GLADSTONE
REGIONAL COUNCIL

Please address all correspondence to The Chief Executive Officer

Contact Officer: Darryl Saw
Our Ref: EM9.3: drls
Your Ref:

19 September 2012

Chairperson
Agricultural, Resources and Environment Committee
Parliament House
Brisbane QLD 4000

-°-JK 021

> RECEIVED
> 2 4 SEP 2012
> AGRICULTURE, RESOURCES AND
> ENVIRONMENT COMMITTEE

Dear Sir / Madam

RE: GLADSTONE REGIONAL COUNCIL - SUBMISSION TO LAND PROTECTION LEGISLATION (FLYING-FOX CONTROL) AMENDMENT BILL 2012

Thank you for the opportunity to make a submission to your Committee on this Bill. Council agrees that legislation should be amended, however the *Land Protection (Pest and Stock Route Management) Act 2002* is not the appropriate legislation to amend for that purpose. Council considers that the more appropriate legislation to amend is the *Nature Conservation Act 1992* and the *Nature Conservation (Wildlife Management) Regulation 2006*.

The *Land Protection (Pest and Stock Route Management) Act 2002* provides for control of declared pest plants and animals and stock routes. Flying-foxes are native Australian animals, not declared pests and the current Bill does not seek to declare these animals as pests.

Admittedly the risk of disease or harm to human health or stock is a biosecurity matter, but this can be adequately dealt with in Division 2 of the *Nature Conservati   (Wildlife Management) Regulation 2006* and the *Nature Conservation Act 1992* if the appropriate amendments were made. Appropriate amendments to those two pieces of legislation should provide for more effective management of flying-foxes to reduce the risk of flying-fox transmitted disease to humans and animals.

The responsibility for control of flying-foxes through the *Land Protection (Pest and Stock Route Management) Act 2002* by local government would be another impost on local governments, who do not have the financial or other resources necessary to administer any additional responsibilities other than those responsibilities already imposed under this Act. This is State legislation and the responsibility to administer State legislation should be borne by State while local government administers local government laws.

Should your Committee's findings recommend continuing with the process to implement the proposed amendments to the *Land Protection (Pest and*

Stock Route Management) Act 2002 and the Nature Conservation Act 1992, Gladstone Regional Council makes the following submission:

Council submits that the Bill should be amended to require a landowner to obtain a permit to destroy a flying-fox, this requirement being to safeguard against the wholesale destruction of the animals.

The Bill in its present form and the accompanying explanatory notes contain several inconsistencies and do raise several questions and anomalies that require rectifying.

Section 96C- Control of flying-foxes contains an inconsistency between an ordinary landowner and a local government landowner. Subsection (1) allows the application of section 96C, if a landowner in a local government area reasonably believes that the removal or destruction of a flying-fox is necessary to reduce the risk of disease or harm to a resident or stock in the local government area.

Subsection (2) permits the (ordinary) landowner to do the following on the owner's land;

(a) to destroy a flying-fox;
(b) to disturb or drive away a flying-fox;
(c) to destroy or disturb a flying-fox roost.

However subsection (3) requires that if the landowner is a local government, the local government must consider the following issues in deciding whether action under subsection (2) is necessary, namely;

(a) the size of the population of the flying-foxes in the local government area;

(b) how long the flying-foxes have been situated in the local government area;

(c) the level of risk associated with the location of the flying-foxes.

In respect of paragraph (c) an example is provided   a flying-fox colony located near a school playground has a higher level of risk than a flying-fox colony located outside a town area.

A landowner (other than a local government landowner) is only required to reasonably believe, in order to take action under subsection (2), whereas a local government landowner must consider the provisions of subsection (3).

In the Achievement of Policy the Objectives section of the Explanatory Notes it is stated that, the Bill places limitations on the killing of flying-foxes by outlining what considerations landowners must employ before taking such action. However this is not the case, as these considerations are legislated for, only in respect of local government landowners, and not in

respect of any other landowner including the State. Council submits that the provisions of subsection (3) should apply to all landowners, not only local government landowners.

Subsection (4) empowers the Minister to direct a local government to take the action under subsection (2), if the local government had decided not to take the action; and the Minister considers the action is appropriate having regards to subsection (3).

A question arises here that, legislation does not exist in respect of a landowner, other than local government landowner who, where a situation exists, has decided not to take action and representations are made by concerned community persons, requesting that action be taken. Unless a suitable amendment is made to section 96C, no direction will be able to be made to the landholder concerned to take the action.

Council submits that any amendment made as suggested should be enforced by the Minister and not delegated to local government to enforce for reasons previously stated.

For any further information please contact Council's Conservation and Rural Land Management Co-ordinator Mr. Darryl Saw on 07 4976 6950, mobile ██████ ██████ or email: DarrylS@gladstonerc.qld.gov.au .

Yours faithfully

STUART RANDLE
CHIEF EXECUTIVE OFFICER