

DEPARTMENT OF THE ENVIRONMENT

To: James Tregurtha, Assistant Secretary, South-Eastern Australia Environment Assessments Branch (for decision)

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

Timing: As soon as practicable. The statutory timeframe for a final decision was **31 March 2014**.

Recommendations:

1. Consider the proposed decision and the recommendation report at Attachment A.

Considered / please discuss

2. Consider the responses to the invitation for comment on the proposed decision at Attachment B1.

Considered / please discuss

3. Approve, for each controlling provision, the action as summarised in the table below.

Approved / Not approved

4. Agree to attach the conditions of approval as set out in Attachment C.

Agreed / Not agreed

5. Sign the notice of your decision at Attachment C.

Signed / Not signed

6. If you agree to 3 and 4, accept the reasoning in the Departmental briefing package as the reasons for your decision.

Accepted / Please discuss

7. Sign the letters at Attachment D advising the person proposing to take the action and other relevant parties of your decision.

Signed / Not signed

Summary of recommendations on each controlling provision:

| Controlling Provisions for the action | Recommendation | |
|--|-------------------------|-------------------|
| | Approve | Refuse to Approve |
| Listed threatened species and communities (ss 18, 18A) | Approve with conditions | |

James Tregurtha, Assistant Secretary, South-Eastern Australia Environment Assessments Branch:

Date:

Comments:

Key Points:

Background

1. On 10 March 2014, as recommended in the Proposed Approval Decision Brief (Attachment A), you wrote to the proponent seeking comments on your proposed decision.
2. On 25 March 2014 and 8 April 2014, the proponent provided comment on the proposed approval conditions (Attachment B1).
3. The Department recommends a number of changes to the proposed conditions reflecting the proponent's comments. A track-changed version of the decision notice, highlighting all changes made from the proposed conditions is provided for your reference at Attachment B2.
4. The matters for consideration and factors to be taken into account for your decision remain as set out in the Proposed Approval Decision Brief (Attachment A).

Issues / Sensitivities

5. The proponent was generally satisfied with the proposed conditions and requested minor amendments to conditions 2, 3, 5 and 6 and clarification of several conditions. Proposed amendments are discussed below and are incorporated in the recommended final approval conditions (Attachment C).
6. Proposed condition 2 required the proponent to implement the Bairnsdale Grey-headed Flying-fox (*Pteropus poliocephalus*) Roost Site Strategic Management Action Plan (the Management Plan) prior to commencing the action. The proponent has requested that the condition be amended to allow the Management Plan to be finalised post approval. The Department recommends accepting the proposed change because the proponent will not be able to commence the action until the final plan is approved. The Department has amended the condition to clarify that prior to the removal of habitat the Management Plan be submitted to the Department for approval and the action may not commence until this approval is given.
7. Proposed condition 3(b) required the proponent to notify all neighbouring Councils of the proposal prior to the removal of habitat. The proponent requested that condition 3(b) be amended to include only the Wellington Shire Council as the distance between the other Shire Councils and the proposal are significant. The Department recommends accepting the proposed change as it is likely that the Grey-headed Flying-fox would relocate within the East Gippsland Shire Council or within close proximity to the Bairnsdale site, thus excluding the other neighbouring Councils. The condition has been amended to include only the neighbouring Wellington Shire Council.
8. The proponent requested minor administrative changes to clarify conditions 3(c) and (d). The Department has amended condition 3(c) for consistency and provided a definition of the 'Bairnsdale region' and amended condition 3(d) to specify a timeframe in which monies must be spent. These changes are administrative and clarify the intent of the original conditions.

9. The proponent requested condition 5 be amended to remove the restriction of an emergency dispersal not being able to be undertaken between August to September and October to March as they believe it limits their ability to respond to an emergency event. The Department recommends not accepting this request as these times correlate to a particularly vulnerable time of the Grey-headed Flying-foxes breeding cycle. The Department considers that these measures are necessary to reduce potential impacts to the Grey-headed Flying-fox during the critical breeding season and to reduce the likelihood of significant stress, aborted fetuses, dropped young and the desertion of young. It is understood that an emergency response may need to be undertaken quickly to dissuade permanent settlement and the proponent is not limited by the condition in seeking the Minister's advice should a situation arise that involves emergency procedures for exceptional circumstances.
10. Proposed condition 6 required the proponent to submit a report to the Minister within one month of the completion of Stage One of the proposed action. The proponent requested clarification of timeframes for completing this reporting requirement. The proponent also sought clarification regarding the 'status' of the Grey-headed Flying-fox at condition 6(d). The Department has amended condition 6 to one month prior to the commencement of Stage Two to give the proponent sufficient time to prepare the report and ensure that the key data relating to the proposed action is captured. The Department has amended condition 6(d) to clarify that status refers to the health, condition and location of the Grey-headed Flying-fox.
11. For the reasons discussed above, the Department considers that the amendments to the proposed conditions are appropriate and reasonable and do not affect the acceptability of potential impacts or the enforceability of the final conditions. The Department recommends that you accept the final conditions at Attachment C.

Consultation:

12. The outcome of the consultation is as follows and responses to your proposed decision are at Attachment B.

| | Comment |
|----------------------------|---|
| Designated Proponent | The proponent has been provided with a copy of the revised recommended approval conditions and has indicated acceptance of these conditions (<u>Attachment B1</u>). |
| Monitoring & Audit Section | Comments were sought at the proposed approval decision stage. Comments have been incorporated in the proposed and final conditions. |

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Director
Victoria Section
South-Eastern Australia Environment
Assessments Branch
Ph: 02 6274 s22
April 2014

s22

Victoria Section

ATTACHMENTS

- A: Copy of Proposed Approval Decision Brief, including the Recommendation report
- B1: Proponent's responses to invitation for comment on proposed decision
- B2: Department's response to invitation for comment on proposed decision
- C: Notice of decision FOR SIGNATURE
- D: Letters to proponent and relevant State Minister FOR SIGNATURE

DEPARTMENT OF THE ENVIRONMENT

To: James Tregurtha, Assistant Secretary, South-Eastern Australia Environment Assessments Branch, (for decision)

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

Timing: 31 March 2014 - Statutory timeframe.

Recommendations:

1. Note that no conservation advice exists for species likely to be impacted by this proposal.

Noted / please discuss

2. Consider the recommendation report at Attachment A.

Considered / please discuss

3. Consider the finalised preliminary documentation at Attachment B.

Considered / please discuss

4. Agree that the recommended decision on page one of the recommendation report (Attachment A), and summarised in the table below, reflects your proposed decision.

Agreed / Not agreed

5. Sign the letters at Attachment G to consult the proponent on your proposed decision and inform relevant Ministers on your proposed decision.

Signed / Not signed

6. Agree to not publish the proposed decision at Attachment F on the internet for public comment.

Agreed / Not agreed

Summary of recommendations on each controlling provision:

| Controlling Provisions for the action | Recommendation | |
|--|-------------------------|-------------------|
| | Approve | Refuse to Approve |
| Listed threatened species and communities (ss 18, 18A) | Approve with conditions | |

James Tregurtha, Assistant Secretary, South-Eastern Australia Environment Assessments Branch

Date:

Comments:

Key Points:

Background:

1. The proposed action involves the removal of approximately 0.5 hectares (ha) of White Poplar (*Populus alba*) trees along the Mitchell River, adjacent to the northern side of the town of Bairnsdale, Victoria (Attachment B2, Figure 3). The East Gippsland Shire Council (the proponent) has been undertaking a poplar removal program since 2003 along the Mitchell River to enhance the environment. The poplars are targeted for removal as they are an environmental weed, in a state of senescence and pose a public safety threat in the near future due to dead branches and severe lean angles. The poplar trees to be removed are used by Grey-headed Flying-fox (*Pteropus poliocephalus*) as a 'summer camp' roost habitat.
2. On 25 August 2009, the proposed action was determined to be a controlled action (due to likely significant impacts on listed threatened species and communities, specifically the Grey-headed Flying-fox, (sections 18 and 18A), to be assessed by preliminary documentation. The preliminary documentation is provided at Attachment B.

Issues/ Sensitivities:

3. The proposed action will impact on listed threatened species as it involves the clearance of approximately 0.5 ha of poplar trees that represent habitat for the vulnerable Grey-headed Flying-fox.
4. While the removal of habitat will be timed to occur between 1 April and 31 July, to avoid the breeding season, and only during the species' absence the proposal is still likely to result in a number of direct and indirect impacts on the species as it will be forced to find an alternative summer roost.
5. The Department considers that, given the measures proposed to avoid and mitigate the risks of impact to the species within the referral and preliminary documentation (Attachments B1 and B2), in conjunction with the conditions proposed (as described at Attachment A), significant risks to listed threatened species and communities from the proposed action would not be unacceptable.
6. The Department understands that the proponent has not been subject to any proceedings under Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources.
7. Your obligations as a decision maker are addressed, along with discussions on potential impacts on matters of national environmental significance, in the recommendation report (Attachment A).
8. The proposal has received local media attention, following the controlled action decision, and remains locally contentious. The nature and timing of any final approval decision may also attract public scrutiny. Public submissions were received against the removal of habitat for the Grey-headed Flying-fox.

Public submissions on assessment documents

9. The department recommends not to publish the proposed decision (Attachment F) on the internet for public comment. Public comment on the proposed decision is not considered necessary due to the extensive public consultation already undertaken for the proposed action and that further public consultation at this stage is not likely to raise additional matters to be addressed.

Number

For

Against

Not specified

Consultation:

10. The Approvals and Monitoring South (AMS) Section of the Compliance and Enforcement Branch was consulted on the proposed approval decision and AMS made a number of comments relating to the proposed conditions (Attachment C). The comments primarily related to consistency and clarification of conditions and these comments have been incorporated in the proposed approval conditions. The Department has also made minor amendments to standard conditions 8 and 9, in accordance with this advice.
11. The Department recommends consulting only with the proponent on the proposed conditions. Given the relatively small scale and localised nature of the proposal, and the lack of a significant number of public comments on the assessment to date, the Department does not recommend notifying other parties of the proposed decision and does not recommend publishing the proposed decision on the internet for public comment.
12. The Department does not consider that any Commonwealth Ministers hold administrative responsibilities relevant to the action, to the extent that their comment would be required, and as such does not recommend consulting with any Commonwealth Ministers. The Victorian Minister for Transport, Planning and Local Infrastructure, the Hon Matthew Guy MP, will be informed of the proposed decision as a matter of courtesy.

