



***Land Protection (Pest and Stock Route
Management) Act 2002 Amendment
Flying Foxes***

Submission

27 September 2012

Submission

The LGAQ welcomes the opportunity to provide a submission on the proposed amendments to the *Land Protection (Pest and Stock Route Management) Act 2002* (LP Act).

Definitions

Part 11 Section 96A 'Flying fox'

The definition of a flying fox captures all *Pteropus* species including two listed as Vulnerable under the Australian Government's *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) (*Pteropus poliocephalus* - Grey-headed flying fox and *Pteropus conspicillatus* - Spectacled flying fox).

As a result of this definition and the note contained in Section 96C, in the event of a complaint being received and a subsequent investigation, there will need to be a requirement for a landholder to be able to provide evidence of the species they have 'driven away' to ensure that they have not contravened the requirements of the EPBC Act,.

Rationale for and feasibility of 'control' of flying foxes

Section 96C refers to the control of flying foxes for the specific purpose of reducing the risk of "disease or harm to a resident...or stock...". The accompanying Explanatory Notes do not establish a scientifically validated rationale for how the driving away of flying foxes will achieve this purpose and contains a number of unsupported and erroneous statements.

There is documented evidence^{1, 2} that dispersal and relocation are excessively costly, resource intensive, ineffective beyond short term outcomes for the mitigation of flying fox impacts and have actually resulted in an increase in the number of impacts and areas impacted.

The proposed amendment's premise that disturbance – destruction, dispersal or relocation – will be effective in reducing the risk of disease, is unproven. The Queensland Centre for Emerging Infectious Diseases scientists are currently investigating Hendra virus infection dynamics in flying foxes, identification of the key biological variables associated with an increased virus prevalence in flying foxes and flying fox, horse and human behaviours/interactions that increase the risk of Hendra virus transmission (*Queensland Government - Agriculture, Forestry & Fisheries web site*). This research is expected to provide much needed data to inform future management policy and implementation decisions.

Further, the only disease known to be directly transferrable to humans from flying foxes is the Lyssavirus. Hendra virus is contracted by humans from horses. The LGAQ is relieved to note there is no proposal to require landowners and local government to 'drive away' horses.

On this basis, the LGAQ considers the proposed amendment as unable to meet the stated policy objectives.

Compliance

An important element of any legislation is the ability of responsible parties to take 'reasonable' steps to comply with the requirements of the Act and its regulations. The proposed amendment cannot reasonably be complied with.

In the very probable event of a complaint and investigation, key elements of compliance are:

- Identification of the species by the landowner to ensure compliance with requirements under the EPBC Act;
- Provision of evidence by the landowner of the risk of disease or harm;

¹ *The outcomes and costs of relocating flying-fox camps: insights from the case of Maclean*, 2010, Billie J. Roberts et al.

² *Ecology and Management of Flying Fox Camps in an Urbanising Region*, 2008, Rainforest CRC, Griffith University, Queensland EPA.

- Provision of evidence by the landowner that other legislative requirements, such as the *Animal Care and Protection Act* requirement for humane destruction, have been complied with.

There are limited ways that will satisfy the law as evidence of compliance:

- Retention of carcasses as proof of species and humane destruction (a health risk in itself); and
- Testing or provision of other documented evidence of a risk of disease or harm.

These options would not be considered reasonable due to the onerous nature and the health risks posed of acquiring the required evidence.

Section 96C (3) (c) requires local governments to determine the “level of risk” associated with the location of flying foxes. A policy and procedure for the determination of “level of risk” will be required from the State to ensure there is a consistent approach applied across the state. The LGAQ believes that the determination of such levels will be difficult to achieve in a scientifically rigorous manner. Without clear criteria that can be applied consistently, the cost in establishing levels of risk would be prohibitive to councils.

Section 96C (4) makes provision for a Minister to direct local government to take action where a local government has decided not to take action.

The LGAQ does not support overruling by a Minister of local government elected representatives that have considered the matter and made a determination not to act. It is considered unreasonable to direct a local government to expend significant resources to undertake actions that cannot be supported by scientific evidence as being effective.

