foxes are listed as a 'least concern' protected animals under the Nature Conservation Act 1992 (NCA) and is not listed in the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).
- On the 10 March 2013 an Inspection of the roost site was conducted by a Wildlife Ranger. At this time it was estimated that there were approx. 8,000 to 10,000 little red flying-foxes and 3,000 black flying-foxes present within the area designated as Lissner Park.
- On the 16 October 2013 under wing offspring were observed including two dead on the ground near the pool.
- Section 88C of the NCA prohibits: the destruction of a flying-fox roost; the driving away of a flying-fox from a flying-fox roost; and disturbing a flying-fox in a flying-fox roost unless the person or action is authorised under the NCA. A DMP is a suitable authority to approve these actions.
- The intent of the application is to disperse the flying-foxes with the use of water, noise, smoke, paint ball, helicopter and Bird Frite® with engaging the community for assistance if required. The applicant anticipates the flying-foxes will relocate to the nearby identified roost sites.
- Queensland Health have previously advised that any increase in risk to public health due to the roost is unlikely to be significant and that there are simple measures that can be taken that will reduce the already low risk to public health from a flying-fox roost.
- Biosecurity QLD has advised in the past that there is no scientific basis to support the dispersal of colonies out of concerns for the direct transmission of Hendra virus from flying-foxes to humans. Also advised, from recent research is that:
- There was no evidence of an association between dispersal/disturbance and Hendra virus excretion.

- There was some evidence that dispersal/disturbance can cause stress, which is similar in magnitude and duration to 'natural' stress.
- There was no evidence that dispersal/disturbance associated stress results in Hendra virus excretion.
- There was no evidence that dispersal/disturbance changes the frequency or scale of flying-fox movements between colonies.

Assessment of Application

The documents listed in Appendix 1 were considered in assessing the application, and are available to the delegate for reference.

The application must be decided in a manner consistent with the statutory provisions outlined below.

Addressing the statutory elements for the application

1. Damage or loss has been caused or is likely to be caused by flying-foxes - NC(WM)R s.184(1)(a), s.185(a),(b)& (c):

The applicant has stated the following:

- Council has received a number of complaints from local businesses in the vicinity of Lissner Park.
- Businesses include sch3(8)(1) Information disclosure of which would found action for breach of confidence
- Reports of up to 75% financial loss have been reported to council.
- Council has suffered a big monetary burden from previous dispersal attempts over a large number of years.
- Residents have complained over the removal of paint from cars from flying-fox faeces.

2. The applicant has made a reasonable attempt to prevent or minimise the damage and the action taken has not prevented or minimised the damage - NC(WM)R s.185(b):

- Removal of trees not considered as the trees are heritage listed and restrictions are therefore placed on the ability for CTRC to modify or remove them.
- Pruning not considered as again they are heritage listed and it would reduce amenity in picnic area.
- Council refers residents to EHP information on its website

- Council has previously dispersed flying-foxes from Lissner Park under damage mitigation permits since 2002. These managed to move flying-foxes for a period of time.
- Council has also received a permit to disperse flying-foxes from the vicinity of the swimming pool in Lissner Park.

3. There is a threat or potential threat to human health and wellbeing caused by the presence of flying-foxes – NC(WM)R s. 184(1)(b), s186(a):

- Council states that the health and wellbeing of residents has been dramatically affected by the colony.
- This has been expressed through Council forums and complaints.
- The following complaints have been registered by Council:
 - Excessive noise
 - Putrid smell
 - Flying-fox faeces stripping paint off cars
 - Loss of Lissner Park as a recreational park and meeting place for the community
 - Faeces in the town pool located in Lissner Park
 - Dangerous limbs hanging from trees
 - Contaminated water in rainwater tanks
 - Night shift workers living nearby not being able to sleep
 - Residents expressing anxiety and depression resulting directly from the colony
 - Bat flies and lice recorded in and around colony
- Council staff have received aggressive behaviour from the community, this includes:
 - Being threatened and even accosted by a resident in a remote location
 - Receiving empty shotgun shells in the mail
 - Various other death threats including assault with a deadly weapon
- The Environmental Protection Act 1994 specifically excludes non-domestic animal noise from the requirement to prevent or minimise environmental harm or nuisance. However, the noise level is a consideration in determining whether a roost is impacting human health and/or wellbeing.
- The world health organisation advises that excessive noise can lead to:

- sleep disturbance
- cardiovascular effects
- damage to work and school performance
- hearing impairment including tinnitus

- However the threshold level for the onset of these effects is not easy to define.