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March 2014

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ATTACHMENTS

A: Recommendation report

B: Finalised Preliminary Documentation

B1: Referral information

B2: Draft Management Plan

C: Approvals and Monitoring advice

D: Draft Recovery Plan

E: Public submissions

F: Draft Approval Decision Notice

G: Letters to proponent and Minister Guy FOR SIGNATURE

H. Referral decision brief (for reference)

RECOMMENDATION REPORT

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

Recommendation

1. That the 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 be approved subject to the conditions specified below.

| Conditions | Relevant paragraph in report |
|---|------------------------------|
| 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 : | |
| 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 . | 75 |
| 2. The person taking the action must implement and comply with the Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan . | 39 - 49, 64 - 68, 69 |
| <p>3. The person taking the action must ensure that:</p> <ul style="list-style-type: none"> 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 neighbouring Councils are 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 area, 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 area 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. | 70, 71 |

| | |
|--|-------------|
| <p>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:</p> <ul style="list-style-type: none"> 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. <p>Condition 4 does not apply to an emergency dispersal.</p> | 54 – 57, 59 |
| <p>5. The person taking the action may undertake an emergency dispersal. Unless negotiated with the Minister and approved, an emergency dispersal must be undertaken in accordance with the following requirements:</p> <ul style="list-style-type: none"> a) A suitably qualified ecologist must be engaged to advise of best practice dispersal methodology; b) 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; c) During emergency dispersal the person taking the action must comply with all recommendations and guidance from a suitably qualified ecologist; d) Emergency dispersal must not be undertaken between 1 August and 30 September; e) 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); f) 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; g) Emergency dispersal must not be undertaken during a Hot Day or on or within two days of a Heat Stress Event; h) 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 i) 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. | 58, 60, 61 |

| | |
|---|--------|
| <p>6. Within one month from the completion of Stage One of the removal of habitat (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:</p> <ul style="list-style-type: none"> 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) The status 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. | 68, 69 |
| <p>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.</p> | |
| <p>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.</p> | |
| <p>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.</p> | |
| <p>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.</p> | |

| | |
|---|--|
| 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, DRAFT Strategic Management and Action Plan, East Gippsland Shire Council, November, 2013*.

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 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**.

Background

Description of the project and location

2. The proposed action involves the removal of approximately 0.5 hectares (ha) of White Poplar (*Populus alba*) trees and dense vegetation along the Mitchell River, Bairnsdale, Victoria. The proposed action is located approximately one kilometre downstream from the Lind Bridge and adjacent to the northern side of the town (see Attachment B2, Figure 3). The proponent, the East Gippsland Shire Council (EGSC), has been undertaking a poplar removal program since 2003 along the Mitchell River to enhance the environment. The poplars are targeted for removal as they are an environmental weed, in a state of senescence and pose a public safety threat in the near future due to dead branches and severe lean angles.
3. The poplar trees to be removed are used by an important population of Grey-headed Flying-fox (*Pteropus poliocephalus*) as a 'summer camp' roost habitat. The trees represent critical habitat for the Grey-headed Flying-fox (GHFF).
4. The removal of the poplar trees is proposed to be undertaken between 1 April and 31 July in three stages over a three year period, commencing in 2014.
5. The removal of trees is proposed to be by staged removal and revegetation of the area, which the proponent has been deemed the preferable option for the long term management of the site and to manage potential impacts to the GHFF. The proponent deemed no action as an inappropriate course of action due to the poplars continued impact on the Mitchell River environment, concern expressed by residents regarding the impact of GHFF on resident's wellbeing, and the senescing state of the current roost site. The proponent states that the poplars to be removed currently pose a public safety threat in the near future due to dead branches and severe lean angles. The proponent deemed one-off removal of the trees as not being appropriate as it does not allow an adaptive response to managing the potential impacts to the GHFF from removal of their habitat nor prior indication of alternative roosting locations for the GHFF and how these might be managed.
6. The tree removal program has been successfully ongoing for a number of years and is in accordance with the *East Gippsland Environmental Sustainability Strategy 2008-2013*.

Controlling provisions, assessment approach and public consultation

7. The proposal was referred on 28 July 2009 and determined a controlled action on 25 August 2009 due to likely significant impacts on listed threatened species and communities (sections 18 and 18A), in particular the GHFF. On 25 August 2009 it was also determined that the project would be assessed by preliminary documentation (preliminary documentation) that was considered appropriate given the scale of the proposed action and limited impacts on protected matters.

8. The Department received ten public submissions (plus one ministerial) at the referral stage. All issues raised by the public were generally common across the submissions and were not directly opposed to the action; however, considered the action a controlled action likely to have a significant impact on GHFF. No comments were received from State or Commonwealth Ministers at the referral stage.
9. On 4 August 2011, the proponent submitted draft preliminary documentation, in the form of a draft management plan, addressing potential impacts to the GHFF. On initial review, the Department noted deficiencies in the information and determined that the information provided was inadequate and did not meet the preliminary documentation requirements. Following Departmental comments on the adequacy of the documentation the proponent submitted further draft management plans, on 14 October 2011, 17 April 2012, 5 July 2012 and 20 November 2012.
10. On 13 December 2012 the Department determined that the draft preliminary documentation received on 20 November 2012 satisfied the initial preliminary documentation requirements. The draft preliminary documentation was exhibited for public comment for 20 business days between 14 January and 12 February 2013, and in accordance with subdivision 16.2.1 of the EPBC Regulations.
11. On 20 May 2013, the Department was advised by the proponent that 12 public submissions (Attachment E) were received during the publication period. No submissions were received from State or Commonwealth Ministers. Of the 12 public submissions received none were supportive of the proposed action. The issues raised in these submissions related to:
 - Opposition to the removal of the GHFF's habitat;
 - The threat to wildlife in urban locations and the communities perception of them as a problem wherever they are;
 - The potential use of private residences closest to the GHFF camp, including their removal;
 - The potential to increase knowledge and awareness of the GHFF in the community and the utilisation of GHFF as a tourism and educational feature;
 - The risk of the GHFF not being able to find suitable alternative habitat;
 - Management of the GHFF camp to reduce the impacts to local residents whilst enhancing the habitat for GHFF;
 - The value of invasive species providing habitat to native wildlife and the risk that the GHFF will move to equally unpopular roosting trees elsewhere;
 - Whether or not all residents of Bairnsdale have been canvassed in relation to attitudes to the GHFF;
 - That the options have not been costed; and
 - The Response Plan perpetuates the harassment of GHFF and does not consider GHFF welfare.

12. The proponent revised the draft preliminary documentation following the public comment period to address issues raised in the public consultation. This resulted in changes to the preliminary documentation in relation to:
- Updating the Response Plan to further consider the welfare of the GHFF during dispersals;
 - Amending the date that works will be undertaken to avoid a particularly vulnerable part of the GHFF breeding cycle; and
 - Including comments relating to the explanation of how the preliminary documentation documentation has addressed the concerns of the public.
13. On 12 December 2013, the proponent provided the final preliminary documentation (Attachment B1 and B2) to the Department, which included a summary of public comments and how they have been addressed within the revised preliminary documentation documentation. The final preliminary documentation also addressed further comment that the Department had provided in relation to the management plan.
14. Consistent with the *Environment Protection and Biodiversity Conservation Regulations 2000*, the final preliminary documentation was subsequently published, for information only, for a further 20 business days from 6 January to 3 February 2014.

State Assessment and Approval

15. There is no state assessment relevant to this proposal.

Assessment

Mandatory Considerations – section 136(1)(a) Part 3 controlling provisions

16. The proposal was determined a controlled action under the following controlling provision of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act):
- Listed threatened species and ecological communities (sections 18 and 18A).

This controlling provision is discussed below.

Listed threatened species and ecological communities (sections 18 and 18A)

Grey-headed Flying-fox (*Pteropus poliocephalus*) – Vulnerable

Description

17. The GHFF is one of the largest bats in the world with a weight of 600–1000 grams and a head-body length of 230–289 millimetres. It is distinguishable from other flying-foxes by the collar of orange/brown fully encircling its neck and thick leg fur extending to the ankle.
18. The GHFF is highly mobile and the national population is fluid, moving up and down the east coast in search of food. There are no separate or distinct populations of GHFFs, with constant genetic exchange and movement between camps throughout the entire geographic range of the species. This indicates that there is one single interbreeding population.



19. The GHFF requires foraging resources and roosting sites. It is a canopy-feeding frugivore and nectarivore, which utilises vegetation communities including rainforests, open forests, closed and open woodlands, Melaleuca swamps and Banksia woodlands. It also feeds in introduced tree species in urban areas and in commercial fruit crops. The primary food source is blossom from Eucalyptus and related genera but in some areas it also utilises a wide range of rainforest fruits. The GHFF roosts in aggregations of various sizes on exposed branches, commonly of emergent trees. Roost sites are typically located near water, such as lakes, rivers or the coast. Male GHFF are very territorial and have high site fidelity, often returning to the same roosting branch every year.
20. The mating season starts in early autumn, after which time larger camps begin to break up, reforming in late spring/early summer as food resources become more abundant. GHFF typically give birth to one pup in late September to early October following a six month gestation period. The young are completely dependent during this time, clinging to their mothers for the first few weeks, and then congregating in crèches when their mothers are off feeding. The pups begin to fly independently at approximately 12 weeks, but continue to be dependent on their mothers for food until at least 16 weeks of age. Lactation usually begins in October and continues for three to four months or sometimes longer. See Table 1 below.

Table 1: Reproductive cycle of GHFF.

| Flying-fox breeding cycle | | | |
|---------------------------|---|---|--|
| Month | Time in breeding | Variations | |
| April | Mating | First female conceptions recorded | Most adult females do conceive but are prone to abortions and premature births in response to environmental stress |
| May | Mating/ early stages of pregnancy | | |
| June | Early stages of pregnancy | | |
| July | Early stages of pregnancy | | |
| August | Mid stages of pregnancy | | |
| September | Mid to late stages of pregnancy Starting to give birth | | |
| October | Birthing and Dependant young in colony | Vast majority of births occur from October to December | Lactation period from October to April |
| November | Birthing and Dependant young in colony | | |
| December | Birthing and Dependant young in colony | | |
| January | Dependant young in colony | Males increasingly sexually active from January on and establishing territories | |
| February | Dependant young in colony | Increasing frequency of copulation | |
| March | Dependant young in colony | | |

21. Key threats to the GHFF include: the loss and fragmentation of habitat, which results in a decrease in food sources and roosting sites; conflict between the habitat and foraging needs of GHFF and land owners, in both urban and peri-urban areas, is a widespread and ongoing issue; direct shooting of GHFF, as a result of destruction of commercial fruit crops in New South Wales and Queensland; competition with other flying-foxes including the Black Flying-fox and Little Red Flying-fox may be a threat due to the reduction of available habitat and food resources; electrocution; and pathogens, including Australia Bat Lyssavirus, Hendra virus and the Nipah virus.

Proposed action area

22. GHFF have been recorded at the Mitchell River roost site since 1995, with annual occupation recorded since 2002. The GHFF are generally present at the site between December and May each year and generally absent from July to November (exceptions were in 2003, when they overwintered at the site, and 2005, when the bats were not present). The number of GHFF using the site has varied between seasons (see [Table 2](#)) with numbers recorded from a few hundred to tens of thousands of bats, e.g. over 34,000 (recorded in May of 2006), approximately 20,000 (recorded in February 2010) and 26,000 (recorded in May 2011). The local Victorian Department of Primary Industries (DEPI) has been involved in monitoring the colony over this period. A heat stress event was experienced in 2009 leading to the loss of GHFF. It is difficult to attribute the variation of occupation to any one event; however, it is believed that the availability of resources may be a contributing factor.
23. The Department considers that the population of GHFF at Bairnsdale is an 'important population', consistent with the Significant Impact Guidelines (EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance, May 2006) as this population is likely to provide an important source for breeding and dispersal.
24. The 'summer camp' located at the proposed action area is used as a maternity roost and used during the nursery phase of the life cycle. In 2003 the colony remained on site throughout the year with pups being born on site. Both males and females have been recorded at the camp site. During the nursery phase it appears that the males rejoin the females. It is highly likely that the males attempt to court females with pair bonds being formed at this site.

Table 2: Grey-headed Flying-fox Roost Site.



