



**Approval**

East Gippsland Shire Council Poplar Removal Program – Grey-headed Flying-fox (*Pteropus poliocephalus*) Summer Camp, Bairnsdale, Victoria (EPBC 2009/5017).

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

**Proposed action**

**person to whom the approval is granted** East Gippsland Shire Council

**proponent's ABN** 81 957 967 765

**proposed action** To remove 0.5 hectares of poplar trees as part of the East Gippsland Shire Council poplar removal program which provide a 'summer camp' roost site for Grey-headed Flying-foxes (*Pteropus poliocephalus*) in Bairnsdale, Victoria [see EPBC Act referral 2009/5017].

**Approval decision**

| Controlling Provision   | Decision  |
|---|-----------|
| Listed threatened species and communities (sections 18 & 18A) | Approved. |

**conditions of approval**

This approval is subject to the conditions specified below.

**expiry date of approval**

This approval has effect until 1 July 2022.

**Decision-maker**

**name and position** James Tregurtha  
 Assistant Secretary  
 South-Eastern Australia Environment Assessments Branch

**signature**

**date of decision** 11 APRIL 2014

## Conditions attached to the approval

The following measures must be taken to ensure the protection of **listed threatened species and communities** (sections 18 & 18A), specifically the **Grey-headed Flying-fox (Grey-headed Flying-fox)**:

1. The person taking the action must not remove or adversely impact more than 0.5 hectares of **Grey-headed Flying-fox habitat** at the **Mitchell River Roost Site**.
2. Prior to the **removal of habitat** the person taking the action must submit the **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan** to the **Department** for approval. The person taking the action must implement and comply with the approved **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan**.
3. The person taking the action must ensure that:
  - a) Prior to the **removal of habitat** at the **Mitchell River Roost Site** a **Hotline** with a dedicated contact phone number and email address is set up to respond to public enquiries;
  - b) Prior to the **removal of habitat** at the **Mitchell River Roost Site** the Wellington Shire Council is notified of the proposal and provided with contact details to respond to enquiries;
  - c) Undertake revegetation of long-term **Grey-headed Flying-fox habitat** within the **Bairnsdale region**, in accordance with expert advice on **Grey-headed Flying-fox** ecology, subject to negotiation with and approval by, the **Department**. If a long-term **Grey-headed Flying-fox** camp is not established within the **Bairnsdale region** then revegetation or improvement of **Grey-headed Flying-fox habitat** within the **Bairnsdale region** must be undertaken; and
  - d) At least \$5,000 is spent on community education resources relating to **Grey-headed Flying-fox**, including, but not limited to, educational signage at a site of **Grey-headed Flying-fox habitat** within twelve months of the completion of Stage Three (as detailed in the **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan**).
4. If, following the **removal of habitat** at the **Mitchell River Roost Site**, the person taking the action proposes to undertake a separate **dispersal** then a management plan must be submitted for the **Minister's** approval. The management plan must be approved by the **Minister** prior to the commencement of **dispersal** activities. At a minimum, the plan must address:
  - a) Proposed methodology for **dispersal**;
  - b) Potential direct, indirect, cumulative and facilitative impacts to **Grey-headed Flying-fox** from the proposed **dispersal** activity;
  - c) The presence of pregnant **Grey-headed Flying-fox**;
  - d) The presence of **dependant young**;
  - e) A commitment that the **dispersal** will not be undertaken on a **Hot Day** or on or within two days of a **Heat Stress Event**;
  - f) Proposed avoidance and mitigation measures addressing potential impacts to **Grey-headed Flying-fox**, which must at a minimum include, **stop work triggers**; and
  - g) Monitoring and reporting protocols.

Condition 4 does not apply to an **emergency dispersal**.