Enforcement

It is noted that the proposal suggests that local governments are to be the enforcement agency.

The Association and councils consulted during the preparation of this submission have significant concerns about the burden on local government of trying to enforce the proposed amendment, due to the difficulties associated with gaining evidence of compliance. Where an individual cannot provide evidence of compliance with legislation, penalties must apply.

This amendment is likely to see local governments captured in an unwinnable situation between irate members of the community lodging complaints about possible non-compliant activities of landowners and irate landowners being fined for taking action they believed they had a right to undertake without an understanding of the responsibility of compliance.

The Association and councils believe there will be numerous complaints received. While there are landowners who are concerned about the risk of disease spread by flying foxes, there are many landowners that believe flying foxes play an important role in maintaining Queensland’s biodiversity who are likely to lodge complaints whenever a landowner takes action to drive away flying foxes.

For further information about other impacts on local government, please refer to Attachment 1.

Recommendations

The LGAQ recommends the following:

1. That the proposed amendment not be passed and that no further proposal to include flying foxes or other native animals in the *Land Protection (Pest and Stock Route Management) Act 2002* be considered by the Newman Government;
2. That the State, in consultation with the LGAQ and Queensland local governments undertake a review of the current permitting system under the Nature Conservation Act, with the view to creating a more time and resource efficient permitting process; and
3. That the review also incorporates the concept of developing regional approaches and long term management plans.

Should you wish to discuss any aspect of this submission, please contact Dorean Erhart, Principal Advisor – Natural Assets, NRM and Climate Change on 3000 2202 or by email at dorean_erhart@lgaq.asn.au.

Greg Hoffman
General Manager – Advocate
Local Government Association of Queensland



Attachment 1
Gold Coast City Council Submission to the LGAQ

Date: 25 September 2012
Contact: Kathleen Bourke
Location: Surfers Paradise
Telephone: (07) 5581 6220
Your reference:
Our reference: CE196/430/05(P3)

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Administration Centres
Ph: +61 7 5582 8211
135 Bundall Road Surfers Paradise
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Local Government Association of Queensland
Attention Ms Dorean Erhart
Principal Advisor – Natural Assets, NRM & Climate Change
PO Box 2230
FORTITUDE VALLEY BC QLD 4006

Dear Ms Erhart

**GOLD COAST CITY COUNCIL SUBMISSION CONCERNING LAND PROTECTION
(FLYING-FOX CONTROL) AMENDMENT BILL 2012**

Thank you for the opportunity to contribute to the Local Government Association of Queensland submission regarding the *Land Protection (Flying-fox Control) Amendment Bill 2012*.

The attached report was presented to Council at its meeting of 14 September 2012. The report content is the result of consultation with key directorates within Council.

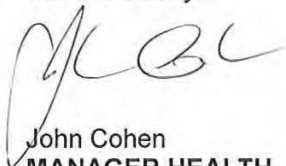
Council considered this report and resolved as follows (CC12.0906.007):

- 1 That Council endorses the attached comments regarding the *Land Protection Legislation (Flying Fox Control) Amendment Bill 2012* (see Attachment 1).
- 2 That Council supports the submission of the comments to the Local Government Association of Queensland.

Please find attached Council's submission which has been included as **attachment 1**.

If you need any further information, or assistance with this matter, **please contact Acting Senior Environmental Health Officer (Specialist) Kathleen Bourke on (07) 5581 6220.**

Yours faithfully



John Cohen
MANAGER HEALTH, REGULATORY AND LIFEGUARD SERVICES BRANCH
For the Chief Executive Officer

cc dorean_earhart@lgaq.asn.au

ITEM 7 **HEALTH, REGULATORY & LIFEGUARD SERVICES**
LAND PROTECTION (FLYING-FOX CONTROL) AMENDMENT BILL 2012
CONSULTATION
CE196/430/05 (P3)

Refer 4 page attachment

1 BASIS FOR CONFIDENTIALITY

Not Applicable.

2 EXECUTIVE SUMMARY

Not Applicable.

