

Draft Submission on the Code of Practice Authorising Flying-fox Camp Management Actions 2018

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community based system of local government in the State.

LGNSW welcomes the opportunity to comment on the '*Code of Practice Authorising Flying-fox Camp Management Actions 2018*'. In developing this response, LGNSW sought feedback from councils who are currently managing flying-fox camps in their local areas.

Please note that to meet the consultation deadline, this submission is provided in draft form, in anticipation of LGNSW Board endorsement at their August meeting. LGNSW will advise of any amendments to the submission at that time.

Purpose

This submission is in response to the public consultation process underway on the *Code of Practice Authorising Flying-fox Camp Management Actions 2018* and as notified by the Office of Environment and Heritage (OEH).

Background

The Code acknowledges that the requirement to manage flying-fox camps is most often an issue for local government due to camps occurring on public land, or impacting on the urban environment. It proposes a mechanism for streamlining and simplifying approvals for flying-fox camp management actions on public land.

The Code enables the implementation of camp management actions without requiring a licence from OEH, but with the appropriate notification to the 'Environment Agency Head' prior to actions undertaken. There is no approval required, however the Department does have the opportunity to respond within three days of receiving notification with any particular directions regarding carrying out the proposed actions.

The main obligations for councils under the Code are:

- To notify the NSW Government of proposed camp management actions;
- To seek flying-fox expert advice for camp management actions;
- Undertake record keeping and reporting requirements;
- Provide an avenue for community engagement in determining how and where to undertake camp management actions; and
- To notify neighbouring councils within a 20km radius of a camp prior to undertaking high impact actions.

Response

The move to a Code based system and away from a traditional licence is supported by local government as it simplifies the process, which should minimise delays in the approval process. This is particularly important for actions requiring a timely response, including an unexpected influx or a newly established camp. It will allow councils to undertake routine camp management activities to protect flying-fox camps while managing natural assets to reduce conflict with neighbouring residents.

However, the proposed approach captures both routine and high impact camp management actions and also requires councils to seek expert advice on all proposed actions. This is an

onerous requirement for councils, particularly for routine camp management actions and for those who have already prepared a camp management plan (CMP).

The Code will assist in undertaking these higher impact management actions more quickly, however in doing so the councils are assuming considerable responsibility and potential risk for their actions. LGNSW supports the view that councils should have the best information available to them prior to any high impact management action being undertaken and OEH has a role to assist in this process. The Code places the responsibility firmly on councils to seek independent expert advice on their actions and no longer includes a requirement for OEH staff to work with councils on local and regional management options.

A three-day turnaround for the Environment Agency Head to provide any additional requirements to the councils proposed actions seems an extremely tight timeframe for due consideration. Councils have raised a concern that this may lead to a 'silence is consent' approach rather than careful consideration of the proposal.

Diversity of views across NSW councils

There are diverse views across councils in relation to the management of flying-fox camps. Some councils have worked towards managing camps in situ, working with neighbouring residents and providing assistance and subsidies to ameliorate the impact of living along-side a camp. Examples also exist of councils placing conservation agreements over land with flying-fox camps. However, other councils and communities are actively seeking opportunities to encourage the dispersal of flying-foxes from their chosen roosting sites to appease residents and minimise impacts on site.

Community expectations

The approach taken with the Code effectively provides councils with more responsibility and greater flexibility to undertake high impact management activities. Queensland has a similar Code in operation, however councils have raised concerns in relation to its operation, particularly around community expectations. In practice the introduction of the code has led to an increased community expectation that there are actions that local government should undertake to effectively manage flying-foxes, with many demanding higher impact actions, such as camp dispersal as their preferred response from council. In reality, however, limited management actions are actually available to councils, aside from vegetation removal.

This has been an unfortunate outcome given that dispersals are; expensive, require repeat actions, and are risky given the unknown movement of the species, the potential establishment of new camps and also the potential impact on other residents. Dispersals invariably create splinter camps that require ongoing management, further impacting on council's ability to manage flying-foxes and what may become an increasing number of camps across their local government area.