5. The person taking the action may undertake an **emergency dispersal**. Unless otherwise negotiated with the **Minister** and approved, an **emergency dispersal** must be undertaken in accordance with the following requirements:
- A **suitably qualified ecologist** must be engaged to advise of best practice **dispersal** methodology;
  - During **emergency dispersal** a **suitably qualified ecologist** must be present to oversee best practice **dispersal** methodology, undertake **behavioural monitoring** and document the outcomes of the process;
  - During **emergency dispersal** the person taking the action must comply with all recommendations and guidance from a **suitably qualified ecologist**;
  - **Emergency dispersal** must not be undertaken between 1 August and 30 September;
  - For the period 1 October to 31 March in any given year, **emergency dispersal** activities must not be undertaken if **flightless dependant young** are present (as determined by a **suitably qualified ecologist**);
  - **Emergency dispersal** must be undertaken 1.5 hours pre-dawn and finish one hour post-dawn to ensure **Grey-headed Flying-fox** have time to settle elsewhere before the heat of the day;
  - **Emergency dispersal** must not be undertaken during a **Hot Day** or on or within two days of a **Heat Stress Event**;
  - Once **Grey-headed Flying-fox** have not returned to the site of **emergency dispersal** for more than five consecutive days and while absent from the site of **emergency dispersal**, the person taking the action must implement **passive measures**; and
  - Within five days of the completion of **emergency dispersal**, the person taking the action must submit a report to the **Minister** detailing the **dispersal** methodology implemented and the outcome achieved.
6. One month prior to the commencement of Stage Two (as detailed in the **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan**) and on the same date every subsequent year in which **removal of habitat** or **emergency dispersal** occurs, the person taking the action must submit a report to the **Minister** that addresses the following:
- a) Details of the activities undertaken that year relating to **removal of habitat** or **emergency dispersal**;
  - b) Details of the associated outcomes of these activities;
  - c) The data collected (in accordance with these conditions of approval and the **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan**);
  - d) Information about the health, condition and location of **Grey-headed Flying-fox** colonies in the **Bairnsdale region**;
  - e) Details of how information gained has been incorporated into the future management of **Grey-headed Flying-fox** (adaptive management), including, but not limited to, the future **removal of habitat** or **dispersal** activities associated with the action;
  - f) Details of any activities planned to occur in the following year;
  - g) Written and signed confirmation by a **suitably qualified ecologist** verifying the accuracy of the data, information, analysis and conclusions contained within the report; and
  - h) Raw data must be made available to the **Department** upon request.
7. Five days prior to the commencement of the action, the person taking the action must advise the **Department** verbally and in writing of the actual date of commencement.

8. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans required by this approval, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
9. Within three months of every 12 month anniversary of the **commencement** of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published. Non-compliance with any of the conditions of this approval must be reported to the **Department** within 48 hours of the non-compliance occurring.
10. Upon the direction of the **Minister**, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
11. If the person taking the action wishes to carry out any activity otherwise than in accordance with the management plans as specified in the conditions, the person taking the action must submit to the **Department** for the **Minister's** written approval a revised version of that management plan. The varied activity shall not commence until the **Minister** has approved the varied management plan in writing. The **Minister** will not approve a varied management plan unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, that management plan must be implemented in place of the management plan originally approved.
12. If the **Minister** believes that it is necessary or convenient for the better protection of **listed threatened species and communities** to do so, the **Minister** may request that the person taking the action make specified revisions to the management plans specified in the conditions and submit the revised management plans for the **Minister's** written approval. The person taking the action must comply with any such request. The revised approved management plan must be implemented. Unless the **Minister** has approved the revised management plan, then the person taking the action must continue to implement the management plan originally approved, as specified in the conditions.
13. If, at any time after five years from the date of this approval, the person taking the action has not **substantially commenced** the action, then the person taking the action must not **substantially commence** the action without the written agreement of the **Minister**.
14. Unless otherwise agreed to in writing by the **Minister**, the person taking the action must publish all management plans referred to in these conditions of approval on their website. Each management plan must be published on the website within one month of being approved.

## Definitions

**Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan** means the document titled *Mitchell River Revegetation Program, Bairnsdale Grey-headed Flying Fox Roost Site, Strategic Management and Action Plan, East Gippsland Shire Council, 2014*.

