



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

**Removal of trees from private property, 122B Lake Street, Cairns, Queensland (EPBC
2015/7427)**

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

Proposed action

person named in the referral Daniel Mark Leipnik

proposed action Removal of eight trees from private property at 122B Lake Street, Cairns, Queensland [See EPBC Act referral 2015/7427]

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.

Person authorised to make decision

Name and position Deb Calister
Assistant Secretary
Environment Assessment Branch

signature

date of decision ~~March~~ 2015

27 February

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), specifically the vulnerable Spectacled Flying Fox (*Pteropus conspicillatus*):

1. The person taking the action must ensure the action is undertaken in accordance with the best practice mitigation standards set out in the Queensland *Code of Practice – Ecologically sustainable management of flying-fox roosts – Nature*

Conservation Act 1992 (Attachment A).

2. The person taking the action must ensure that Spectacled Flying Foxes have not been present in the **trees to be removed** for at least three days in succession, at the time the trees are to be removed, before taking the action.

Definitions

Trees to be removed means the trees indicated by the red circles on the map at Attachment B.

Code of Practice
Ecologically sustainable management
of flying-fox roosts
Nature Conservation Act 1992



Prepared by: Nature Conservation Services Branch, Department of Environment and Heritage Protection

Approved in accordance with section 174A of the *Nature Conservation Act 1992*

© State of Queensland, 2013

The Queensland Government supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution 3.0 Australia (CC BY) licence.



Under this licence you are free, without having to seek our permission, to use this publication in accordance with the licence terms.

You must keep intact the copyright notice and attribute the State of Queensland as the source of the publication.

For more information on this licence, visit <http://creativecommons.org/licenses/by/3.0/au/deed.en>

Disclaimer

This document has been prepared with all due diligence and care, based on the best available information at the time of publication. The department holds no responsibility for any errors or omissions within this document. Any decisions made by other parties based on this document are solely the responsibility of those parties. Information contained in this document is from a number of sources and, as such, does not necessarily represent government or departmental policy.

If you need to access this document in a language other than English, please call the Translating and Interpreting Service (TIS National) on 131 450 and ask them to telephone Library Services on +61 7 3170 5470.

This publication can be made available in an alternative format (e.g. large print or audiotape) on request for people with vision impairment; phone +61 7 3170 5470 or email <library@ehp.qld.gov.au>.

Acknowledgements

This code of practice has been prepared by the Department of Environment and Heritage Protection in consultation with local government representatives, both elected and official, conservation groups, relevant government agencies, ecological consultants and members of the public.

November 2013

1. Purpose and operation of this code

- 1.1 The purpose of this Code of Practice— Ecologically sustainable management of flying-fox roosts (**'the Code'**) is to ensure that the chance of *management actions* under this code resulting in harm to flying-foxes is minimised and that appropriate welfare standards are upheld.
- 1.2 This code sets out how, in the course of undertaking *management actions* at flying-fox roosts in accordance with section 41A of the Nature Conservation (Wildlife Management) Regulation 2006, local government, may:
 - 1.2.1 destroy a flying-fox roost
 - 1.2.2 drive away, or attempt to drive away, a flying-fox from a flying-fox roost
 - 1.2.3 disturb a flying-fox in a flying-fox roost.
- 1.3 This code also applies to persons or local governments operating under a flying-fox roost management permit, where the permit requires them to comply with this code.

2. Prescribed methods for management actions

- 2.1 The Department of Environment and Heritage Protection (EHP) must be notified at least two business days prior to commencing any *management actions* by completion of the flying-fox roost management notification form on the EHP website. However, management actions may be commenced earlier than two business days following completion of the flying-fox roost management notification form on the EHP website if an *authorised person* gives written notice to that effect.
 - 2.1.1 This notification is valid for all dispersal activities conducted in relation to a roost within a two week timeframe from the date of notification, including dispersal activities conducted at a different location which are required to manage any impacts from dispersing the target roost.
 - 2.1.2 If commencement or continuation of activities is delayed beyond this two week timeframe, a further notification advising the new proposed commencement date and time is required.
- 2.2 No roost tree may be destroyed or modified when there are flying-foxes in the tree, or when flying-foxes are near to the tree and likely to be harmed as a result of the destruction or modification.
- 2.3 All *management actions* must immediately cease, and EHP be immediately notified if flying-foxes appear to have been killed or injured.
- 2.4 During *management actions*, any attempt to drive away flying-foxes:
 - 2.4.1 Must be properly coordinated to ensure all actions are lawful and in compliance with this code
 - 2.4.2 May only commence after advice from a *person knowledgeable about flying-fox behaviour*, or with such a person present
 - 2.4.3 May only occur in the early evening and/or early morning
 - 2.4.4 When being carried out in the early evening, must commence immediately prior to dusk 'fly-out' at a roost and continue for no longer than 2 hours
 - 2.4.5 When being carried out in the early morning, must commence immediately when flying-foxes start returning to a roost from foraging activities, and continue for no longer than 3 hours
 - 2.4.6 Must be limited to the non-lethal deterrence methods of smoke, noise, light, foggers, BirdFrite and 'scarecrow' type devices only.

3. Definitions

Act— the *Nature Conservation Act 1992*.

Authorised person— means any of the following—

- (a) the chief executive, performing functions under the Act
- (b) a public service employee of the department performing functions under the Act for the chief executive
- (c) a conservation officer who is not an employee of the department and who is performing functions under the Act for the chief executive.

Management actions— means non-lethal actions intended to stop flying-foxes from making use of a site or part of a site, and include destroying and/or modifying vegetation at a site, as well as coordinated action to drive flying-foxes away from a site.

Person knowledgeable about flying-fox behaviour— means a person able to demonstrate experience of, or a methodology for:

- (a) classifying flying-fox species
- (b) assessing flying-fox population numbers in particular roosts
- (c) identifying flying-fox breeding cycles including evidence of breeding and rearing activity in particular roosts
- (d) recognising signs of distress in, or harm to, flying-foxes.

Roost or flying-fox roost— means a tree or other place where flying-foxes congregate from time to time for breeding or rearing their young.

ATTACHMENT B