Impact

25. There are a range of potential direct and indirect impacts to GHFF associated with the proposed action. These impacts relate to increased levels of stress that can be difficult to attribute or detect and also relate to problems associated with where they go after they have been dispersed. The following potential impacts have been identified as a result of the proposed action and are discussed further below.

Reduction of habitat

26. The proposed action will involve the removal of approximately 145 poplar trees (0.5 hectares) adjacent to the Mitchell River which have been identified as being utilised by the GHFF as a 'summer camp' and represents habitat critical to the survival of this species, as defined in the Draft National Recovery Plan (July 2009). The Draft National Recovery Plan (July 2009) also identifies the loss of roosting habitat as a threat to GHFF.

27. The Department's Species Profile and Threats Database (SPRAT) states that the impact of the loss of long-term sites, or the degradation of small remnants to the point that they are no longer used, is not known. DEPI have recognised that this stand of poplars are likely to be dead within five years time, hence the camp is not viable in the longer term; however, it is possible that the GHFF may continue to use the dead trees as a camp, should the trees remain.

Fragmentation

28. The proponent has proposed a staged removal of the poplars over a three year period allowing the GHFF to relocate and present enhanced opportunities to manage the relocation to other suitable habitat. The Department notes that partial or whole removal of camp habitat may lead to the GHFF colony dispersing and fragmenting into two or more groups if suitable habitat is not available. Knowledge of the movement patterns of GHFF and the factors influencing the establishment and persistence of camps is currently limited.

Behavioural changes, including disruption to the breeding cycle

29. The proposed action risks disrupting the breeding cycle of an important population of GHFF. The camp site has been identified as a maternity/nursery roost where young are reared by their mothers. The removal of roosting trees is likely to place stress on returning lactating females and young. Other factors such as lack of suitable roost habitat to deal with high risk weather events (high temperatures) may also result in young and adult fatalities. The disruption of the breeding cycle could result in a limited feeding season or no breeding taking place causing impacts on population levels in future years.

30. GHFF are particularly vulnerable to stress, including heat stress during the day, and mass deaths have been attributed to heat wave events. GHFF seek shelter in dense foliage during the heat of the day, and disturbing them may result in heat stress and death. GHFF are also particularly vulnerable during the third trimester of pregnancy, with mass abortions, premature births and dropped young (which is fatal) observed in GHFF in the wild in response to significant stress. Disturbing females with dependant young may result in them seeking refuge elsewhere, temporarily or permanently abandoning their pup in the process. Increased stress as a result of the dispersal may also lead to malnutrition (which is quite difficult to monitor), sleep deprivation due to dispersal measures or death. GHFF may also suffer injury from the dispersal through disorientation due to sudden disturbances. This may increase collisions that can lead to injury or death.

31. It is widely reported and accepted that females abort and abandon young due to stress. The potential for on-going dispersal of the GHFF, following the removal of their habitat, increases the risk of GHFF experiencing significant stress. If the GHFF move to an inappropriate location, following the removal of their habitat, it is likely that this will be within the breeding season for the species, i.e. when they return in the last trimester of pregnancy and are at high risk of aborting fetuses. Aborted fetuses are very small and are quite difficult to detect amongst ground litter.
32. Any follow on dispersals may also cause female GHFF that are carrying dependant young to drop them through stress-induced responses such as panicked flight. The result of this is often fatal. It is also possible that stress associated with follow up dispersal may cause mothers to desert young that are too large for them to carry but not yet fully independent. Dispersals may also result in the disruption to the mating cycle due to males being unable to establish territories and successfully mate due to on-going dispersal within the camp.

Overcrowding and increased competition

33. Removal of habitat may increase the use of the remaining poplars and other tree species within the immediate site. This may impact on the GHFF by reducing the number of selected defensible sites and result in competition due to the reduction of available habitat and food resources placing further pressure on the species. Removal of habitat has the potential to impact on surrounding colonies. GHFF attempting to settle in existing camps may increase overall stress levels due to territorial disputes, increased competition for resources leading to reduced reproductive output, and fragmentation, if the sites are unable to provide sufficient roosting habitat or have insufficient foraging habitat in the vicinity.

Inappropriate Site Occupation

34. This may include selection of alternative habitat that is deemed unsuitable for longer term occupation by the GHFF, due to distance from foraging resources, distance from water or human conflict. Habitat may be deemed unsuitable for occupation due to the potential for conflict with humans. This may be due to:
- an increased risk or perceived increased risk of disease (e.g. such as the transference of Hendra virus from horses if habitat is close to horses or from Australian Bat Lyssavirus from bites and scratches);
 - concern for health and safety (e.g. local residents have cited health problems associated with proximity to the GHFF camp);
 - a decrease in amenity (e.g. increased noise, odour and damage to roosting and foraging trees); or
 - increased community intolerance.

Conflict may result in an increased risk to the GHFF from human intervention that is not managed or foul play, such as the recent poisoning of trees at the current campsite.

35. If sites are deemed unacceptable (e.g. a hospital, playground or racetrack) and GHFF are further dispersed from these sites without ongoing management the species is vulnerable to all of the above potential impacts in addition to a cumulative impact of the action of dispersal being undertaken continuously. This would expose the GHFF to a number of stressors that, if not monitored or managed, may seriously impact GHFF.

Unexpected response

36. Unknown and irreversible impacts may occur due to the unpredictable nature of the species. The Department notes that the proponent has taken best endeavours to develop measures to address these potential impacts as far as practicable (see discussion below).

Avoidance and mitigation measures

37. As discussed above, there are a number of potential direct, indirect, facilitative and cumulative impacts to GHFF that could occur as a result of the proposed action. A number of these impacts are difficult to measure and quantify; however, the proponent has proposed a number of measures to reduce these impacts to an acceptable level. The Department considers that while many of these measures represent appropriate avoidance and management of the potential impacts with a high likelihood of effectiveness the Department also considers it necessary to recommend conditions of approval to manage the residual impacts to a level of acceptability.
38. The complete set of avoidance, mitigation, monitoring and reporting proposed by the proponent is included in the Mitchell River Revegetation Program, Bairnsdale Grey-headed Flying-fox Roost Site, DRAFT Strategic Management and Action Plan (the Management Plan) at Attachment B2. The Department recommends an approval condition (condition 2) that requires the proponent to implement the Management Plan. Key mitigation and avoidance measures are discussed below.

Timing of proposed action

39. The proponent has committed to ensuring that the Poplar trees can only be removed after confirmation from DEPI (as the monitoring body) that GHFF are absent from the area. Provided that GHFF are absent, works can be undertaken at any time of the year except between the period from 1 August to 30 September, which corresponds with a particularly vulnerable part of the GHFF breeding cycle, when pregnant females in their third trimester can spontaneously abort their pregnancy under relatively low stress conditions. While the GHFF are not normally present at the site during this time the possibility that they may return during this period cannot be discounted.
40. Therefore, works will be timed to occur between 1 April and 31 July, to avoid the breeding season. The period May to July is outside of the critical stages of the breeding season and considered by experts as a 'safe time' to relocate GHFF. If the GHFF return to the camp during this time the Department considers that the timing of the action will avoid stress during particularly vulnerable parts of the breeding cycle for pregnant and lactating females.

Stop Work Triggers at Mitchell River Roost site

41. To mitigate stress levels on potentially pregnant and lactating GHFF and their pups at the Mitchell River roost site the adoption of stop work triggers have been proposed by the proponent. DEPI will be consulted and approval sought prior to commencement of any scheduled works on the Mitchell River site to ensure that GHFF are not present. If, at any stage during the works, the GHFF return to the site or its vicinity (including the surrounding vegetation), all works must cease and cannot recommence until all GHFF depart. Twice daily checks will be undertaken and recorded by the Project Manager and staff to ensure that works do not commence if the GHFF are present or surrounding the site. The Department considers that these measures are likely to be effective in reducing the risk to GHFF becoming stressed from the proposed action during a particularly vulnerable part of the breeding cycle for pregnant and lactating females.

Staged removal of habitat

42. The proponent has proposed a staged removal of trees that is intended to encourage the GHFF to find suitable habitat at another location and reduce a sudden change in conditions at the site. The staged removal of trees is also intended to assist in the adaptive management of the colony by indicating what potential roost sites the GHFF may move to following the removal of their habitat.
43. The proponent has prepared a Revegetation Plan, included in the Management Plan, which outlines the protocols and management of the habitat removal and revegetation of the site. The removal will be undertaken in three stages with stages two and three reliant on the outcomes of stage one. The number of trees removed at each stage will be different; however, the percentage of habitat removed at each stage is approximately equal based upon the observed distribution of the GHFF at the site in previous years. Therefore, each stage of removal will represent a similar area of habitat being removed (see [Table 3](#)).

Table 3: Proposed removal and revegetation stages.

44. The Management Plan states that the removal of poplars at stages one and two will allow the GHFF to occupy the roost site within the remaining trees, with established revegetation areas surrounding the site providing some additional habitat with appropriate microclimatic requirements. The Management Plan states that the remaining area and surrounding vegetation is considered likely to support the population short term until a more suitable site is selected and that it will be sufficient to accommodate the population at high levels. The Department notes that a risk of overcrowding (see above) exists if the expected movement to a more suitable habitat is not undertaken; however, the Department also notes that overcrowding is a natural phenomenon, largely dependent on the number of individuals that choose to roost at Bairnsdale in any given year.
45. The Management Plan states that after each stage of poplar removal DEPI Wildlife Management Officers and a representative of the proponent will be on site each day for one week after the GHFF return and then twice per week for four weeks to observe the reaction of the GHFF in relation to the removed habitat. Records will be maintained at each visit noting observations of the GHFF behaviour and their reactions to the removal of their habitat. The Department considers that this monitoring will be sufficient to document the behavioural response of the GHFF to the removal of habitat.

46. If, after stage one, the GHFF are believed to be showing distress, as determined by a qualified DEPI officer, an immediate response will be initiated by DEPI to reduce stress levels. This may include the installation of temporary signage to encourage reduced noise levels and disturbance, temporary closure of the walking path under the colony and/or continued monitoring. DEPI will then review the continuation of stage two having regard to the response of the GHFF to stage one works.
47. Following stage one, an assessment will be made by DEPI on the continuation of the program. If DEPI considers that the response of GHFF following stage one is negligible to the long term wellbeing of the GHFF then stage two will proceed. If DEPI considers that the effect on the GHFF will negatively impact their long term wellbeing then DEPI will advise the proponent that stage two cannot proceed as proposed. Likewise, any isolated negative effect (i.e. increased death and injury, abandonment of dependents etc.) will prompt mitigation and adoption of an alternative strategy to be undertaken in consultation with DEPI and the Department.
48. If the program proceeds, DEPI will continue to monitor the GHFF after stage two to inform decisions relating to the commencement of stage three. The Department considers that this method of monitoring will ensure that an informed judgement is made regarding the long term wellbeing of the GHFF and continuation of the program. Any movement of the GHFF further afield from the immediate site is expected to be captured by this monitoring and the local community. Newly recorded locations will be assessed as to the suitability of longer term roosting when it is determined where they have moved to.
49. The Department recommends a condition (condition 2) that requires the proponent to implement the Management Plan, which will ensure that the action is undertaken consistent with the staged approach described above. The Department has requested that the proponent add a clause to the Management Plan, prior to finalisation of the Management Plan, to state that if DEPI are unavailable to fulfil the roles as described in the Management Plan that a suitably qualified ecologist will undertake the monitoring and reporting roles described above. This will ensure that the proponent remains responsible for the monitoring and reporting actions discussed.