4. The activity will not adversely affect the survival of the animal in the wild - NC(WM)R s.185(d) and 186 (b):

- The application is intended to relocate the roost to an area that has a lower impact on residents and not to 'take' any animals.
- The applicant has identified 3 potential roost sites within 10km of the existing roost predominantly along the Burdekin River and Gladstone Creek therefore the likelihood of the animals relocating to a suitable location is enhanced. There is also a 4th site approx. 30km from town.
- The timing of the dispersal is proposed to be prior to the flying-foxes dependent young being left in the colony while the parent forages so is unlikely to significantly impact on breeding.
- Both species of black and little red flying-foxes are listed as least concern under the NCA with the little reds being the widest ranging of four main species of flying-foxes in Australia.

5. The proposed actions will not result in a "take" of flying-foxes or cause unnecessary suffering to the animal - s.185(e) and s.186(c) of the NC(WM)R:

The applicant has proposed the following measures in the dispersal plan to minimise the likelihood of a 'take':

- The proposed method of dispersal is by sound, smoke, water and disturbance by movement in the trees by a paint ball gun.
- Bird Frite® will be used as a last resort by Council staff which will minimise undue stress.
- A wildlife carer and veterinarian will be on call if an orphaned or injured animal is found.
- Council has assured that the helicopter will be used only as a barrier to prevent flying-foxes from heading in an undesirable direction and will not be used to 'muster' the animals as previously described.
- In the event of a take dispersal activities will be ceased.

Other factors to consider in the preparation of this memorandum:

NC(Admin)R s.25(1)(a) - the impact the activities that may be carried out under the authority may have on the conservation of the cultural or natural resources of a protected area or native wildlife;

Consideration of the potential impacts has been undertaken in accordance with this provision see sections 2, 3 and 4 above

NCAR s.25(1)(b) the effect the grant of the authority will have on the fair and equitable access to nature, having regard to, in particular, the ecologically sustainable use of protected areas or wildlife;

Consideration has been given to this provision and it is recommended that it has no implications for this application.

NCAR s.25(1)(c) – any contribution the applicant proposes to make to the conservation of nature;

Consideration has been given to this provision and it should be noted that the applicant does not propose to make a contribution to the conservation of nature in relation to this application.

NCAR s.25(1)(d) - any relevant Australian or international code, instrument, protocol or standard or any relevant intergovernmental agreement;

Consideration has been given to the relevant flying-fox policy documents in this assessment.

NCAR s.25(1)(e) - the precautionary principle;

Consideration has been given to this provision and it is recommended that there are no threats of serious harm or irreversible environmental damage.

NCAR s.25(1)(f) - public health and safety;

- Although not a key component of the dispersal activities this task will be undertaken by a council officer experienced in previous attempts when dispersing flying-foxes using Bird Frite®.
- Council will have its own procedures for ensuring public health and safety during its activities.
- Community consultation is to be performed prior to dispersal activities. This should address any safety issues (e.g. public not to touch flying-foxes).
- The use of a helicopter as a barrier will be conditional upon approval from the Civil Aviation Safety Authority (CASA).

NCAR s.25(1)(g) – the public interest;

During dispersal activities there is a possibility that flying-foxes will be displaced into areas that cause similar or worse conflict. However, the dispersal plan states that council will assess any areas where flying-foxes relocate to prior to further relocation.

Refer to sections 4 and 5 that address public interest concerns of survivability of the species and the take or welfare of individuals.

NCAR s.25(1)(h) - whether the applicant is a suitable person to hold the authority;

Councils have the resources and are typically the most suitable organisation to undertake flying-fox roost management. CTRC has held this type of permit before.