3 PURPOSE OF REPORT

The purpose of the report is to seek Council's endorsement for a submission to the Local Government Association of Queensland regarding the *Land Protection Legislation (Flying-Fox Control) Amendment Bill 2012* which is proposed to amend the *Land Protection (Pest and Stock Route Management) Act 2002* and the *Nature Conservation Act 1992*.

4 PREVIOUS RESOLUTIONS

Ex Minute G12.0330.037 refers:

- 1 *That the Chief Executive Officer write to DERM requesting an urgent damage mitigation permit for the control of the bat colony at Loders Creek, Southport, adjoining the Southport Nursing Home and Chirn Park residents.*
- 2 *That any funding required up to a maximum of \$50,000 be provided from Division 6 LAW budget.*

Ex Minute CD07.618.009 refers:

Councillor be informed prior to any future surveys being undertaken, with information being provided such as to who is undertaking the survey, and what questions are being asked.

Ex Minute CC11.1116.011 refers:

That Council approve the community consultation and research to be undertaken in the development of the City-wide Flying Fox Property Management Plan.

Ex Minute G11.0815.005 refers:

- 1 *A Flying Fox Management Plan be developed for the City, in partnership with the Department of Environment and Resource Management, to manage and mitigate the health and nuisance issues associated with identified flying fox colonies.*
- 2 *The funding of \$186,000 identified in the report for the development of a City wide flying fox management plan be approved.*
- 3 *The funding be sourced from a reallocation of existing budgets across the organisation to be identified in the September Budget Review, and transferred to cost centre 459 function 2183 Environmental Health Compliance.*
- 4 *Council further investigate additional funding sources (i.e. grants) to aid in the development of the Flying Fox Management Plan.*
- 5 *A report be brought back to Council that provides an update on the implementation of the adopted recommendations.*

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Ex Minute G11.0808.024 refers:

- 1 *That Council directs the Chief Executive Officer (Director of Community Services) to meet with officers of DERM to discuss requirements to progress assessment of numerous flying fox colonies throughout the city and identify priority works if necessary, to mitigate health and other issues.*
- 2 *That a report be brought back to the next Council meeting that outlines the results of discussions with DERM and provide recommendations in relation to the management of the flying foxes*
- 3 *That the identification of corporate funding for the application and subsequent dispersal costs be referred to the Chief Executive Officer (Director City Governance) and to be included in the above report.*
- 4 *That the Mayor write to the Premier of Queensland to engage DERM officers and scientists to inspect all known colonies on the Gold Coast to undertake tests of the colony flying fox to determine the existence of Hendra virus and the Chief Executive Officer report back to Council.*

5 DISCUSSION

On 21 June 2012, the State introduced the Land Protection Legislation (Flying-Fox Control) Amendment Bill 2012 which is proposed to amend the *Land Protection (Pest and Stock Route Management) Act 2002* and the *Nature Conservation Act 1992* to allow for greater control of Flying-Foxes.

Amendment Bill intent and rationale

The policy intent of these amendments is to empower a landowner to drive away a flying fox roost if the landowner reasonably believes that it is necessary to reduce the risk of disease or harm to residents or stock. The Bill would also empower the Minister to direct a local government to take these actions on Council land, under certain conditions. Such amendments, if passed, could have significant changes to Council's operations, conservation strategies and planning provisions.

It is stated in the explanatory notes for the Bill that the rationale for the proposal is to empower land owners (including local and State government) to take necessary and reasonable action to address the serious health risk presented by increasing concentrations of flying-fox populations in residential areas. It is further stated that there is no existing legislative or regulatory framework for local governments to act on behalf of their community and employ direct action to protect residents from flying-fox populations roosting on land administered by local government.

Key Changes proposed

The Amendment Bill proposes to empower a landholder to destroy a flying fox, disturb or drive away a flying fox, destroy or disturb a flying-fox roost. In the instance where a landholder is not a local government, there are no objective criteria in place to manage the implementation or extent of these actions. Under the current laws, if flying-foxes are impacting on the health and wellbeing of the community or causing damage in a community, landowners or councils can apply to the State Department of Environment and Heritage Protection (EHP) for a damage mitigation permit (DMP) to effectively manage a roost.