Alternative available habitat

50. The proponent has identified alternative local roosting sites that may provide habitat for the GHFF. While it is not fully understood what specifically attracts the GHFF to a particular roost site some characteristics, such as a closed, continuous canopy within 50 km of the coast, within close proximity to waterways and within nightly commuting distance of generally less than 20 km of sufficient food resources, are typical. The GHFF have been recorded occupying sites within East Gippsland and at nearby West Gippsland. There is a risk that if a large number of the GHFF relocate to a GHFF camp that is already occupied that significant pressure could be placed on the foraging resources at that site, which in turn could impact the existing population.
51. The proponent's preferred location for the GHFF to relocate to is either further along or across the Mitchell River in existing native vegetation; however, the proponent does recognise the associated difficulties and poor level of success of previous relocation projects. Predicting where GHFF could potentially relocate is not possible due to the unknown response from the GHFF and a lack of information concerning their site selection. Therefore, it is not possible to identify with certainty suitable alternative roost sites for the GHFF; however, the Department recognises that the region has vast areas of potentially suitable habitat that may provide an alternative camp for the GHFF.

52. The Management Plan states that it is possible that colonies will establish camps at new sites during and after the habitat removal and that without tagging it will be impossible to distinguish which new camps are formed as a result of the disturbance to Mitchell River camp and which are new colonies whose establishment is not related to the habitat removal at Mitchell River. Given this uncertainty, the proponent has stated that they are willing to accept the responsibility for the management of any and all colonies that establish within a five year period following Stage three of the revegetation program.
53. The Department considers that the expiry date of the approval captures the responsibility of the proponent within this time frame. In the event that, following the removal of habitat, the GHFF move to a location that requires a dispersal or emergency dispersal within the Bairnsdale region the Council has a responsibility to contact the Department prior to future dispersals. This gives the Department the opportunity to review the proposed dispersals arising from the removal of habitat and assess the potential impacts. Proposed conditions to control the undertaking of dispersals and emergency dispersals are discussed below.

Ongoing dispersal of GHFF

54. The proponent has proposed possible on-going and follow up dispersal of the GHFF if it is required. There is a risk that the GHFF will move to an undesirable location following the removal of their habitat. Examples of undesirable locations may include habitat near to a hospital, school or race course where the concerns for public safety will be heightened (emergency dispersals). In addition, the GHFF may move to a location that is not suitable for long term occupation. The proponent has prepared a Response Plan, which addresses how locations will be assessed for suitability and how the ongoing dispersal will be managed.
55. The Response Plan proposes management techniques used in previously approved GHFF projects, including the Relocation of the Grey-headed Flying-Fox colony from the Royal Botanic Gardens, Sydney (EPBC 2008/4646) and the Management of the Grey-headed Flying-fox Campsite Boundary and Buffer, Yarra Bend, Melbourne, Victoria (EPBC 2011/5958). While these projects involved the relocation and nudging of the GHFF, as opposed to habitat removal and ongoing dispersal, the Department acknowledges that these approved plans are an appropriate reference for management protocols.
56. While the Department acknowledges that the draft Response Plan partly addresses potential impacts to GHFF from ongoing dispersal following the removal of habitat it does not mitigate against the risk of dropped young and the desertion of young from October to February when mothers may be carrying young and a dispersal event may trigger abandonment. It also does not account for how the GHFF may react to stress that may result in injury or death from attempted dispersals and has not provided sufficient detail in relation to what methods of disturbance are to be used for follow up dispersals. Nor does it address the fact that an inappropriate site includes any physical contact with humans being imminent, which is difficult to define and may include the whole township of Bairnsdale being deemed unsuitable habitat for GHFF.
57. Therefore, the Department considers that the information in the draft Response Plan does not take account of key potential impacts to GHFF from ongoing dispersals nor does it contain sufficient information for the Department to appropriately assess the likely impacts to the GHFF due to the lack of information regarding site specific details. As a result the Department has proposed the following conditions to ensure that the proponent adapts the Response Plan, or adopts a new plan, according to the individual circumstances of the new dispersal site and addresses residual concerns before it is approved for use by the Minister. The Response Plan will be removed from the Management Plan, prior to finalisation.

Emergency dispersal

58. The Department has proposed a condition (condition 5) that enables the proponent to undertake an emergency dispersal should GHFF locate to an area compromising human health (i.e. hospital, school) and public safety (race course, horse stud), or anything else, as agreed with the Department. If an emergency response is required, the Department has recommended a condition (condition 5) that requires the proponent to address key concerns relating to GHFF welfare, unless negotiated and approved by the Minister. The Department considers that these measures are necessary to reduce potential impacts to the GHFF during the critical breeding season and to reduce the likelihood of significant stress, aborted foetuses, dropped young and the desertion of young. It is understood that an emergency response may need to be undertaken quickly in order for the GHFF not to settle and thus negotiation and approval by the Minister has been included to ensure that human health is considered alongside the management of an emergency dispersal.

Other dispersals

59. The Department understands that there may be situations where the proponent wishes to disperse a colony that would not be covered by the emergency dispersal protocols outlined above. This may occur as a result of landholder complaints, or for other public interest reasons. The Department recommends a condition (condition 4) that requires the proponent to prepare and submit a dispersal plan prior to the commencement of dispersal activities. This will ensure that the proponent provides a tailored plan for any further dispersal of GHFF that addresses the key concerns of the Department and is commensurate with the risks of that individual dispersal. This will ensure that dispersal can only be undertaken in the "safe window" and will avoid the critical breeding season. This will also reduce impacts to GHFF by minimising aborted foetuses, dropped young and the desertion of young. The Department considers that this approach will avoid, mitigate and minimise potential impacts to the GHFF, including the disruption of the breeding cycle of GHFF, to an acceptable level.

Modification of vegetation

60. The proponent had proposed in the Response Plan that, following dispersal from an inappropriate, site modification of vegetation be undertaken to prevent the GHFF re-occupying that unsuitable site in following years. This may include pruning horizontal branches, which are large enough for roosting, or removing shrubs or ground storey to reduce the humidity of the site and increase access for sunlight, thus changing the microclimate of the potential habitat.

61. The Department considers that any vegetation utilised by the GHFF may constitute critical habitat for the species. Unless further information is provided it is difficult to determine whether or not the habitat represents critical habitat. Even if unoccupied, uncertainty regarding the potential impacts of habitat removal on the GHFF exists. The information provided in the Response Plan does not take account of potential impacts to GHFF from the removal of critical habitat when returning to the roost, which may include the potential impacts discussed above in relation to the removal of the poplars, including impacting the breeding cycle and significant stress. The Department considers that by conditioning that passive measures may only be undertaken following an emergency dispersal it is unlikely that GHFF would have settled long enough for the habitat to be determined critical habitat. In addition, the Department has proposed a condition (condition 5(h)) that passive measures can only be undertaken when GHFF have not returned to the site of emergency dispersal for more than five consecutive days and are not present during the passive measures.

Behavioural changes

62. The Management Plan states that heat stress that may occur as a result of the removal of habitat will be managed in accordance with existing DEPI protocols. Should the GHFF relocate to an area deemed inappropriate for the GHFF that might not have sufficient foliage or be more exposed to heat these protocols will apply. DEPI's key action during heat events is aimed at minimising disturbance to GHFF but also includes being on alert when the temperature reaches over 35 degrees Celsius and when there are consecutive days of hot weather, the use of signage to deter people from disturbing the site and monitoring for deaths following days of heat.

63. The Department considers that this is appropriate for avoidance of additional stress on the GHFF during hot days or heat stress events. Other behavioural responses, such as abortion, abandonment of young, injury and malnutrition, caused by increased stress as a result of dispersal are addressed by the timing of the action and stop work triggers, discussed above, and adaptive management, as discussed below. The Department considers that these are adequate measures to address potential behavioural changes during and following the removal of habitat.

Monitoring, reporting and management

64. The proponent has proposed a monitoring and adaptive management program that involves monitoring the movement, population, stress levels and reproductive cycle of the GHFF to determine the impact of the removal of habitat in order for adaptive management. Various measures have been proposed in the Management Plan that will be undertaken during and after the removal of the GHFF habitat.

65. Methods to be used include assessing the welfare of GHFF in the region to determine impacts from the removal of habitat, monitoring the suitability of roosting habitat and monitoring stress levels as a result of the removal of habitat by observing GHFF behaviour, including the abortion of fetuses, abandoned young, and injured or dead GHFF, collating information on new locations of GHFF, levels of conflict with humans and any recorded reporting or monitoring undertaken to measure key performance indicators.

66. The Management Plan states that reporting will be undertaken by both the proponent and DEPI at the Mitchell River site during occupation. Regular counts will be undertaken on a fortnightly basis during occupation with behavioural changes recorded at each alternative visit immediately after each stage of vegetation removal. Regular population counts will be recorded by DEPI and maintained for future reference. An annual report will be submitted to the Department until the Wildlife Management Officers from DEPI decide that the colony has settled and established fidelity to the new long term site.

67. This monitoring and reporting will determine any detrimental impacts to GHFF and assist in influencing future activities. The success of mitigating any negative impacts on the GHFF from the removal of their habitat at the Mitchell River roost site will be determined by the use of key performance indicators. Key performance indicators will include the continuation of the GHFF reproductive cycle, maintaining the GHFF as one population, maintaining or reducing the foraging distance of the GHFF, limiting the GHFF behavioural changes and implementation of any follow up dispersals that result in the GHFF establishing fidelity to another site that can cater to their ecological requirements with limited impacts to their wellbeing.

68. The Department considers that this monitoring and reporting is adequate to capture most activities and outcomes of the proposed action on GHFF; however, has proposed a condition (condition 6) to ensure that other key matters of interest to the Department are included in the annual report. Other key matters of interest to the Department include annual reporting of activities undertaken, the outcomes of these activities, the data collected from the activities, the status of GHFF colonies in the Bairnsdale region, adaptive management and future activities planned.

Adaptive Management

69. The Management Plan states that indications of behavioural, physiological or reproductive cycle changes will prompt an adaptive management approach to the removal of habitat in consultation with DEPI, the Department and the local community. Adaptive management strategies will be developed to reduce potential impacts to GHFF in accordance with the risk to the GHFF and monitoring results. The Department considers that, given the unpredictability of GHFF and the high risk of unexpected responses, an adaptive management response is acceptable for the management of potential impacts to GHFF. The Department has proposed a condition (condition 6) that the management plan be updated accordingly for currency and to incorporate lessons learned from the staged removal of habitat. The condition states that this information must be submitted to the Minister in an annual report.

Compensatory measures

70. The Department considers that there is a risk of residual impacts to the GHFF as a result of the proposed action and therefore recommends a condition (condition 3) that requires the proponent to:

- nominate a contact for public enquires;
- notify neighbouring Councils about the habitat removal of habitat;
- undertake revegetation of GHFF habitat in accordance with expert advice; and
- provide community education with the provision of resources such as interpretative signage at GHFF habitat to the value of \$5,000.

71. The Department considers that this is appropriate compensation given the level of management that the proponent has already committed to in the Management Plan. In addition, this compensation may assist DEPI in resourcing funds for the continued management of GHFF as a consequence of the removal of habitat.