NCAR s.25(1)(i) – for an application for a relevant authority for a national park (Cape York Peninsula Aboriginal land)—the indigenous management agreement for the protected area;

It is recommended that this provision is not relevant.

NCAR s.25(1)(j) - any recovery plan for wildlife to which the authority applies;

There is no recovery plan for either the black or little red flying-fox.

NCAR s.25(1)(k) - any other matter stated in a management instrument as a matter the chief executive must have regard to when considering an application for the authority.

No other matter has been identified in this instance.

Proposed Permit Conditions

If a DMP is granted, conditions to the following effect to be considered:

- The permit holder must notify EHP at least 48 hours in advance of dispersal activities commencing, so that a conservation officer may conduct a site assessment.
- EHP staff may direct works not to commence or to cease at any time.
- Dispersal activities must be carried out in accordance with the Roost Management Plan submitted by CTRC on 16 October 2013. Where this document and the permit conditions conflict, the permit conditions take precedence.
- Dispersal activities must immediately cease and EHP notified if:
- A flying-fox appears to have been killed, injured or harmed
- A flying-fox appears to be suffering unnecessary or unreasonable stress
- Dispersal must not occur if dependent young or visibly pregnant females are present.
- Morning dispersal activities must cease 1 hr after sunrise. Evening dispersal activities (if undertaken) cannot be commenced until 30 mins prior to sunset. Dispersal activities must not occur during the day between these times.
- The permit holder must ensure that EHP officers can enter and remain at any location at any time during which dispersal activities are being undertaken.
- Any dispersal method not mentioned in the dispersal plan must be approved by EHP prior to use.
- If flying-foxes disperse to a location that is considered on reasonable grounds to be unsuitable by either EHP or Council, the permit holder must:

- Take all reasonable actions to disperse the flying-foxes from the unsuitable location
- Where entry to land not owned by Council is required to carry out the necessary dispersal activity, seek permission to enter the land from the relevant landowner(s)
- EHP will provide any further authorisations under the NCA required to carry out any further dispersals.
- Within the currency of the permit, Council must produce a management plan to address the seasonal influx of little red flying-foxes at Charters Towers
- A registered wildlife carer or veterinarian (inoculated against Australian Bat Lyssavirus) must be on call at all times that dispersal activities are being undertaken.
- A helicopter may be used as a barrier during dispersal activities only where CASA has given approval for its use.

Other

Council should address any possible safety considerations e.g. people coming into contact with flying-foxes during the dispersal.

Appendix 1

Material Considered

- Application Form
- Roost Management Plan
- Flying-fox Management Plan

Please do not hesitate to contact me on s.73 if you require any further information.

s.73

Acting Senior Ranger
Wildlife Operations,
Nature Conservation Services

RTI DL RELEASE - EHP

Pre-lodgement meeting, Charters Towers re: DMP Flying-fox dispersal from Lissner Park

I am acting as Senior Ranger at the Townsville office of EHP for the month 23/9 – 18/10/13. I was directed by s.73 Team Leader Wildlife Operations to proceed to Charters Towers for a pre-lodgement meeting to discuss with Council their Management Plan and application for a dispersal DMP for Lissner Park.

s.73 proceeded to Charters Towers and met with both s.73 and s.73 at Lissner Park @ 9am on the 10th October 2013. s.73 advised that approx. around 8000 little reds had just turned up in the park about two days before and added to the existing 300 black already there. We walked around the park counting flying-foxes and noticed that there was a council truck pumping water and a reasonable amount of public activity with minimal disturbance to the bats.

We talked about the management program and indicated we wanted to see the relocations sites, s.73 said he didn't care where they went it wasn't their responsibility they just had to leave town. We then left town and proceeded to the primary site owned by council called "Young's Block" located on Gladstone Creek. This site is a historic flying-fox roost site and has the capacity to house a large number of animals. The creek is dry for the first time in 5 years but fortunately council has a bore there which can provide water to that section of the creek by 18,000 litres per hours. They agreed to dig some holes in the creek and fill the holes with water, they also agreed to clear undergrowth from under the mango and tamarin trees. It was explained that this work must be done prior to any dispersal activities. It's a perfect location for the flying-foxes should they choose to move there.

