

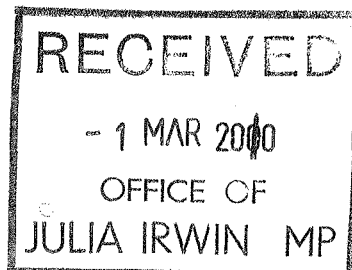
The Hon Peter Garrett AM MP

Minister for the Environment, Heritage and the Arts

26 FEB 2010

C10/714

Mrs Julia Irwin MP
Member for Fowler
Shop 1A
Cecil Hills Shopping Centre
Lancaster Avenue
CECIL HILLS NSW 2171



Dear Ms Irwin

Thank you for your letter of 26 November 2009 concerning the submission of a petition relating to the proposal to relocate Grey-headed Flying-foxes from the Royal Botanic Gardens, Sydney.

The Australian Government's responsibilities under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) protects certain defined matters of national environmental significance. These matters include world and national heritage properties, wetlands of international importance, nationally threatened species and ecological communities, migratory species protected under international agreements, nuclear actions, the Great Barrier Reef Marine Park and Commonwealth marine areas. In relation to environmental considerations, the Australian Government's involvement in any development proposal is confined only to these specific matters.

The trees at the Royal Botanic Gardens, although of state heritage value, are not listed and protected under the national heritage provisions of the EPBC Act. The grey-headed flying-fox is a species listed as vulnerable under the EPBC Act, and therefore is a matter of national environmental significance.

As you may be aware, the proposal to relocate grey-headed flying-foxes from the Royal Botanic Gardens was referred to my department by the Botanic Gardens Trust on 11 December 2008. On 11 January 2009, the proposal was determined to be a controlled action under the EPBC Act. This decision means that the proposal is considered likely to have a significant impact on grey-headed flying-foxes and further assessment and approval under the EPBC Act is required before the proposal can proceed.

There have since been a number of delays as the Botanic Gardens Trust requested that the original decision be reconsidered. The proposed relocation was again determined to be a controlled action and will continue to be assessed by my department through a Public Environment Report. The subsequent decision can be found on my department's web site under the EPBC public notices at: <http://www.environment.gov.au>

On 12 November 2009 the Botanic Gardens Trust made available for public comment the draft Public Environment Report for 30 business days which closed on 23 December 2009.

The Botanic Gardens Trust will now finalise the Public Environment Report to take account of any public comments received and provide my department with the finalised report. A decision on whether or not to approve the proposed action will be made within 40 business days of receipt of the finalised Public Environment Report.

Further to this process, the Botanic Gardens Trust decided to delay the commencement of the proposed relocation until later this year, subject to relevant approvals, to ensure the disturbance of the grey-headed flying-fox colony is avoided when there are dependant young or heavily pregnant females present.

While the historic tree collection in the Royal Botanic Gardens is not listed under the EPBC Act, I can assure you that my department recognises the important scientific, cultural and heritage values of the Royal Botanic Gardens. However, my department is required to balance these considerations with its responsibilities for the protection of threatened species listed under the EPBC Act.

Thank you for writing on this matter.

Yours sincerely

Peter Garrett