

EPBC Ref: 2020/8841

The General Manager
City of Sutherland Shire Council
4 - 20 Eton Street
Sutherland NSW 2232

Dear Sir/ Madam

**Decision on referral
Garnet Road Rezoning, Kareela, NSW (EPBC 2020/8841)**

This is to advise you of my decision on the referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), to rezone a development area, from SP2 Infrastructure to R3 Medium Density Residential, and construct residential development at 147 Garnet Road (Lot 1142 // DP 752064 and Lot 1 // DP 225581), Kareela, New South Wales.

As a delegate of the Minister for the Environment, I have decided that the proposed action is not a controlled action, provided it is taken in accordance with the manner described in the enclosed decision document. This means that, provided that the action is undertaken in that way, it does not require further assessment and approval under the EPBC Act before it can proceed.

A copy of the document recording this decision is enclosed. This document will be published on the department's website.

If you have any questions about the referral process or this decision, please contact the project manager, Terri-Ann English, terri-ann.english@awe.gov.au, and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



Louise Vickery
Assistant Secretary
Environment Assessments (NSW, ACT) Branch
9th March 2021

Notification of

REFERRAL DECISION – not controlled action if undertaken in a particular manner

Garnet Road Rezoning, Kareela, NSW (EPBC 2020/8841)

This decision is made under sections 75 and 77A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

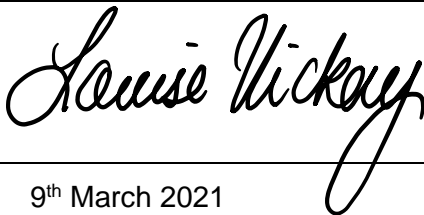
Proposed action

Person proposing to take the action	Sylvanvale Foundation ABN: 33 502 584 264
Proposed action	To rezone a portion of the proposed action area - within 300 metres of a GHFF camp - from SP2 Infrastructure to R3 Medium Density Residential and construct residential development at 147 Garnet Road (Lot 1142 // DP 752064 and Lot 1 // DP 225581), Kareela, New South Wales, as described in the referral received by the department on 27 November 2020 [See EPBC Act referral 2020/8841].

Referral decision: Not a controlled action if undertaken in a particular manner

Status of proposed action	The proposed action is not a controlled action provided it is undertaken in the manner set out in this decision.
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Person authorised to make decision

Name and position	Louise Vickery Assistant Secretary Environment Assessments (NSW, ACT) Branch
Signature	
Date of decision	9 th March 2021

Manner in which proposed action must be taken	The following measures must be taken to avoid significant impacts on listed threatened species and communities (sections 18 & 18A)
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1. A **suitably qualified ecologist** must undertake an inspection of **Grey-headed flying-fox (GHFF)** within the **study area** and **camp** immediately prior to the first commencement of any demolition or **external construction** activities and again at least twice per week before starting work thereafter, for the duration of demolition and **external construction** activities.
2. Demolition or **external construction** activities must not be undertaken in **Zone A** if:
 - i. any heavily pregnant **GHFF** females (in last trimester) are present,
 - ii. flightless young **GHFF** are present, or
 - iii. signs of **stress** and/or **disruption** to **GHFF** is detected,within the **study area** and/or **camp**.
3. Demolition or **external construction** must not commence or recommence within **Zone A** until a **suitably qualified ecologist** confirms that there are no heavily pregnant **GHFF** females (in last trimester), flightless young **GHFF**, or signs of **stress** and/or **disruption** within the **study area** and/or **camp**.
4. Demolition or **external construction** activities must not commence until at least one hour after sunrise and cease no later than 2 hours before sunset during October to May, or, between June to August, in accordance with times specified by a **suitably qualified ecologist**, based on recent (i.e. within the past two weeks) observation of **GHFF** behaviour.
5. Trees in the **study area** must not be removed or lopped when **GHFF** are in them, or within 30 metres of trees being removed or lopped.
6. If **GHFF** are detected regularly roosting by day within the **study area**, a **suitably qualified ecologist** may undertake **nudging** activities to deter **GHFF** from roosting in the study area prior to demolition and **external construction** activities.
7. **Nudging** activities must not be undertaken if a **suitably qualified ecologist** identifies:
 - i. any heavily pregnant **GHFF** females (in last trimester) are present,
 - ii. flightless young **GHFF** are present, or
 - iii. signs of **stress** and/or **disruption** to **GHFF** is detected.
8. If **nudging** activities are undertaken, they must commence one hour before dawn for up to 10 minutes followed by a 5 minute break to observe dispersal direction. **Nudging** activities must cease 30 minutes before dawn if a **suitably qualified ecologist** identifies **GHFF** in stress.