We visited another site again a traditional site near the sewerage treatment plant. This site would not be suitable as there was limited vegetation and only house a very small colony. There was another site mentioned in their management plan by the name of (6) Personal information apparently this area is on private property and s.73 said the owner would not be very cooperative if the colony were to move there. I would not consider this to be a viable site.

We proceeded back to the council building to discuss completing the application form. We went through each section of the form and provided examples of what would be required from the delegates point of view. It was explained again that it would be pointless doing the dispersal if the relocation sites were not ready to take the colony on as any work done after they moved in would more than likely shift them back to Lissner Park, which would be unacceptable. They indicated that there was no money for alternate site preparation.

There were in depth discussions regarding the use of a helicopter to provide a barrier that prevented the colony from heading away from the intended alternate roost. We discussed that we would need an authority from CASA that they approved low flying within the city limits and s.73 explained that he had been in contact with the pilot and he was currently talking with CASA to achieve this. s.73 provided an unsigned copy of an authority from CASA dated 13/12/2010. We explained that their DMP could possibly be issued for the use of a helicopter in amongst other methods subject to approval by CASA. They stated they were reluctant to submit an application without mentioning helicopters and having the CASA approval for fear that it wouldn't be approved without it.

We advised that as the permit would be for twelve months in line with the new amendments in the regulations and that they should include things like vegetation removal and modification works should they be necessary further down the track and explained what would be involved in the communications strategy regarding engaging the community etc. We reiterated that we were there to help them in the process and would be available should they need us at any stage.

Although s.73 was a little aggressive in the beginning he mellowed during the meeting as I believe we did impress him that we were on the same side, s.73 was quiet during the whole meeting and stated at the end that he didn't always agree with what the council was doing.

After leaving both s.73 at the council building s.73 and I headed back to Lissner Park to have another look at the bats. We drove into the park from the opposite side we had earlier and used the binoculars to view the bats. It was noticed at this time that some blacks had new born young present.

We left Charters Towers with the feeling that both parties had understood what was needed and that help was available should they need it.

On Friday the 11th October s.73 received the below email from s.73:

From: s.73 [mailto:s.73@charters Towers.qld.gov.au]
Sent: Friday, 11 October 2013 2:01 PM
To: s.73
Subject: Question

s.73

In May 2013, EHP produced a discussion paper "A new Approach to Managing flying Fox Roosts". Section 4 of this paper outlines an Implementation Plan. In this plan, it states that "By August 2013 – there will be Publication of the new Code of Practice. I thought the whole idea of this Discussion Paper and code was to make things easier for Council's and to negate the requirement for a Damage Mitigation Permit. From our discussions yesterday, it appears that everything is harder, not easier. We still require a permit, but now we also require a communication plan, nominated relocation areas with owners consent, pretty drafted maps, presented Work Safe Plans and more rigorous relocation plans.

Am I mistaken? Is the Discussion Paper released in May 2013 still valid? What are the latest timeframes?

Regards

s.73
Environmental Services Manager
Charters Towers Regional Council
ph s.73

s.73 Irrelevant information

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We again talked about the requirements and I

explained that for the last number of years (approx. 6 years) they had been doing a dispersal within the park grounds of Lissner Park itself e.g. keeping the bats away from the pool area which is not a full dispersal actually from the park itself.

I advised s.73 that the window of opportunity was closing for dispersal as we had sighted young animals in the colony and that they had probably not more than a couple of weeks before the young would be left in the roost trees while the adults went out to feed.

We again talked about engaging the community and preparing the alternate sites and again discussed providing assistance in the process. I then made arrangements with s.73 to go to Charters Towers on Tuesday the 16th October 2013 to assist council in providing advice on making an application.

This file note has been made by s.73 Wildlife Operations, EHP, Marlow Street, Townsville

RTI DL RELEASE - EHP