



New South Wales

Flying-fox Camp Management Code of Practice 2018

under the

Biodiversity Conservation Regulation 2017

I, Gabrielle Upton, the Minister for the Environment, in pursuance of clause 2.9 of the *Biodiversity Conservation Regulation 2017*, do, by this Order, make the following Flying-fox Camp Management Code of Practice 2018.

Dated this day of 2018.

GABRIELLE UPTON, MP
Minister for the Environment

Explanatory note

This Order is made under clause 2.9 of the *Biodiversity Conservation Regulation 2017*.

The Order makes the *Flying-fox Camp Management Code of Practice 2018*.

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Flying-fox Camp Management Code of Practice 2018

Part 1 Introduction

1 Name of Code

This Code is the *Flying-fox Camp Management Code of Practice 2018*.

2 Commencement

This Code commences on the day that the Order making this Code is published on the NSW legislation website.

3 Nature and status of Code

(1) This Code is made under clause 2.9 of the *Biodiversity Conservation Regulation 2017*.

(2) This Code is a code of practice relating to the management of animals and plants and authorises the carrying out of flying-fox camp management actions on public land in accordance with the terms of this Code, for the purpose of providing a defence to the offences under Division 1 of Part 2 of the Act.

4 Object of Code

The object of this Code is to authorise camp management actions in flying-fox camps in NSW subject to the requirements of this Code.

5 Interpretation

(1) Words and expressions defined in the Dictionary at the end of this Code have the meaning set out in the Dictionary.

(2) Notes in this Code are provided for guidance and do not form part of this Code.

Part 2 Authorisation of camp management actions

6 Carrying out camp management actions

- (1) The camp manager of public land is authorised to carry out the following camp management actions on that land in accordance with the terms of this Code:
 - (a) removal of tree limbs and whole trees that pose the risk of falling onto persons or property,
 - (b) trimming of understorey vegetation, which may include trimming for the purposes of maintaining existing buffers and walking or access tracks,
 - (c) mowing of grass and similar grounds-keeping actions,
 - (d) habitat restoration to augment flying-fox camp habitat in existing flying-fox camps,
 - (e) trimming or removal of whole canopy trees at the camp boundary to create a buffer between the flying-fox camp and areas of human settlement, to a maximum distance of 30 metres from any occupied building, to prevent flying-foxes roosting within that buffer,
 - (f) installation of noise attenuation fencing between the flying-fox camp and nearby residents,
 - (g) disturbance actions using noise, light and smoke.
- (2) Camp management actions must be carried out in a manner that avoids:
 - (a) harming flying-foxes, or
 - (b) adverse impacts on the life cycle of flying-foxes, especially the breeding and rearing of young flying-foxes, or
 - (c) adverse impacts on animals, plants and ecological communities, with the exception of any vegetation removed in accordance with the terms of this Code.
- (3) Camp management actions are not authorised:
 - (a) for the clearing or trimming of vegetation that results in damage to:
 - (i) declared areas of outstanding biodiversity value, or
 - (ii) a threatened ecological community, or
 - (iii) habitat of any threatened species other than a flying-fox, or
 - (b) for the clearing or trimming of vegetation that results in removal of more than 10% of the vegetated area historically occupied by flying-foxes, or
 - (c) during or within five days after severe weather events which includes storms and

cold snaps, or

(d) during or within 21 days of the end of a heat stress event, which is a day or period of days where the maximum temperature is or is predicted to exceed 38°C. A heat stress event ends when the maximum temperature remains below 38°C for 48 consecutive hours.

(4) Camp management actions involving removal of tree limbs or whole trees are not authorised when flying-foxes are in or within 30 metres of the tree.

(5) Camp management actions carried out within a flying-fox camp must only be carried out where at least 20% of suitable roost vegetation within the camp has been designated as a rest area in which the actions are not carried out.

Note. A rest area should not be located adjacent to residential land where possible.

(6) Camp management actions requiring machinery must use the quietest plant and machinery that is appropriate for the action in order to minimise stress and fatigue of roosting flying-foxes.

(7) Camp management actions must immediately cease where any flying-foxes, as a result of the activity:

- (a) have been or appear to have been killed, or
- (b) have been or appear to have been injured, or
- (c) are displaying signs of stress or fatigue.

(8) If camp management actions are required to cease because of subclause (7), the camp manager must immediately notify the Environment Agency Head.

(9) Camp management actions referred to in subclauses (1)(e) and (g) must be carried out in accordance with a camp management plan endorsed by the Environment Agency Head.

(10) A camp management plan is to:

- (a) identify flying-fox issues and the stakeholders affected by flying-foxes,
- (b) identify proposed camp management actions having regard to the objects of the Act,
- (c) specify the procedures for obtaining the endorsement of the Environment Agency Head under this Code, and
- (d) be in the form prescribed by the Environment Agency Head.

Note. The Flying-fox Camp Management Plan Template 2016 is available at <https://www.environment.nsw.gov.au/publications/nativeanimals/flying-fox-camp-management-plan-template-160240.htm>

7 Record keeping

The camp manager must keep accurate written records of all camp management actions that they carry out or are carried out on their behalf, including:

- (a) the date and time of day on which actions were implemented, and
- (b) the nature of the actions, including the geographic extent and duration, and
- (c) the outcomes of the camp management actions.

Dictionary

buffer means an area from which canopy trees are removed to prevent flying-foxes from roosting in an area adjacent to a sensitive site such as a school, hospital or residential area.

camp management actions means the acts described in clause 6 (1).

camp manager means the public authority with lawful ownership or control of the public land on which a flying-fox camp is located or on which camp management actions are carried out.

flying-fox means any of the following species:

- (a) grey-headed flying-fox (*Pteropus poliocephalus*),
- (b) black flying-fox (*Pteropus alecto*),
- (c) little red flying-fox (*Pteropus scapulatus*).

flying-fox camp means any vegetation on public land occupied by flying-foxes during daylight hours. The occupancy may be permanent, seasonal or occasional.

public land means land owned or controlled by a public authority (including a council) but does not include land reserved under the *National Parks and Wildlife Act 1974* or acquired by the Minister administering that Act under Part 11 of that Act.

stress or fatigue means a state of physiological strain or tension resulting from adverse or demanding circumstances. Indicators of this state in flying-foxes include the following:

- (d) panting,
- (e) spreading saliva, such as licking,
- (f) flying-foxes descending within two metres of the ground,
- (g) flight that is laboured or close to the ground,
- (h) re-settling within the flying-fox camp despite disturbance actions,
- (i) more than 50% of the flying-foxes taking flight.

the Act means the *Biodiversity Conservation Act 2016*.