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The proposed change to the *Land Protection (Pest and Stock Route Management) Act 2002* potentially allows for the Minister to decide on an action or set of actions that local government must take to address issues relating to flying-foxes.

Summary of Issues

The Bill has been distributed to all directorates for comment. The comments received have been collated and are included in Attachment 1.

The following is a summary of the issues raised:

- The Bill may be in conflict with the provisions of Chapter 36 – Vegetation Management Specific Development Code – *Our Living City Planning Scheme* and Council's *Local Law 6 – Vegetation Management*.
- It is unclear how the Bill would impact any recommendations implemented under the proposed Whole of City Flying Fox Property Management Plan (FFPMP).
- The intent of the Bill as it relates to disease threats from flying foxes appears to be misaligned with current published scientific evidence.
- Current provisions under the State *Nature Conservation Act 1992* provide for applicants (eg. Local Governments) to make application for permits to disperse flying foxes.
- The Bill currently presents no objective criteria for assessment on when flying foxes would be destroyed potentially leading to the unnecessary/inappropriate destruction or dispersal of flying foxes.
- The Bill currently makes provision for the Minister to direct a Local Government to carry out the removal of flying foxes. The Bill is silent on the responsibility for funding such management works which could result in considerable cost to Council. In addition, the Bill is silent on whether the State will accept funding responsibilities for management on State owned land.

6 ALIGNMENT TO BOLD FUTURE VISION, CORPORATE PLAN, OPERATIONAL PLAN

Key Focus Area: 2

A city loved for its green, gold and blue

Outcome 2.2:

Biodiversity is protected

Key Focus Area: 4

A safe City where everyone belongs

Outcome 4.3:

We maintain high quality public health services

Maximise the public health of the community by identifying, protecting and remedying health related hazards and risks.

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7 FUNDING AND RESOURCING REQUIREMENTS

Budget/Funding Considerations

- The implementation of the proposed Bill has not yet been costed. It is anticipated that the costs associated with modifying Council's conservation strategies, operations and planning provisions would be extensive.

8 RISK MANAGEMENT

Currently, flying fox roosts in the city are not highlighted as a corporate risk.

Council's Community Services Directorate is the asset owner of the majority of Council land (parks) that the roosts inhabit. Of the 29 identified roost sites within the city, nine are located solely on Council controlled land, five are located on State owned land and seven are located on private land. In addition to this, a further eight sites are located over a combination of Council, State and private land.

9 STATUTORY MATTERS

Flying foxes and their roost habitat are currently protected in Queensland under the *Nature Conservation Act 1992*.

Council's draft FFPMP requires approval from the EHP under the provisions of the *Nature Conservation (Administration) Regulation 2006* and this would be the mechanism that allows Council to conduct management works at the identified flying fox roosts in the city. It has not yet been confirmed what impact the Amendment Bill would have on the progression and implementation of the plan.

The Amendment Bill appears to be inconsistent with the federal *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act 1999)*. The Bill may also override vegetation protection provisions within Council's planning scheme and local law.

10 COUNCIL POLICIES

Not Applicable.

11 DELEGATIONS

Not Applicable.

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12 COORDINATION & CONSULTATION

Name and/or Title of the Stakeholder Consulted	Directorate or Organisation	Is the stakeholder satisfied with content of report and recommendations
Nigel Greenup, Coordinator Natural Areas Management Unit	Community Services	Yes
Ross Greenwood, Executive Coordinator Parks	Community Services	Yes
John Madigan, Supervisor Animal Management	Community Services	Yes
David Corkill, Manager Strategic Environmental Planning and Policy	Planning Environment and Transport	Yes
Donna Pistol, Senior Lawyer – Legal Services	City Governance	Yes
Peter Rawlings, Executive Coordinator Quality Performance and Compliance	Gold Coast Water	Yes

13 STAKEHOLDER IMPACTS

External/community stakeholder impacts

Property owners (that are located as part of a roost site) – Property owners of land that has been defined as part of a roost will be impacted by the proposed Amendment Bill. The Bill proposes to empower a landholder to disturb or destroy a flying fox roost if the landholder reasonably believes that the removal or destruction of a flying fox is necessary to reduce the risk of disease or harm to a resident of a local government area or stock in a local government area.