Recommendation:

1. That high-impact management actions, such as dispersals should not be encouraged as a tool for managing flying fox camps, apart from; in exceptional circumstances, for actions identified in an endorsed camp management plan and with the appropriate level of expert advice, and that communities are aware of this position. This would help prevent unrealistic expectations.

Camp management plans (CMPs)

It is unfortunate that the Code makes no mention of CMPs. The OEH Flying-fox Camp Management Policy 2015 established a framework for camp management activities to occur in accordance with a CMP. Councils have been actively encouraged to prepare CMPs, with the

NSW Government providing assistance through the development of a camp management template and a grant funding opportunity. The grant program, administered by LGNSW in 2016-2018, has provided, to date, over \$340,000 to develop 24 plans across NSW.

Undertaking a plan enables the council to clearly identify the characteristics of a camp, undertake community engagement, seek expert advice, clearly identify camp management actions needed and ensure support from Council. The approach taken with the Code is inconsistent with the camp management planning process, which has had considerable investment and uptake across NSW.

Where endorsed CMPs exist, councils should be exempt, under the Code, from requiring further independent expert advice for routine and high-impact camp management actions.

Recommendations:

2. That the Code acknowledges the process and existence of CMPs.
3. That camp management actions identified in an endorsed CMP are exempt from requiring further expert advice.

Part 3 of the Code: Manner of carrying out camp management actions

Specific clarification is sought in relation to section 11 (1) Part 3 of the Code. Councils do not support the requirement that camp managers must contact the Environment Agency Head for routine camp management actions Clause (8) and that this should only apply to high impact camp management actions Clause (9).

A clear definition of what constitutes a high impact camp management activity is also needed.

Recommendation:

4. That the notification process of camp management actions is only necessary for high impact camp actions, although other actions can be included at the discretion of the council.

Requirement for a flying-fox expert

Councils are required to seek advice from a flying-fox expert before carrying out any camp management actions. It is unclear if this advice needs to be sought prior to the notification to the Environment Agency Head and the Code would benefit from clarifying this process.

A further clarification is sought in relation to whether camp managers need to obtain advice from a flying-fox expert for routine camp management actions Clause (8) or just for high impact camp management actions Clause (9). If the Code intends to include all routine camp management actions as requiring a flying-fox expert, then this is considered too onerous for councils. This requirement should only apply to 'high impact' actions.

While LGNSW supports the need for councils to have expert advice on proposed high impact actions, this process places the responsibility and expense on council to seek this advice, which may have been previously provided by OEH as part of the licence approval process. The Code removes the role of regionally based OEH staff to assist councils with this technical advice and input, which has been valued in local areas, and now requires councils to seek, and fund advice from an independent consultant.

Concerns have been raised in relation to the skills and expertise of the 'expert'. To ensure that an appropriate expert is relied upon in this process it would be appropriate to have a system which endorses, or accredits these experts, and provides a list of appropriately qualified people which have been vetted. This should be a role for the OEH.

Recommendations:

5. That a vetted list of 'flying-fox experts' is managed by OEH and made available to councils.
6. That OEH provide expert advice to councils on request and continue to build and share local and regional knowledge on flying-fox management.
7. That a 'flying-fox' expert should only apply to high impact camp management actions.

Pre-emptive Camp Management Actions

Section 10 of the Code needs to include more detail on what constitutes a Pre-emptive Camp Management Action and when these actions can be carried out. Once flying-foxes are present in vegetation then supporting protocols may be needed to clarify when a camp is deemed to be formed and whether management actions are pre-emptive or now considered as routine or high impact.

Recommendation:

8. Provide a clear definition of pre-emptive camp management actions and consider protocols for the interpretation of actions in such instances.

Public and private land

The Code refers to public land, however it's not uncommon for camps to straddle public and private land. While councils often take the lead in these circumstances, the Code makes no mention of approval processes for actions on private land. The Code would be strengthened by including a reference to how private land actions will be managed.