Conclusion

72. With the proposed mitigation measures as well as the recommended conditions of approval, the Department considers that impacts to the GHFF are at an acceptable level. The Department considers that the impacts to the GHFF have been adequately compensated for and adequately minimised. On this basis, the Department considers that the mitigation and avoidance measures contained in the Plan, and implementation of the recommended proposed conditions will ensure that **the proposed action does not result in unacceptable impacts to listed threatened species and ecological communities, in particular the GHFF.**

Other listed threatened species and ecological communities

73. The Department considers that the removal of 0.5 hectares of poplar trees along the Mitchell River is unlikely to impact on any other listed threatened species or ecological community. This is because the site does not constitute potential habitat and is unlikely to support populations of any other listed threatened species.

Considerations for Approval and Conditions**Recommended Proposed Conditions**

74. This section includes a summary of the recommended proposed conditions and reasons why the Department believes they are necessary for the protection of matters of national environmental significance. The complete list of recommended proposed conditions is provided in the table at the start of this document. The Department is confident that the recommended proposed conditions are reasonable and appropriate having regards to the nature and scale of potential impacts. The Department therefore considers that the proposed action will not result in unacceptable impacts to threatened species and ecological communities as long as it is undertaken in accordance with the recommended proposed conditions.

75. Proposed condition 1 and 2 limit the person taking the action to undertaking the proposed action in the 0.5 hectare area identified in the assessment documentation and in the manner described in the assessment documentation. These conditions reflect commitments made by the proponent and will ensure that the proposed action is undertaken in the manner described.

76. Proposed condition 3 is recommended to ensure that the person taking the action makes appropriate effort in providing communication to the public and neighbouring councils in regard to the proposed action and that adequate compensation is provided for the provision of long-term education and revegetation of GHFF habitat in the Bairnsdale area. Compensation is deemed appropriate to compensate for the risk of unavoidable impacts to the GHFF.

77. Condition 4 is recommended to ensure that, if ongoing dispersal is required, and the dispersal is not an emergency dispersal, that the person taking the action must provide a plan to the Minister for approval prior to undertaking that dispersal and the plan must address key concerns to the satisfaction of the Minister.
78. Condition 5 is recommended in the scenario that the GHFF move to an area that is considered a human health and safety risk and to ensure that, unless negotiated with the Minister, that the key concerns of the Department are addressed in undertaking that emergency dispersal.
79. Condition 6 is recommended to ensure that the person taking the action provides adequate reporting to the Minister that addresses key concerns that are not addressed in the Management Plan or in the standard conditions. This proposed condition includes a mechanism for incorporating currency and adaptive management into the future management of the GHFF.
80. Conditions 7 to 14 are standard conditions recommended for the majority of proposals assessed and approved under the EPBC Act. They include reporting and publishing protocols as well as specifying requirements for independent audits. These conditions also specify the steps necessary to review or vary plans or programs which are a requirement of this approval.

Mandatory considerations – section 136(1)(b) Economic and social matters

81. The proponent has addressed economic and social matters within the Management Plan (Attachment B2). The public submissions also raised a number of social and economic issues. These are discussed below.

Concerns of Public Safety

82. The current condition of the poplar trees has been considered to be a safety risk to recreational users of the walking path that passes near to the trees along the Mitchell River. Unsafe trees and branches were identified in an independent arboricultural report undertaken in 2010, and reviewed in 2011, to inspect and highlight trees of safety concern to the public (see Attachment B2, Appendix 4).
83. On 30 June 2011, the proponent sought approval from the Department to undertake urgent arboricultural works within the stand of poplar trees representing critical habitat for the GHFF. The works consisted of the removal of 11 trees, dead wooding of 22 trees and some removal of ivy. The Department noted the proponent's advice that the trees and dead wood presented a safety risk to users of the Mitchell River walking track and that the proposed works were urgently required to assure the safety of the community, which utilise the track.
84. While the Department considered that the works are a component of the broader tree removal program referred to the Department it was considered that, given the number of trees proposed to be removed, the current absence of GHFF from the site and the requirement to assure public safety, the action was unlikely to significantly impact the GHFF colony and did not represent a significant breach of national environmental law, as long as the action was undertaken in the manner described.
85. The proponent undertook these works to ensure the immediate safety of track users but notes that the condition of the poplars are an ongoing concern and will require subsequent management to provide a safe environment for the community.

Health risks and concerns

86. The proponent has cited the risk of disease from the GHFF as a common concern of the residents of Bairnsdale. In particular, the diseases Australian Bat Lyssavirus, Hendra virus and Nipah virus have been mentioned as diseases potentially fatal to other animals, who may also act as vectors to humans, and humans. While the risk of exposure to these diseases is considered limited, public concern remains high especially when considered in relation to the increased opportunity for human/domestic animal contact and possible disease transmission. The Department notes that there may be the possibility, or perception of, increased exposure of the disease to humans as a result of the colony dispersing to sites near to human habitation. In particular, Hendra virus has become more prominent in the national press recently resulting in stronger community concerns. Negative public perception of the GHFF has intensified with the discovery of three zoonotic viruses that are potentially fatal to humans: Hendra virus, Australian Bat Lyssavirus (ABLV) and Menangle virus.
87. The Management Plan states that no animal is to be handled at any point during the dispersal by persons other than the authorised officers from DEPI. In addition, all personnel involved in dispersal actions will be required to wear Personal Protective Equipment (PPE) during dispersal actions. The Management Plan states that the Project Manager is responsible for the safety and wellbeing of all personnel and will be First Aid Level 2 qualified and have first aid requirements on site at all times.
88. The Management Plan states that the Australian Bat Lyssavirus is a rabies-like virus that has been identified in five species of bats. It states that infection of humans is extremely rare (only three fatal cases have been documented in Australia to date, with less than 1% of wild GHFF carrying the virus). Effective pre-exposure and post-exposure protection from ABL is available through a vaccine that can be administered by medical practitioners.
89. The Nipah virus is closely related to the Hendra virus and also occurs naturally in some species of bats; however, has not occurred in Australia to date. It was first identified in 1999 in Asia and has caused disease in animals (mostly pigs) and in humans through contact with infectious animals.
90. Outbreaks of Hendra virus in Queensland and New South Wales in 2011 raised concerns about the proximity of flying-foxes to urban and peri-urban areas. Flying-foxes are natural 'hosts' of Hendra virus, meaning that they carry the virus but it has little effect on them. There is no evidence to suggest they can directly transfer the virus to humans. It is believed that the virus may be transmitted from flying-foxes to horses via exposure to urine or birthing fluids although this has not been confirmed. On rare occasions, humans have contracted the virus through close contact with infected horses. The disease risk to the general bat population and to humans remains an active area of research.
91. The Department acknowledges that Hendra virus and Menangle virus is common in GHFF; however, there is no evidence that the infections can be transmitted directly to humans. The disease can only be transferred to humans through a vector such as a horse or pig. The Department considers that while there is a risk that the proposed removal of habitat and ongoing dispersal may lead to increased human/flying-fox interface an increase in the contraction of these two diseases to humans is low. The Department considers that the inclusion of health provisions within the Management Plan and increased community awareness of these diseases will further reduce these risks.

Social impacts

92. The Management Plan prepared by the proponent states that the GHFF campsite currently impacts on local residents, especially those living to the north-west of the roost site, along Riverine Street, Bairnsdale. The proponent states that many local residents find the campsite difficult to tolerate close to their properties and have cited health problems associated with the presence of the camp. It is stated that the main concerns relate to the odour and noise levels of the GHFF and the general detracting from the amenity of the area.

93. Increased noise levels occur during dawn and dusk when the GHFF return to camp to roost, and mothers locate their young in the camp or exit the camp to forage. The GHFF communicate through vocalisation, which includes defending their selected territories. This pattern often clashes with the rest patterns of humans with noise levels increasing in the early dawn hours.
94. The odour associated with a GHFF camp is not largely caused by faeces or urine but the scent secreted by the GHFF during the breeding season as males mark their territories and, to a lesser extent, by females scenting to locate young in the camp, from October through to March. It is stated that residents find the odour of the GHFF offensive and that the smell is so overwhelming that their ability to use outside areas is restricted and impacts on their personal lives.
95. The Management Plan also states that partial defoliation of trees by the GHFF results in a negative visual impact to the site. Defoliation is a natural process at GHFF camps and should be considered alongside the important role that the GHFF plays in pollinating and seed dispersal of native flora that assists in the evolution and regeneration of forests that provide for many life forms and natural processes.
96. There are also concerns to humans if the GHFF relocate to people's backyards, public areas and/or commercial fruit crops, and the problem is shifted from the current camp site to other areas. If the GHFF relocate to a site such as a member of the public's backyard, the proponent has proposed a number of measures to manage this particular social impact, including a public awareness campaign and ongoing dispersal activities. It should be noted that there may be unpredictable social impacts related to the movement of GHFF that have not been accounted for. This is planned to be addressed through an adaptive management approach to the GHFF management.

Community consultation

97. The Management Plan states that consultation has been undertaken by both the proponent and DEPI to engage local residents regarding the issues of managing the GHFF campsite and the necessity to provide a carefully planned approach to continue the poplar removal program and revegetation efforts. The proponent states that they will develop an engagement plan for the implementation of the Management Plan with reference to the EGSC Community Engagement Policy (see Attachment B2, Appendix 8). This will require the provision of information, such as fact sheets, website information, displays and ongoing consultation with the community.
98. The proponent considers that the promotion of a positive image for the GHFF within the local region is of high importance when managing the GHFF longer term. The proponent will actively promote DEPI's theme of 'Living with Wildlife' in relation to the management of the GHFF within the East Gippsland Shire. This will include on site signage should the GHFF permanently relocate to an acceptable area under the proponent's management.

Revegetation

99. Revegetation of the Mitchell River corridor has been an ongoing project with collaboration of the East Gippsland Catchment Management Authority, Bairnsdale Urban Landcare Group, Advance TAFE and other educational institutions. The program has been nominated for State Landcare Awards in 2009.
100. Revegetation of the entire corridor has resulted in the Mitchell River roost site being one of the final sites to be revegetated as part of this ongoing project. The proponent has stated that continuation of the revegetation program protects investment of funding and significant volunteer inputs into provision of biodiversity values along the corridor. As the roost site vegetation is almost completely populated with invasive species the reinfestation of revegetated areas through both seed and vegetative spread remains a possibility. Revegetation efforts continue along the Mitchell River riparian corridor in line with the Mitchell River Environs Local Structure and Development Plan 1998.

Economic matters

101. The Management Plan states that the value of properties has reduced due to the close proximity of the GHFF roost and the loss of amenity.
102. If the GHFF relocate to a commercial fruit crop, the impact this could have to the financial return of the fruit crop could be detrimental, especially if the entire crop is destroyed. The economic impact of the GHFF on fruit growers in other areas of Australia varies between seasons from minimal or no impact to significant loss. The proponent has not fully addressed this concern; however, as the GHFF have caused damage to commercial fruit crops since the time of European settlement it would be questionable whether the removal of habitat or ongoing dispersal would actually lead to an increase to the risk of impacts to commercial fruit crops, when the impact is already present due to GHFF natural behaviour to search for food resources during their daily migratory pattern. It should also be noted that increased numbers of GHFF in localities including commercial crop regions in Victoria may be a result of adverse weather conditions in Queensland.
103. In some areas of Australia GHFF roost sites and dusk exit flights are increasingly being recognised as attractions for eco-tourism, e.g. camps in Port Macquarie, Brisbane and Yarra Bend in Melbourne. The Management Plan states that with careful management the Bairnsdale GHFF colony may provide an opportunity to develop into an eco-attraction that would benefit not only the relationships between humans and the GHFF but local tourism.