Flying fox conservation groups – Conservation groups are primarily concerned with the welfare of the flying foxes. Consultation with representatives of these groups was conducted during the development of the FFPMP and feedback consisted mainly of improving current conservation and education strategies. The Amendment Bill appears to be in conflict with this approach.

Department of Natural Resources and Mines- as asset owners of a number of state owned parks and reserves, this Department may be impacted by the recommendations of the Amendment Bill as they are a key landholder.

Internal (Organisational) Stakeholder Impacts

All relevant internal stakeholders have been consulted, as below.

Parks and Recreational Services Branch (P&R), Community Services Directorate – as asset custodians of a number of parks and reserves, P&R may be impacted by the recommendations of the Amendment Bill in relation to the implementation of any management actions.

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Natural Areas Management Unit (NAMU), P&R Services Branch, Community Services Directorate – as lead agents for management of Council's conservation areas and reserves, NAMU will be significantly impacted by the Amendment Bill in relation to roost management actions. Such actions appear to be in conflict with a number of conservation strategies.

Implementation & Assessment (I&A) – Planning Environment and Transport Directorate – as regulators for vegetation clearing within the city, I&A will be impacted by the apparent conflicts between the Amendment Bill and the provisions within *Local Law 6 – Vegetation Management* and *Our Living City Planning Scheme* which regulate the protection of vegetation within the city. This may result in approvals being granted for vegetation removal that are inconsistent with the local law and planning scheme provisions.

Strategic and Environmental Planning and Policy Branch (SEPP) – Planning Environment and Transport Directorate – facilitates long-term planning and policy development, and focuses on the assessment and compliance with local, State and Federal legislation which regulates our natural and built environment. SEPP also manage Council's Nature Conservation Strategy 2009-2019 which is Council's principal plan for conserving the city's unique biodiversity. The Amendment Bill appears to be in conflict with provisions within Council's *Our Living City Planning Scheme* which regulates the protection of vegetation within the city associated with development. This may require the planning scheme to be amended to overcome any potential conflict between the Bill and the planning scheme provisions.

14 TIMING

The submission will be made to LGAQ on behalf of Council by 21 September 2012.

15 CONCLUSION

On 21 June 2012, the State introduced the *Land Protection Legislation (Flying-Fox Control) Amendment Bill 2012* which is proposed to amend the *Land Protection (Pest and Stock Route Management) Act 2002* and the *Nature Conservation Act 1992* to allow for greater control of Flying-Foxes.

Consultation with key directorates across Council has found that, the Bill, if passed, could have significant impacts to Council and may subsequently require the modification of a number of Council operations, conservation strategies and planning provisions. The Bill appears to be in conflict with a number of Council's Conservation values and management plans. It is unclear what affect the Bill would have on any recommendations forthcoming from the city-wide Flying Fox Property Management plan which is yet to be finalised.

Comments from Council Directorates have been collated (see attachment 1) and it is proposed that they form the basis for an endorsed Council submission to the Local Government Association of Queensland in response to the Bill.

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16 RECOMMENDATION

It is recommended that Council resolves as follows:

- 1 That Council endorses the attached comments regarding the *Land Protection Legislation (Flying Fox Control) Amendment Bill 2012* (see Attachment 1).
- 2 That Council supports the submission of the comments to the Local Government Association of Queensland.

Author:
Kathleen Bourke
Acting Senior Environmental Health Officer
28 August 2012

Authorised by:
Colette McCool
Director Community Services

TRACKS REF: #37238071

ATTACHMENT ONE – Comments provided by key sections within Council that are proposed to be submitted to the Local Government Association of Queensland.