Recommendation:

9. Include a reference in the Code to the management of camps on private land.

Handling flying-foxes

Section 12 (1) should include an exception for persons who have relevant vaccination against Australian Bat Lyssa Virus. Wildlife carers may have appropriate vaccinations, training and experience to handle flying-foxes who are injured or need assistance and this should be included in the Code.

Recommendation:

10. Provide an exception to Section 12 (1) for vaccinated wildlife carers with protection against Australian Bat Lyssa Virus to handle flying-foxes, as required, provided they have the appropriate training and expertise.

Regional approach

Managing flying-foxes requires a regional perspective. Any active dispersal of animals will most likely shift the camp elsewhere, potentially to a more contentious camp depending on where the animals choose to establish their next roost. As such, regional groups of councils in the Hunter and the Sydney region have been considering the development of regional approaches to flying-fox management. While the Code has a notification requirement to neighbouring councils within a 20km radius of the camp prior to actions commencing, there is no opportunity within the five day notification process to consider regional impact. The Code facilitates the management of camps on a site by site basis with no provision for regional perspective.

Recommendation:

11. Include a regional view in determining camp management actions and implications.

Monitoring and reporting

The Code prescribes the need to monitor the camp for five days prior to any high impact actions, however there is no requirement for monitoring the camp after undertaking the actions. Land managers are required to report on both routine and high impact actions undertaken, within six months of completion, however clearer guidance is needed on monitoring of this site or other splinter camps which may result from the action taken. Further, the focus for the monitoring and reporting is on the management action undertaken rather than the impact on the flying-fox colony.

Recommendations:

12. That OEH commit to undertaking ongoing monitoring of the implications of high impact management actions on the species to determine whether these actions are creating the outcomes sought by the community/council, while also addressing the conservation needs of the species.
13. Amend Code so that reporting requirements only relate to high impact actions and not routine management actions.

Environment Protection and Biodiversity Conservation Act 1999

The Code makes no reference to the federal *Environment Protection and Biodiversity Conservation Act 1999*. Given the Grey Headed Flying-fox is listed as a vulnerable species under this Act, the Code should mention the requirements under this Act.

Code definitions

The Code would benefit from the inclusion of definitions on the following:

- significant food stress
- pre-emptive clearing
- trimming of understorey vegetation
- pre-emptive camp management
- heat stress and also include 'cold snap' (or similar) in the dictionary
- high impact camp management actions

The definitions for *camp boundary* and *flying-fox camp* are confusing and appear to be variations on the more commonly used term; 'maximum known extent'.

Community Education and Engagement

Clause 16 (1) is unclear whether community engagement is expected around all camps in the jurisdiction, or just those where actions are being proposed.

Conclusion

LGNSW supports a Code that enables land managers to undertake their routine camp management actions without requiring a licence. However, LGNSW has some concerns in relation to the operation of the Code and the move towards the management of the flying-fox camp and their impacts, rather than the management of flying-foxes for conservation outcomes. There must be an appropriate balance.

The management of the species requires a population wide, balanced and strategic approach. Clear and consistent messages should be provided to the community and a coordinated, centralised decision-making process established for the management of the species. Devolving this responsibility to local government may lead to a more piecemeal approach to

management, which is costly and could lead to an increased number in total camps. High impact actions such as dispersals should be undertaken cautiously and their impacts carefully monitored.

The Code needs amendment to make reference to CMPs, which are detailed plans of management developed with the community, with expert advice and that have been prepared with the support of the NSW Government. Councils with CMPs should be able to refer to these when notifying actions through the Code and eliminate the need for additional expert advice.

The experience of QLD councils, as shared by the QLD Local Government Association has highlighted that their Code or Practice, which provides local government with an 'as-of right' authority to manage urban flying-fox roosts, has not been a successful model. The process undertaken has led to increasing costs to councils, an increased demand for dispersals and has not produced a good outcome for the conservation of the species, or the impact on the local community.

LGNSW is also concerned that the Code may place unrealistic expectation on councils to undertake high impact actions which are available under the Code but are not successful in the long-term management of the species.

For further information, please contact Kirsty McIntyre, Senior Policy Officer – Environment on 02 9242 4055 or kirsty.mcintyre@lgnsw.org.au.