Factors to be taken into account – section 136(2)(a) Principles of ecologically sustainable development

104. The principles of ESD, as defined in Part 1, section 3A of the EPBC Act, are:
- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
 - (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
 - (c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
 - (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
 - (e) improved valuation, pricing and incentive mechanisms should be promoted.
105. In formulating this recommendation, the Department has taken into account the principles of ecologically sustainable development. In particular:
- (a) This report and the assessment documentation provided contain information on the long-term and short-term economic, environmental, social and equitable considerations that are relevant to the decision and are presented for your consideration.
 - (b) Any lack of certainty related to the potential impacts of the projects is addressed by conditions that restrict environmental impacts, impose strict monitoring and adopt environmental standards which, if not achieved, require the application of response mechanisms in a timely manner to avoid adverse impacts.
 - (c) The proposed conditions will ensure protection of EPBC listed species and communities. Those conditions allow for the project to be delivered and operated in a sustainable way to protect the environment for future generations and preserve EPBC listed species and communities in perpetuity.

- (d) The Department has considered the importance of conserving biological diversity and ecological integrity for this project and the advice provided within this document reflects that consideration.
- (e) The Department's advice includes reference to and consideration of a range of information on the social and economic costs, benefits and impacts of the project.

Factors to be taken into account – section 136(2)(bc) – preliminary documentation

- 106. In accordance with section 136(2)(bc)(i), the finalised preliminary documentation relating to the action, given to the Minister under section 95B(3) is at Attachment B1 and B2 of the proposed decision briefing package.
- 107. In accordance with section 136(2)(bc)(ii), this document forms the recommendation report relating to the action given to the Minister in accordance with section 95C.

Person's environmental history – section 136(4)

- 108. The information provided in the referral documentation advises that no legal proceedings have been taken against the proponent under a Commonwealth State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources. The Department is likewise unaware of any such proceedings.
- 109. Subject to consultation with the proponent on the proposed approval conditions the Department has no reason to consider that they would be unwilling or unable to undertake this proposal in accordance with the recommended decision and conditions.
- 110. The Department is not aware of any proceedings against the East Gippsland Shire Council or its executive officers under Commonwealth, State or Territory law for the protection of the environment. The Department is not aware of any reason that the East Gippsland Shire Council would not be able to comply with the recommended proposed conditions.

Requirements for decision about listed threatened species and communities - section 139 (1)

- 111. Section 139(1) of the EPBC Act states that in deciding whether or not to approve for the purposes of subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, you must not act inconsistently with:
 - a) Australian obligations under:
 - i. the Biodiversity Convention; or
 - ii. the Apia Convention; or
 - iii. CITES: or
 - b) a recovery plan or threat abatement plan.

The Biodiversity Convention

- 112. The Biodiversity Convention is available at:
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1993/32.html>
- 113. The objectives of the Biodiversity Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

114. The proposed approval decision is not considered to be inconsistent with the Biodiversity Convention, which promotes environmental impact assessment (such as this process) to avoid and minimise adverse impacts on biological diversity. The ultimate aim is conservation of listed threatened species and communities in the wild.
115. This has been considered in, and is consistent with, the recommended approval which requires species specific mitigation, management and compensation measures for listed threatened species and communities.

Convention on the Conservation of Nature in the South Pacific (APIA Convention)

116. The APIA Convention is available at:
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1990/41.html>
117. The APIA Convention was suspended with effect from 13 September 2006. While this Convention has been suspended, Australia's obligations under the Convention have been taken into consideration. The proposed action is considered to be not inconsistent with the Convention which has the general aims of conservation of biodiversity.
118. The APIA Convention encourages the creation of protected areas which, together with existing protected areas, will safeguard representative samples of the natural ecosystems occurring therein (particular attention being given to endangered species), as well as superlative scenery, striking geological formations, and regions and objects of aesthetic interest or historic, cultural or scientific value. The proposed approval requires the proponent to secure, protect and improve large areas of primary value habitat to compensate for residual impacts to listed threatened species and communities.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

119. CITES is available at: <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1976/29.html>
120. The proposed action has no implications for CITES as it does not involve international trade.

Conclusion

121. The Department considers that likely impacts on listed threatened species and communities and in relation to water resource dependent listed threatened species will be avoided and mitigated by the proponent to a reasonable degree under the proposed conditions, and that residual impacts will be appropriately compensated for. Approving the proposed action subject to the proposed conditions would therefore not be inconsistent with the Biodiversity Convention, CITES or the Apia Convention.

Recovery Plans and Threat Abatement Plans

122. The action is considered to have, or likely to have, a significant impact on the following listed threatened species and communities:
- Grey-headed Flying-fox (*Pteropus poliocephalus*).
123. The Recovery Plans relevant to the proposed action is as follows, and is provided at Attachment D:
- DECCW 2009, *Draft National Recovery Plan for the Grey-headed Flying-fox Pteropus poliocephalus*. Prepared by Dr Peggy Eby and by the Department of Environment, Climate Change and Water, NSW for the Australian Government Department of the Environment, Water, Heritage and the Arts.
124. There are no Threat Abatement Plans relevant to this action.

Conclusion

125. The Department has considered all relevant Recovery Plans and Threat Abatement Plans and is of the view that approval of this action would not be inconsistent with the above obligations.

Requirements for decision about listed threatened species and communities - section 139 (1)

126. Section 139(2) of the EPBC Act requires that if you are considering whether to approve, for the purposes of a subsection of section 18 or section 18 A, the taking of an action; and the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community; you must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.

Conservation Advice

127. No approved conservation advice is available for the GHFF, as the only species likely to be significantly impacted by the action. As such, in approving this action you would not be acting inconsistently with any conservation advice.
128. Listing advice does exist for the GHFF and includes justification against the following criteria; a decline in numbers, geographic distribution, population size and the decline in numbers or distribution and probability of extinction in the wild.

Conclusion

129. The Department considers that approving the proposed action in the manner recommended will not be inconsistent with any conservation advice or listing advice.

Bioregional plans

130. In accordance with section 176(5) the Minister is required to have regard to a relevant bioregional plan in making any decision under the EPBC Act to which the plan is relevant.
131. Marine bioregional plans have been developed for the Commonwealth marine area to support the decision-making process for marine-based industries under the EPBC Act. As part of this process, new Commonwealth marine reserves have been identified by the department for the conservation of marine ecosystems and biodiversity of Australia's oceans. These reserves are intended to meet Australia's commitments to establish a National Representative System of Marine Protected Areas.
132. Five marine regions have been identified as part of the bioregional planning process, including Southwest, North-west, North, East (Temperate East and Coral Sea) and South-east Marine Regions.

Conclusion

133. The Department does not consider there to be any relevant bioregional plan for the purposes of the Minister's decision-making.

Minister not to consider other matters

134. In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, you must not consider any matters that you are not required or permitted, by Subdivision B, Division 1, Part 9 of the EPBC Act, to consider.

Any other information the Minister has on the relevant impacts of the action; and

135. All information on the relevant impacts of the action is available in this Recommendation Report (including in the Attachments).

OtherTime frame for approval

136. It is recommended that the approval be valid until 1 July 2022. This allows for the undertaking of the proposed action (approximately three years) and a buffer of five years of monitoring and adaptive management. After this time it is considered reasonable that further dispersals may need to be considered independently of this approval.

Consultation

137. The department has consulted with the Department's Compliance and Enforcement Branch, the Species Information and Policy Section and New South Wales and Queensland 1 Sections in the preparation of the Recommendation Report.

Considerations in deciding on condition – section 134

138. In accordance with section 134(1), the Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:
- (a) protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
 - (b) repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).
139. As detailed in the assessment section above, all recommended conditions attached to the proposed approval are necessary or convenient to protect, repair and/or mitigate impacts on a matter protected by a provision of Part 3 for which this proposed approval has effect.
140. In accordance with section 134(4), in deciding whether to attach a condition to an approval the Minister must consider:
- a. any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a State or self-governing Territory or another law of the Commonwealth on the taking of the action;

As detailed in the State Assessment and Approval section above, the Department has considered all state requirements. The Department considers that the recommended proposed conditions are not inconsistent with state requirements.

- aa. information provided by the person proposing to take the action or by the designated proponent of the action;

The information provided by the person proposing to take the action has been considered. Documentation provided by the person taking the action is at Attachment B1 and B2 of the proposed decision briefing package.

- b. the desirability of ensuring as far as practicable that the condition is a cost effective means for the Commonwealth and a person taking the action to achieve the object of the condition.

The Department considers that the conditions proposed (as discussed above) are a cost effective means of achieving acceptable impacts on protect matters.

141. In preparing this report and recommending whether to attach a condition to an approval, the Department has considered:

- a. No other conditions have been imposed or are likely to be imposed under a law of a state or self-governing Territory or another law of Commonwealth;

The information provided by the person proposing to take the action has been considered. Documentation provided by the person taking the action is at Attachment B1 and B2.

- b. the desirability of ensuring as far as practicable that the condition is a cost effective means for the Commonwealth and a person taking the action to achieve the object of the condition.

The department considers that the conditions proposed (as discussed above) are a cost effective means of achieving acceptable impacts on protect matters.

Conclusion

142. The proposed action is likely to impact on an EPBC Act listed threatened species. The Department considers that the likely impacts of the proposed action on protected matters will be acceptable, provided that the action is undertaken in accordance with the recommended conditions and consistent with the mitigation and avoidance measures proposed by the proponent. Having considered all matters required to be considered under the EPBC Act, the Department recommends that the proposed action be approved, subject to the recommended conditions.

Material used to prepare Recommendation Report

143. Relevant documents considered by the Department in the formulation of this recommendation report include:

- (a) Referral documentation and attachments (Attachment B1);
- (b) Mitchell River Revegetation Program, Bairnsdale Grey-headed Flying Fox Roost Site, DRAFT Strategic Management and Action Plan, East Gippsland Shire Council, November, 2013 (Attachment B2); and
- (c) Commonwealth/state policies and guidelines including:
 - Department of the Environment and Heritage, 2003, *EPBC Administrative Guidelines on Significance: Supplement for the Grey-headed Flying-fox, What you need to know about the Grey-headed Flying-fox for the 2003–2004 fruit season*.
 - Department of the Environment, Water, Heritage and the Arts, 2009, *Significant Impact Guidelines 1.1 Matters of National Environmental Significance*, Department of Environment, Water, Heritage and the Arts, Canberra.
 - Department of the Environment, Water, Heritage and the Arts, 2010, *Survey guidelines for Australia's threatened bats: Guidelines for detecting bats listed as threatened under the Environment Protection and Biodiversity Conservation Act 1999*.

- Department of the Environment website, including information on diseases in Australian flying-foxes, <http://www.environment.gov.au/node/16394>.
- Department of Sustainability, Environment, Water, Population and Communities, 2012, *Flying-foxes and national environmental law Information Sheet*.
- The Department's Species Profile and Threats Database (SPRAT).
- NSW Department of Environment, Climate Change and Water, 2009, *Draft National Recovery Plan for the Grey-headed Flying-fox (Pteropus poliocephalus)*. Prepared by Dr Peggy Eby and by the Department of Environment, Climate Change and Water, NSW for the Australian Government Department of the Environment, Water, Heritage and the Arts.