Section / Title	Detail of support or disapproval Please include information or details about possible impact to Council operations, costs, policy position, asset plans, conservation plans, planning initiatives etc.	Suggested amendments Please include what changes you would like to see to the Bill or to the intent of the Bill.	Contact details Should further information be required. Please include: Title, Section, Directorate
Part 11 Section 96A	Methodology to "drive away" provided as light, smoke, electric current or chemicals is a direct quote from the Nature Conservation Act of methodology that should <i>not</i> be permitted. The reference to these techniques may promote and encourage inhuman practices and illegal use of materials and weapons within the community. The use of these methods may cause further nuisance and concern within the community.	Delete reference to these techniques	Coordinator, Natural Areas Management Unit, Parks & Recreation Branch, Community Services Supervising Environmental Planner, EP&C, Planning Environment and Transport
Part 11 Section 96A	The amendments set a precedent in that it allows for control of a naturally occurring species within its natural range without an actual declaration under the legislation. At present, a Damage Mitigation Permit (Under the <i>Nature Conservation Act 1992</i>) is required for any type of disturbance to a native animal or their roost / habitat.	If the State Government wishes to allow the removal or disturbance of native animals and their habitat then it should be through a consistent regulated process that allows for the monitoring of population and habitat loss.	Supervising Environmental Planner, EP&C, Planning Environment and Transport Executive Coordinator, Environmental Health Compliance, Health Regulatory and Lifeguard Services Branch, Community Services
Part 11 Section 96B	<p>This section enables overriding any other piece of State government legislation. This is a concern given the provisions to remove roosts given in 96A as this will conflict with provisions within the <i>Vegetation Management Act 1999</i>, which require the protection of native vegetation throughout the state.</p> <p>Where it could be justified (i.e. where a landholder in a local government reasonably believed that the removal or destruction of a flying-fox is necessary to reduce risk of disease or harm to a resident), then an application could be made for the removal of remnant vegetation protected under the <i>Vegetation Management Act 1999</i> (VMA) for the purpose of 'ensuring public safety'. It would be expected that prudent and judicious review through the Damage Mitigation Permit process in relation to vegetation assessment would occur.</p> <p>However, the modification to the <i>Land Protection (Pest and Stock Route Management) Act 2002</i> that allows for the removal of flying-fox roosts (s96A 'a tree or other place where flying-fox congregate from time to time for breeding or rearing their young') may prevent this from occurring.</p> <p>The reference in s96B(1)(b) that 'this section applies despite any other Act...' may be considered to be inconsistent and potentially in conflict with federal <i>Environmental Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) that seeks to protect the</p>	<p>Delete this section. Any interference or removal of a native animal or their habitat should continue to go through a robust approval process that considers all the relevant scientific and ecological factors.</p> <p>This section should not be inconsistent or conflict with the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (the EPBC Act) or Queensland State legislation including the <i>Vegetation Management Act 1999</i>.</p>	<p>Supervising Environmental Planner, EP&C, Planning Environment and Transport</p> <p>Coordinator, Natural Areas Management Unit, Parks & Recreation Branch, Community Services</p>