**Bairnsdale Region** means the administrative district of the city of Bairnsdale.

**Behavioural monitoring** means the monitoring by a **suitably qualified ecologist** of **Grey-headed Flying-fox** behaviour to identify behaviour outside of normal patterns of behaviour and changes in those patterns. As a guide, behaviour outside of normal patterns may include **Grey-headed Flying-fox** exhibiting sickness, malnutrition, abnormal flight, disorientation, injury, aggression towards a person undertaking an activity evidence of abandoned young, evidence of aborted young or, at worst case, death.

**Commencement** means any preparatory works associated with the **removal of habitat** from the **Mitchell River Roost Site**, such as the tagging of trees, introduction of machinery or clearing of vegetation, excluding fences and signage.

**Department** means the Australian Government Department administering the *Environment Protection and Biodiversity Conservation Act 1999*.

**Dependant young** means:

- Newborn – totally dependent and carried by mother;
- Flightless dependant young – dependent on mother, but no longer carried large distances, unable to move easily around the camp; and
- Flying dependant young – dependent on mother, but able to move around the camp, can fly short distances.

**Dispersal** means any action, including, but not limited to, active physical harassment, taken to remove **Grey-headed Flying-fox** from a site of habitation.

**Emergency dispersal** means a **dispersal** response to be undertaken if **Grey-headed Flying-fox** relocate to an area where:

- a) Public health is at immediate risk (this includes, but is not limited to, within 100 metres of a hospital or educational institution);
- b) There is potential for the spread of disease through vectors (this includes, but is not be limited to, within 100 metres of a racecourse or horse stud property); and
- c) Anything else, as agreed with the **Department**.

**Grey-headed Flying-fox** means the native flying-fox species *Pteropus poliocephalus* listed as vulnerable under the *Environmental Protection and Biodiversity Conservation Act 1999*.

**Grey-headed Flying-fox habitat** means any patch of land, including non-native vegetation, which may be used by the native flying-fox species *Pteropus poliocephalus* listed as vulnerable under the *Environmental Protection and Biodiversity Conservation Act 1999*, to forage, breed, shelter or disperse, as determined by a **suitably qualified ecologist**.

**Flightless dependant young** means **Grey-headed Flying-fox** that are dependent on their mother, but no longer carried large distances and that are unable to move easily around the camp.

**Heat Stress Event** means a hot weather event lasting one day or more that is extremely stressful and harmful to animals, defined as when temperatures exceed 35°C before 31 December or 38°C over consecutive days from 1 January.

**Hot Day** means a day when the ambient temperature is predicted to reach 30°C before 10am AEST, or reach greater than 35°C over the day.

**Hotline** means a point of contact, where members of the public can contact the person taking the action to report any injured **Grey-headed Flying-fox**, the establishment of a new camp of **Grey-headed Flying-fox** and to discuss general concerns regarding **Grey-headed Flying-fox**.

**Listed threatened species and communities** means a matter listed under sections 18 and 18A of the *Environment Protection and Biodiversity Conservation Act 1999*, specifically the **Grey-headed Flying-fox**.

**Mitchell River Roost Site** means the 0.5 hectare area defined at Appendix A as **Grey-headed Flying-fox habitat** along the Mitchell River, Bairnsdale, within which **removal of habitat** is to occur.

**Minister** means the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* and includes a delegate of the Minister.

**Passive measure** means actions that do not involve active physical harassment of **Grey-headed Flying-fox**, which allow for ongoing maintenance of a successful dispersal area and that act as a deterrent against the animals re-establishing at the site, including, but not limited to, the trimming of branches and removal of limbs. It does not include the permanent **removal of habitat** critical to the survival of **Grey-headed Flying-fox**.

**Removal of habitat** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ring-barking, uprooting or burning of **Grey-headed Flying-fox habitat**.

**Stop work triggers** means site or animal conditions that indicate that the activity should cease.

**Substantially commence** means the **removal of habitat** at the **Mitchell River Roost Site**.

**Suitably qualified ecologist** means a practising ecologist with tertiary qualifications from a recognised institute and demonstrated expertise in scientific methodology, animal or conservation biology in relation to the **Grey-headed Flying-fox**.

#### Appendix A