Proposed 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 Assessment Branch

signature **NOT FOR SIGNATURE – DRAFT ONLY**

date of decision

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**.
 - *If possible, can a condition be added into that will allow EGSC to complete the necessary changes to the Management Action Plan after the decision date, for approval at a later date.*
 - *Response – Yes, amended as above.*
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;
 - *Council already has in place a 24hr contact service as part of its regular operations. Is a separate line a requirement or will advertising the main Shire numbers suffice given that a 24 hr service already is in operation?*
 - *Response – Yes, the existing line will suffice as long as this is clearly advertised and an email address is also provided for contact.*
 - b) Prior to the **removal of habitat** at the **Mitchell River Roost Site** neighbouring Councils are notified of the proposal and provided with contact details to respond to enquiries;
 - *This involves notifying five Councils, 4 of which are located a great distance from the Roost Site – Council needs to understand the rationale for such notifications.*
 - *Response – the rationale was to alert neighbouring Councils as to the increased risk of GHFF moving into their areas following the removal of habitat. A letter to notify the Councils will suffice with contact details to allow queries to be answered. If EGSC would like to suggest the most relevant Councils to notify and why we may be able to amend this condition.*
- 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
 - *Can we please define Bairnsdale 'area' and Bairnsdale 'region'.*

EGSC would like to suggest that Wellington Shire is the only local council adjacent to this Shire that would be impacted by our action. We have an existing MOU with Wellington Shire which enables a co-operative relationship between neighbouring Shires. The distance between other Shires (Toowong and Alpine) and EGSC in the State of Victoria are significant and their location not likely to be suitable for GHFF populations. Other shires are interstate with some likely to already have GHFF present, and are also subject to different State legislation.

- *Response – Yes. This has been amended for consistency and defined below. If you have a suggested definition please provide.*
 - *Can some clarification be requested in the condition about where revegetation will occur (ie: Council's own land or any tenure). Who will determine which site is suitable for revegetation and improvement, DEPI and/or DE? What is the role of DE in negotiation and approval?*
 - *Response – The condition has been worded so that, depending on where the GHFF relocate to, revegetation works will be chosen at the site most likely to benefit the colony; however, if the GHFF leave the region altogether revegetation or improvement works can benefit the GHFF in the long-term. Whether this land is Council's or any tenure is a matter for the EGSC. It is expected that expert advice will be sought to ensure that the site of revegetation will be of benefit to the GHFF. Who provides that advice is a matter for the EGSC but will need to be justified to the Department prior to approval. The Department's role is primarily in determining that the revegetation proposed is appropriate and will be of benefit to GHFF in the long-term.*
- 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**.
- *Is this expenditure required over the period of the action – or some other timeframe?*
 - *Response – Yes, this expenditure is required over the period of staged vegetation removal to increase community awareness of the GHFF.*
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**.

- *What are the parameters and requirements around the decision for undertaking a dispersal? Will this information be required to be incorporated into the Management Plan, given the absence of this information with the removal of the Response Plan from the Management Plan? Are the conditions within the Response Plan sufficient to make this decision?*
- *Response – The EGSC can make a decision regarding dispersal according to their own requirements; however, the Department will need to consider the individual circumstances of the proposed dispersal and the potential impacts to the GHFF in considering the dispersal plan.*
- *The dispersal plan will not need to be incorporated into the Management Plan, which will be a stand alone document. The Response Plan will form the basis of the dispersal plan but will need to be adapted to the individual circumstances and address the above criteria. The EGSC may choose to use the information in the Response Plan in making a decision as to whether or not a dispersal is desired.*

- *Time constraints on approval? Can a pro-forma management plan be developed in the time prior to any dispersal occurring (ie. prior to September) for approval by the Department as to the information and data required to report sufficiently for a faster turn-around of approval once compiled?*
 - *Response – The Response Plan is a good basis for a dispersal plan but will need to address some outstanding matters that have not been addressed, such as the methodology for the dispersal. The key requirements of the dispersal plan are captured above in condition 4 and should form the basis of information provided in the dispersal plan.*
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.
- *An emergency dispersal situation may arise during the period of August to September, and is likely between October and March. The restriction on undertaking dispersal during these periods limits the ability of EGSC to respond to an emergency event. Given dispersals are to be supervised by a suitably qualified ecologist, their expertise will be able to determine the method for the least impact to GHFF.*
 - *Response – As these times correlate to a particularly vulnerable time of the GHFF's breeding cycle the Department considers that these measures are necessary to reduce potential impacts to the GHFF during the critical breeding season and to reduce the likelihood of significant stress, aborted fetuses, dropped young and the desertion of young. It is understood that an emergency response may need to be undertaken quickly in order for the GHFF not to settle and thus negotiation and approval by the Minister has been included to ensure that human health is considered alongside the management of potential impacts to GHFF.*
6. **One month prior to the commencement of Stage Two** of the **removal of habitat** (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:

- *This was not clearly interpreted; I have attempted to re-write to make the condition clearer.*

*“A report must be submitted to the Minister one month after the completion of Stage One of the **removal of habitat** (as detailed in the **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan**). A report will need to be submitted on the same date of each subsequent year where **removal of habitat** or **emergency dispersal** occurs. The report must address the following points.”*

- 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 and condition** of **Grey-headed Flying-fox** colonies in the **Bairnsdale region**;
- *Please define what information is required regarding ‘status’*
 - *Response – Amended. The condition is intended to encapsulate an overview of the species in the region to indicate changes.*
- 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;
- *Is this specifically for the Mitchell River site as relates to the project or how ESGC will manage other GHFF sites on their managed land, or is it broader?*
 - *Response – This is intended to relate to actions at the Mitchell River Site and future dispersals that are associated with the removal of habitat but may also include other actions that are a consequence of the removal of habitat that are not specifically mentioned, such as ongoing management of roost sites.*
- 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.
- *It is anticipated that the works for Stage One (and each other Stage) will be completed prior to the GHFF arriving on site, but dispersals may be required after the completion of these works given uncertainty of the reaction of GHFF to the action? We would consider that the definition of removal of habitat is purely removal of Poplars, which would only occur when GHFF are absent from the area, resulting in no information pertaining to GHFF to put into the report for Stage One. Perhaps the completion of Stage One report can be considered to be at a later date. If this was as GHFF depart the area, works will be commencing again which leaves little time to inform future management actions for Stages 2 and 3. This needs to be considered.*
 - *Response – The completion of Stage One of the removal of habitat includes all the management actions following that first stage of removal, such as revegetation, determining the GHFF response, improving site amenity and increasing community knowledge (as described in the Management Plan, p. 41). Information will not be able to be finalised until these activities are concluded. If you would like to suggest a date other than one month following Stage One we would be happy to consider (e.g. one month prior to the commencement of Stage Two?).*
 - *If this relates to condition 6(c) the data collected and 6(h) the raw data it is expected that this information would be available at the end of Stage One.*
 - *The period of stop work between 1st August to 30th September severely restricts the capacity of the revegetation component to be completed before the GHFF arrive back on*

site (ie. they are typically absent during this period). The revegetation method proposed contains no machinery, and is purely persons onsite. Would there be capacity to potentially undertake works during this period with limitations (ie no machinery)? Given that we have Stop Work Triggers in place already to identify presence of GHFF at all times whilst workers are onsite, the risk of impact to GHFF is very limited. If we require more time to undertake the revegetation, could this be up to the discretion of D or E to approve on an as needs basis?

- Response – This relates to the timing of works at 10.3.2 of Management Plan and will be considered when approving the Management Plan. Given the stop work condition and the absence of machinery the Department would consider allowing works during this period on a needs basis.

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, 2013*.

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





Proposed 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 Assessment Branch

signature **NOT FOR SIGNATURE – DRAFT ONLY**

date of decision

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. The person taking the action must implement and comply with the **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan**.
 - *If possible, can a condition be added into that will allow EGSC to complete the necessary changes to the Management Action Plan after the decision date, for approval at a later date.*
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;
 - *Council already has in place a 24hr contact service as part of its regular operations. Is a separate line a requirement or will advertising the main Shire numbers suffice given that a 24 hr service already is in operation?*
 - b) Prior to the **removal of habitat** at the **Mitchell River Roost Site** neighbouring Councils are notified of the proposal and provided with contact details to respond to enquiries;
 - *This involves notifying five Councils, 4 of which are located a great distance from the Roost Site – Council needs to understand the rationale for such notifications.*
 - c) Undertake revegetation of long-term **Grey-headed Flying-fox habitat** within the Bairnsdale area, 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 area then revegetation or improvement of **Grey-headed Flying-fox habitat** within the Bairnsdale region must be undertaken; and
 - *Can we please define Bairnsdale 'area' and Bairnsdale 'region'.*
 - *Can some clarification be requested in the condition about where revegetation will occur (ie: Council's own land or any tenure). Who will determine which site is suitable for revegetation and improvement, DEPI and/or DE? What is the role of DE in negotiation and approval?*
 - 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**.
 - *Is this expenditure required over the period of the action – or some other timeframe?*
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**.

- *What are the parameters and requirements around the decision for undertaking a dispersal? Will this information be required to be incorporated into the Management Plan, given the absence of this information with the removal of the Response Plan from the Management Plan? Are the conditions within the Response Plan sufficient to make this decision?*
 - *Time constraints on approval? Can a pro-forma management plan be developed in the time prior to any dispersal occurring (ie. prior to September) for approval by the **Department** as to the information and data required to report sufficiently for a faster turn-around of approval once compiled?*
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.
 - *An emergency dispersal situation may arise during the period of August to September, and is likely between October and March. The restriction on undertaking dispersal during these periods limits the ability of EGSC to respond to an emergency event. Given dispersals are to be supervised by a suitably qualified ecologist, their expertise will be able to determine the method for the least impact to GHFF.*
6. Within one month from the completion of Stage One of the **removal of habitat** (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:

- *This was not clearly interpreted; I have attempted to re-write to make the condition clearer.*

*“A report must be submitted to the Minister one month after the completion of Stage One of the **removal of habitat** (as detailed in the **Bairnsdale Grey-headed Flying-fox Roost Site Strategic Management Action Plan**). A report will need to be submitted on the same date of each subsequent year where **removal of habitat** or **emergency dispersal** occurs. The report must address the following points.”*

- 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) The status of **Grey-headed Flying-fox** colonies in the Bairnsdale region;
- *Please define what information is required regarding ‘status’*
 - 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;
 - *Is this specifically for the Mitchell River site as relates to the project or how ESGC will manage other GHFF sites on their managed land, or is it broader?*
 - 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.
- *It is anticipated that the works for Stage One (and each other Stage) will be completed prior to the GHFF arriving on site, but dispersals may be required after the completion of these works given uncertainty of the reaction of GHFF to the action? We would consider that the definition of removal of habitat is purely removal of Poplars, which would only occur when GHFF are absent from the area, resulting in no information pertaining to GHFF to put into the report for Stage One. Perhaps the completion of Stage One report can be considered to be at a later date. If this was as GHFF depart the area, works will be commencing again which leaves little time to inform future management actions for Stages 2 and 3. This needs to be considered.*
 - *The period of stop work between 1st August to 30th September severely restricts the capacity of the revegetation component to be completed before the GHFF arrive back on site (ie. they are typically absent during this period). The revegetation method proposed contains no machinery, and is purely persons onsite. Would there be capacity to potentially undertake works during this period with limitations (ie no machinery)? Given that we have Stop Work Triggers in place already to identify presence of GHFF at all times whilst workers are onsite, the risk of impact to GHFF is very limited. If we require more time to undertake the revegetation, could this be up to the discretion of D of E to approve on an as needs basis?*
 - *Is there potential to determine the exact content of the required report to be pre-approved by D of E, to ensure that the expectations of both D of E and EGSC are met prior to reporting requirements to ensure appropriate data collection.*
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, DRAFT Strategic Management and Action Plan, East Gippsland Shire Council, November, 2013*.

