

# Land Protection Legislation (Flying-fox Control) Amendment Bill 2012

## Explanatory Notes

### Short Title

The short title of the bill is *Land Protection Legislation (Flying-fox Control) Amendment Bill 2012*.

### Policy Objectives

The *Land Protection Legislation (Flying-fox Control) Amendment Bill 2012* empowers 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. The Bill also removes s88C of the Nature Conservation Act 1992 that applies penalties for the taking or handling of flying foxes and disturbance of flying-fox roosts.

### Reasons for the Bill

Flying-fox populations are known to carry viruses deadly to humans: the Australian Bat Lyssavirus which is closely related to common rabies lyssavirus; Salmonella; leptospirosis; Sars; and Hendra virus.

The Australian Bat strain of Lyssavirus has caused two human fatalities since it was discovered in Australia in 1996.

More concerning is the growing number of Hendra virus outbreaks amongst horse populations and the increased exposure to humans as a result. This virus has caused over 70 horse fatalities and four human fatalities since 1994. That is a 75% fatality rate in horses and 60% fatality rate in humans. The recent discovery that the virus can be transmitted to dogs further escalates the risk to humans.

The emerging conditions of rising flying-fox populations, especially black flying-foxes, in urban areas of Queensland and subsequent increased exposure of domestic animals to flying-foxes and the associated risk to human life necessitate review of legislation limiting dispersion and removal methods of flying-fox populations from residential settings.

It is necessary to place appropriate prioritization on the risk of contracting a fatal disease as a result of community exposure to flying foxes against the environmental effect of reduced flying-fox populations.

## **Achievement of Policy Objectives**

Management of flying-foxes has been encumbered with penalties for intentionally or accidentally disturbing, harming or killing flying foxes. As a result many dispersal techniques suggested have been prohibited and flying-fox numbers have doubled in the last five years.

The *Land Protection Legislation (Flying-fox Control) Amendment Bill 2012* acknowledges the failure of existing legislation to protect residents from disease borne by flying-foxes and permits landowners and local government to take necessary action to remove this threat. The Bill places limitations on the killing of flying foxes by outlining considerations landowners must employ before taking such action.

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. This legislation restores autonomy of land management practices back to local government authorities.

## **Alternative Ways of Achieving Policy Objectives**

Management of other flying-fox related issues such as netting crops to limit crop damage caused by flying-foxes are cost-prohibitive for most farmers and due to the restrictive nature of s.88C of the Nature Conservation Act 1992 many proposed dispersal methods are deemed illegal.

Approved dispersal methods have proven unsuccessful in the long term with flying-foxes continuing to return to established urban roosts in accordance with breeding cycles.

## **Estimated cost of government implementation**

The cost of controlling flying-foxes will be carried by the relevant local government authorities and individual landowners. It is anticipated the cost of a public awareness campaign by both State and Local Government to ensure communities are informed of these changes will be minuscule compared to the current cost of flying-fox management.

## **Consistency with fundamental legislative principles**

Residents have the right to protect themselves and their families from a reasonable threat of fatal disease by appropriate action which is proportionate to the threat. All levels of Government have a duty of care to empower residents to exercise that right. This bill establishes resident's rights and fulfills the Government's duty of care while ensuring effective considerations are in place to prevent the wholesale slaughter of flying-foxes.

## **Consultation**

Extensive consultation and research has been conducted on the impact of flying-foxes in urban areas as well as the impact of large colonies to crop production in agricultural areas. Residents forced to tolerate the presence of tens of thousands of flying foxes and the associated risk of disease are clear in their demands to have flying foxes removed from their communities by whatever means necessary.

## **Consistency with other jurisdictions**

If a colony consists of grey-headed or spectacled flying-foxes any new flying-fox management strategies may require approval from the Commonwealth under the *Environment Protection and Biodiversity Conservation Act 1999*.