Section / Title	Detail of support or disapproval Please include information or details about possible impact to Council operations, costs, policy position, asset plans, conservation plans, planning initiatives etc.	Suggested amendments Please include what changes you would like to see to the Bill or to the intent of the Bill.	Contact details Should further information be required. Please include: Title, Section, Directorate
Part 11 Section 96C	restricted <i>Pteropus poliocephalus</i> . The proposed legislation provides for disturbance and destruction of the animals with no requirement to assess the cumulative impacts on the species either locally or regionally.	Provide a requirement for destruction / disturbance to only occur based on Qld government scientifically based assessment of impacts is undertaken.	Coordinator, Natural Areas Management Unit, Parks & Recreation Branch, Community Services
Part 11 Section 96C	This section is in conflict with the EPBC Act which seeks to protect certain species of the <i>Pteropus</i> genus such as grey headed flying-fox. This species is known to occur in mixed populations within Gold Coast and therefore may be targeted by land owners for removal actions, irrespective of the federal legislation prohibiting such action. These actions may have a significant impact on flying-fox populations in the short and longer term.	If the intent is to remove certain species of flying-fox then the amendment bill should be clear as to which species it is referring to. The bill should not be in conflict with federal legislation.	Supervising Environmental Planner, EP&C, Planning Environment and Transport
Part 11 Section 96C (1)	To remove native animals and their habitat on the basis that a landowner ' <i>reasonably believes</i> ' there is a risk of disease or harm lacks scientific rigor and could be used for mischievous or ulterior motives. Any request to remove habitat or harm an animal should be managed through the State Damage Mitigation Permit process and the EPBC Act referral process to ensure a robust review of the issues prior to damage or harm occurring.	Any removal of flying-fox or their habitat should be managed through a robust approvals process that considers all the factors including the species, population dynamics and proposed vegetation to be removed.	Supervising Environmental Planner, EP&C, Planning Environment and Transport Coordinator, Natural Areas Management Unit, Parks & Recreation Branch, Community Services Executive Coordinator, Environmental Health Compliance, Health Regulatory and Lifeguard Services Branch, Community Services Supervisor Animal Management, Health Regulatory & Lifeguard Services Branch, Community Services
Part 11 Section 96C (1)	This section may lead to increased contact between landowners and flying foxes. Increased contact with flying foxes can increase the risk of disease transmission. This may also cause the splintering of roosts to less appropriate areas.	The current damage mitigation permit process makes provision for applications to disperse flying foxes.	Supervising Environmental Planner, EP&C, Planning Environment and Transport Executive Coordinator, Environmental Health Compliance, Health Regulatory and Lifeguard Services Branch, Community Services
Part 11 Section 96C (2)	S96A defines that a ' <i>flying-fox roost means a tree or other place where flying-foxes congregate from time to time for breeding or rearing their young</i> '. S96C(2) allows a landowner to ' <i>destroy or disturb a flying-fox roost</i> '. As mentioned above, this could result in the removal of remnant vegetation in contravention of the <i>Vegetation Management Act 1999</i> . It also contravenes provisions of Council's Local Law 6 Vegetation Management, and also the Vegetation Management Code within the Our Living City Planning Scheme that protect vegetation on public and private land within the city. This will inevitably cause confusion with the discrepancies within state legislation and also with local law and planning scheme requirements.	State government should be encouraging local governments to create a flying-fox property management plan under the provisions of the <i>Nature Conservation (Administration) regulation 2006</i> , to ensure a considered approach to flying-fox management within local government areas. It is unlikely that the removal of individuals will have a significant impact on any neighbourhood issues that are being experienced by land owners. Leaving management up to individual land owners will not result in a well coordinated response to flying-fox population and habitat management.	Supervising Environmental Planner, EP&C, Planning Environment and Transport Executive Coordinator, Environmental Health Compliance, Health Regulatory and Lifeguard Services Branch, Community Services