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





Proposed 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 Assessment Branch

signature **NOT FOR SIGNATURE – DRAFT ONLY**

date of decision

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**.
 - *If possible, can a condition be added into that will allow EGSC to complete the necessary changes to the Management Action Plan after the decision date, for approval at a later date.*
 - *Response – Yes, amended as above.*
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;
 - *Council already has in place a 24hr contact service as part of its regular operations. Is a separate line a requirement or will advertising the main Shire numbers suffice given that a 24 hr service already is in operation?*
 - *Response – Yes, the existing line will suffice as long as this is clearly advertised and an email address is also provided for contact.*
 - b) Prior to the **removal of habitat** at the **Mitchell River Roost Site** neighbouring Councils are notified of the proposal and provided with contact details to respond to enquiries;
 - *This involves notifying five Councils, 4 of which are located a great distance from the Roost Site – Council needs to understand the rationale for such notifications.*
 - *Response – the rationale was to alert neighbouring Councils as to the increased risk of GHFF moving into their areas following the removal of habitat. A letter to notify the Councils will suffice with contact details to allow queries to be answered. If EGSC would like to suggest the most relevant Councils to notify and why we may be able to amend this condition.*
 - 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
 - *Can we please define Bairnsdale 'area' and Bairnsdale 'region'.*
 - *Response – Yes. This has been amended for consistency and defined below. If you have a suggested definition please provide.*
 - *Can some clarification be requested in the condition about where revegetation will occur (ie: Council's own land or any tenure). Who will determine which site is suitable for revegetation and improvement, DEPI and/or DE? What is the role of DE in negotiation and approval?*

- *Response – The condition has been worded so that, depending on where the GHFF relocate to, revegetation works will be chosen at the site most likely to benefit the colony; however, if the GHFF leave the region altogether revegetation or improvement works can benefit the GHFF in the long-term. Whether this land is Council's or any tenure is a matter for the EGSC. It is expected that expert advice will be sought to ensure that the site of revegetation will be of benefit to the GHFF. Who provides that advice is a matter for the EGSC but will need to be justified to the Department prior to approval. The Department's role is primarily in determining that the revegetation proposed is appropriate and will be of benefit to GHFF in the long-term.*
- 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**.
- *Is this expenditure required over the period of the action – or some other timeframe?*
 - *Response – Yes, this expenditure is required over the period of staged vegetation removal to increase community awareness of the GHFF.*
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**.

- *What are the parameters and requirements around the decision for undertaking a dispersal? Will this information be required to be incorporated into the Management Plan, given the absence of this information with the removal of the Response Plan from the Management Plan? Are the conditions within the Response Plan sufficient to make this decision?*
- *Response – The EGSC can make a decision regarding dispersal according to their own requirements; however, the Department will need to consider the individual circumstances of the proposed dispersal and the potential impacts to the GHFF in considering the dispersal plan.*
- *The dispersal plan will not need to be incorporated into the Management Plan, which will be a stand alone document. The Response Plan will form the basis of the dispersal plan but will need to be adapted to the individual circumstances and address the above criteria. The EGSC may choose to use the information in the Response Plan in making a decision as to whether or not a dispersal is desired.*
- *Time constraints on approval? Can a pro-forma management plan be developed in the time prior to any dispersal occurring (ie. prior to September) for approval by the Department as to the information and data required to report sufficiently for a faster turn-around of approval once compiled?*
- *Response – The Response Plan is a good basis for a dispersal plan but will need to address some outstanding matters that have not been addressed, such as the methodology for the dispersal. The key requirements of the dispersal plan are*

captured above in condition 4 and should form the basis of information provided in the dispersal plan.

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.
 - *An emergency dispersal situation may arise during the period of August to September, and is likely between October and March. The restriction on undertaking dispersal during these periods limits the ability of EGSC to respond to an emergency event. Given dispersals are to be supervised by a suitably qualified ecologist, their expertise will be able to determine the method for the least impact to GHFF.*
 - *Response – As these times correlate to a particularly vulnerable time of the GHFF's breeding cycle the Department considers that these measures are necessary to reduce potential impacts to the GHFF during the critical breeding season and to reduce the likelihood of significant stress, aborted fetuses, dropped young and the desertion of young. It is understood that an emergency response may need to be undertaken quickly in order for the GHFF not to settle and thus negotiation and approval by the Minister has been included to ensure that human health is considered alongside the management of potential impacts to GHFF.*
 6. **One month prior to the commencement of Stage Two** of the **removal of habitat** (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:
 - *This was not clearly interpreted; I have attempted to re-write to make the condition clearer.*
- "A report must be submitted to the Minister one month after the completion of Stage One of the removal of habitat (as detailed in the Bairnsdale Grey-headed Flying-fox Roost Site*

Strategic Management Action Plan). A report will need to be submitted on the same date of each subsequent year where **removal of habitat** or **emergency dispersal** occurs. The report must address the following points.”

- 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 and condition** of **Grey-headed Flying-fox** colonies in the **Bairnsdale region**;
- *Please define what information is required regarding ‘status’*
 - *Response – Amended. The condition is intended to encapsulate an overview of the species in the region to indicate changes.*
- 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;
- *Is this specifically for the Mitchell River site as relates to the project or how ESGC will manage other GHFF sites on their managed land, or is it broader?*
 - *Response – This is intended to relate to actions at the Mitchell River Site and future dispersals that are associated with the removal of habitat but may also include other actions that are a consequence of the removal of habitat that are not specifically mentioned, such as ongoing management of roost sites.*
- 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.
- *It is anticipated that the works for Stage One (and each other Stage) will be completed prior to the GHFF arriving on site, but dispersals may be required after the completion of these works given uncertainty of the reaction of GHFF to the action? We would consider that the definition of removal of habitat is purely removal of Poplars, which would only occur when GHFF are absent from the area, resulting in no information pertaining to GHFF to put into the report for Stage One. Perhaps the completion of Stage One report can be considered to be at a later date. If this was as GHFF depart the area, works will be commencing again which leaves little time to inform future management actions for Stages 2 and 3. This needs to be considered.*
 - *Response – The completion of Stage One of the removal of habitat includes all the management actions following that first stage of removal, such as revegetation, determining the GHFF response, improving site amenity and increasing community knowledge (as described in the Management Plan, p. 41). Information will not be able to be finalised until these activities are concluded. If you would like to suggest a date other than one month following Stage One we would be happy to consider (e.g. one month prior to the commencement of Stage Two?).*
 - *If this relates to condition 6(c) the data collected and 6(h) the raw data it is expected that this information would be available at the end of Stage One.*
 - *The period of stop work between 1st August to 30th September severely restricts the capacity of the revegetation component to be completed before the GHFF arrive back on site (ie. they are typically absent during this period). The revegetation method proposed contains no machinery, and is purely persons onsite. Would there be capacity to potentially undertake works during this period with limitations (ie no machinery)? Given that we have Stop Work Triggers in place already to identify presence of GHFF at all times whilst workers are onsite, the risk of impact to GHFF is very limited. If we require more time to undertake the revegetation, could this be up to the discretion of D of E to approve on an as needs basis?*

- *Response – This relates to the timing of works at 10.3.2 of Management Plan and will be considered when approving the Management Plan. Given the stop work condition and the absence of machinery the Department would consider allowing works during this period on a needs basis.*
 - *Is there potential to determine the exact content of the required report to be pre-approved by D of E, to ensure that the expectations of both D of E and EGSC are met prior to reporting requirements to ensure appropriate data collection.*
 - *Response: This will be dependent on what the outcome of the removal of habitat is. The condition identifies the key requirements of information to cover a broad range of outcomes. Given that the outcome of the removal of habitat is not known there is a risk that being too prescriptive may subsequently miss relevant data. A suitably qualified ecologist should be able to advise what data collection will capture the key requirements and provide relevant information.*
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, November, 2013*.

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





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

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





EPBC Ref: 2009/5017

The Hon Matthew Guy MLC
Minister for Planning
Level 20
1 Spring Street
MELBOURNE VIC 3001

Dear Minister

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

I am writing to you in relation to a proposal by the East Gippsland Shire Council to remove 0.5 hectares of poplar trees as part of the East Gippsland Shire Council's poplar removal program, which provide a 'summer camp' roost site for Grey-headed Flying-foxes in Bairnsdale, Victoria.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* and have decided to grant an approval to the East Gippsland Shire Council. A notice of my decision is attached for your information.

If you have any questions about this decision, please contact the project manager, s22 [REDACTED], by email to s22 [REDACTED]@environment.gov.au, or telephone 02 6274 s22 [REDACTED] and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

James Tregurtha
Assistant Secretary
South-Eastern Australia Environment Assessments Branch
April 2014



EPBC Ref: 2009/5017

Ms Kate Nelson
Director Planning & Community
East Gippsland Shire Council
P.O. BOX 1618
BAIRNSDALE VIC 3875

Dear Ms Nelson

Decision on approval

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

I am writing to you in relation to a proposal to remove 0.5 hectares of poplar trees as part of the East Gippsland Shire Council's poplar removal program, which provide a 'summer camp' roost site for Grey-headed Flying-foxes in Bairnsdale, Victoria.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to the East Gippsland Shire Council. The details of my decision are attached. The proposal must be undertaken in accordance with the conditions specified in the approval.

I would appreciate your assistance by informing me when you start the action and also who will be the contact person responsible for the administration of the approval decision.

Please note any plans required as conditions of approval will be regarded as public documents unless you provide sufficient justification to warrant commercial-in-confidence status.

You should also note that this EPBC Act approval does not affect obligations to comply with any other laws of the Commonwealth, state or territory that are applicable to the action. Neither does this approval confer any right, title or interest that may be required to access land or waters to take the action.

The Department has an active audit program for proposals that have been referred or approved under the EPBC Act. The audit program aims to ensure that proposals are implemented as planned and that there is a high degree of compliance with any associated conditions. Please note that your project may be selected for audit by the Department at any time and all related records and documents may be subject to scrutiny. Information about the Department's compliance monitoring and auditing program is enclosed.

The Department has recently published an *Environmental Impact Assessment Client Service Charter* (the Charter) which outlines the department's commitments when undertaking environmental impact assessments under the EPBC Act. A copy of the Charter can be found at: <http://www.environment.gov.au/epbc/publications/index.html>. Should you have any feedback on the environmental impact assessment process, please send them through to ElAclientfeedback@environment.gov.au.

If you have any questions about this decision, please contact the project manager, s22 [REDACTED], by email to s22 [REDACTED]@environment.gov.au, or telephone 02 6274 s22 [REDACTED] and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

James Tregurtha
Assistant Secretary
South-Eastern Australia Environment Assessments Branch
April 2014

cc. s22 [REDACTED], Roadside Pest Plant Officer, East Gippsland Shire Council