Definitions

Camp means the area shown marked shaded in yellow and labelled as 'Camp' on Figure 1.

Disruption means if more than 30 per cent of the **GHFF** camp population takes flight and/or more than 10 animals are circling the camp and/or the works area for more than 3 minutes.

Grey-headed Flying-fox (GHFF) means the species *Pteropus poliocephalus*, which is a threatened species listed at the time of this decision as vulnerable under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

External construction- means the activities listed in Table 1.

Nudging means low intensity disturbance to encourage **GHFF** to not land and roost in certain areas. This involves standard deterrent tools such as noise, smoke and visual deterrents, used at a low intensity.

Suitably qualified ecologist means a person who has professional qualifications, training, skills, at least three (3) years of work experience related to **GHFF**, and can give authoritative independent assessment, advice and analysis on the **GHFF** using the relevant protocols, standards, methods and/or literature.

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

- Panting,
- spreading saliva, such as licking,
- flying-foxes descending within two metres of the ground,
- flight that is laboured or close to the ground, or
- individuals located within 2 metres of the ground.

Study area means the area shown marked with the red outline and labelled as 'Study Area' on Figure 1.

Zone A means the areas shown marked with red outline and labelled 'Zone A' on the map in Figure 2.

Figure 1 Location of study area and Grey-headed Flying-fox.



[illegible]

Table 1- Description of external construction works

External construction activities/works Descriptions		
Work item	'External construction' activity description	Construction activities not considered 'External construction' activities
General	The below works in this column are not to be undertaken within Zone A during final trimester.	All works within Zones B and C (see Figure 2).
Site Clearing and Demolition	Clearing of the site and demolition of existing buildings by machine.	Completion of minor works such as stripping out using hand-held power tools in Zone A .
Bulk and Detailed Excavation	Bulk/Detail excavation by machine with removal of material from site by truck.	Minor excavation works for services trenches by small excavators (max 3 tonne machines) in Zone A .
Ground Floor Structure	Formwork, Reinforcement and Concrete Pour of Ground Floor Slab on ground.	Prior works including inground services and drainage in Zone A .
Suspended Floor Structure	Formwork, Reinforcement and Concrete Pour of Suspended Floor Slabs.	
Masonry Walls	Construction of external brickwork/masonry walls.	Material delivery and handling in Zone A .

Work item	'External construction' activity description	Construction activities not considered 'External construction' activities
Wall Framing	Installation of internal and external timber wall frames.	Material delivery and handling in Zone A .
Roof Framing	Installation of timber roof framing.	Material delivery and handling in Zone A .
Roof Cladding	Installation of metal roofing.	Material delivery and handling in Zone A .
External Window and Doors	Installation of external glazed windows and doors.	Material delivery and handling in Zone A .
External Wall Cladding	Installation of external wall cladding.	Material delivery and handling in Zone A .
Retaining Wall Structures	Detailed excavation by machine, pouring of footings and construction of masonry retaining walls.	Completion of inground services and stormwater in Zone A .
Roadworks and Paving	Excavation works, road preparation and road pavement works including kerbs and gutters.	
External Structures	Installation of external structures relating to the dwellings in this area.	External fencing in Zone A .