Section / Title	Detail of support or disapproval Please include information or details about possible impact to Council operations, costs, policy position, asset plans, conservation plans, planning initiatives etc.	Suggested amendments Please include what changes you would like to see to the Bill or to the intent of the Bill.	Contact details Should further information be required. Please include: Title, Section, Directorate
Part 11 Section 96C (4)	This section regarding the Minister directing local governments to take action appears to be in conflict with the explanatory notes that <i>'This legislation restores autonomy of land management practices back to local government authorities'</i> .	If the intention is to allow local governments the autonomy to manage their land then section 96C(4) should be removed.	Supervising Environmental Planner, EP&C, Planning Environment and Transport
Part 3 Clause 6	Omits restrictions relating to flying-foxes and flying-fox roosts. Not Supported due to impacts on threatened species Grey-headed Flying Fox. Does not support Council's commitments to Threatened Species research and management under Nature Conservation Strategy. Also current Nature Conservation Code operating within the Planning scheme seeks to ensure the conservation of rare or threatened fauna, and promotes environmental design measures that support the conservation and enhancement of the City's biological diversity.	Do not support this removal in the current form due to the it impact may have on Grey-headed flying fox <i>Pteropus poliocephalus</i> currently listed as vulnerable under the EPBC Act (Federal Act). Use of qualified appropriate person to identify species and undertake necessary actions.	Environmental Planner Implementation & Assessment Branch, Planning Environment and Transport
Whole of proposed amendment	The intent of the legislation as described in the explanatory notes appears to be to minimise the risk of disease (real or perceived) to the community and to "establish resident's rights and fulfil Government's duty of care" to minimise risk. However, the majority of complaints regarding flying foxes in urban areas historically relates to the "nuisance" issues of noise, smell and droppings on vehicles, furniture etc. The "nuisance" value of flying foxes can be significant, whereas scientific evidence suggests that the threat from disease is not.	The legislation needs to state that its intention is to alleviate the "nuisance" value that large colonies of roosting flying foxes can cause to urban communities, rather than as a means to protect "residents and their families from a reasonable threat of fatal disease", when the risks of contracting such diseases in a normal urban setting are considered to be low.	Coordinator, Natural Areas Management Unit, Parks & Recreation Branch, Community Services Executive Coordinator, Environmental Health Compliance, Health Regulatory and Lifeguard Services Branch, Community Services
Whole of proposed legislation	The thrust of the legislation is based on the premise that Local Government Authorities (LGA's) have a responsibility for the management of flying foxes across the State. Given that wildlife are deemed to be the property of the Crown and their management is a state responsibility, it would seem reasonable to assume that the level of LGA responsibility on this matter would be minimal	The legislation needs to recognise that native wildlife are the responsibility of the State, and to ensure that any LGA actions required are adequately compensated for by the state	Coordinator, Natural Areas Management Unit, Parks & Recreation Branch, Community Services Environmental Planner, Implementation & Assessment Branch, Planning Environment and Transport Supervisor Animal Management, Health Regulatory & Lifeguard Services Branch, Community Services Executive Coordinator, Environmental Health Compliance, Health Regulatory and Lifeguard Services Branch, Community Services
Whole of proposed legislation	No mention about the State's obligations with respect to flying foxes/colonies on crown land.	State should demonstrate how they propose to deal with such issues	Supervisor Animal Management, Health Regulatory & Lifeguard Services Branch, Community Services
Whole of proposed legislation	The ability for landowners to actively disperse flying foxes from their land could result in flying fox colonies being relocated to other private properties and which could present an elevated impact to persons or property. How is the liability associated with these		Executive Coordinator, Parks and Recreational Services Branch, Community Services Supervisor Animal Management, Health Regulatory &

Section / Title	Detail of support or disapproval Please include information or details about possible impact to Council operations, costs, policy position, asset plans, conservation plans, planning initiatives etc.	Suggested amendments Please include what changes you would like to see to the Bill or to the intent of the Bill.	Contact details Should further information be required. Please include: Title, Section, Directorate
	actions to be considered given that dispersal under the proposed Bill could directly impact other persons.		Lifeguard Services Branch, Community Services
Whole of proposed legislation	Impacts to GCW's operations would be minimal, however if colonies existed at wastewater treatment plants or other GCW operational sites, GCW would not support the disturbance or removal of colonies by anyone other than appropriately trained contractor or without scientifically based assessment of impacts.	Use of qualified appropriate person to identify species and undertake necessary actions. Development of a management plan for approval by the state (EHP).	Coordinator Quality and Environment Gold Coast Water

ITEM 7 **HEALTH, REGULATORY & LIFEGUARD SERVICES**
LAND PROTECTION (FLYING-FOX CONTROL) AMENDMENT BILL 2012
CONSULTATION
CE196/430/05 (P3)

COMMITTEE RECOMMENDATION CC12.0906.007
moved Cr La Castra **seconded Cr Robbins**

- 1** That Council endorses the attached comments regarding the *Land Protection Legislation (Flying Fox Control) Amendment Bill 2012* (see Attachment 1).
- 2** That Council supports the submission of the comments to the Local Government Association of Queensland.

CARRIED