



Tolga Bat Hospital



Mackay Conservation Group



Lubee Bat Conservancy
Saving Bats. Conserving Ecosystems.

Submission on A new approach to managing flying-fox roosts

June 2013

The interests of both flying-foxes and people are important and compatible.

The 12 groups listed here consider the proposed new approach to be extremely poor policy for people and flying-foxes and recommend it be rejected for the following reasons (expanded below):

- It lacks a clear rationale apart from the political one of avoiding responsibility for a contentious issue.
- There is no evidence it will help resolve genuine or perceived problems with urban flying-fox camps; to the contrary, it is likely to worsen problems and waste public funds.
- It is likely to lead to outcomes that are contrary to the public interest.
- It is likely to lead to outcomes contrary to ecological sustainability and animal welfare.
- It has been derived without any consultation with important stakeholders and will exclude them from future decision-making.
- The proposed code of practice won't prevent harm to flying-foxes and will facilitate unwarranted dispersals.

The discussion paper is big on motherhood statements but short on vital information such as proposed regulatory changes and the specifics of the proposed code of practice.

Lack of rationale

The genuine problems with urban flying-fox camps are this:

- For a few people who live in the vicinity of a flying-fox camp, there can be some loss of amenity due to noise and smell.
- For a few businesses in the vicinity of a flying-fox camp, there may be some loss of income.

These problems involve a very small subset of urban camps and a very small number of people, in many cases for a few weeks or months. Foundational questions for the development of a sound policy are: How many camps, how many people and how many businesses are genuinely affected, to what degree and for how long? We estimate there are genuine non-trivial problems at fewer than a dozen camps affecting some dozens of people

and fewer than 10 businesses overall. The genuine problems with urban camps are outweighed by perceived, imagined or concocted problems, often promoted by irresponsible fear-mongering about disease risks. Concoctions or imaginings are not a proper basis for good public policy.

Recommendation:

Identify the specifics and quantify the extent of problems associated with urban flying-fox camps as the basis for developing a policy to address genuine problems.

Lack of solutions

The policy does not define what constitutes a ‘solution’ to problem or unwelcome urban flying-fox camps but implies that facilitating dispersals is a primary solution. As the government well knows and has been stating publicly for some years, dispersals generally do not work, they waste a considerable amount of public money and generally perpetuate community conflict because they shift the ‘problem’ elsewhere. The previous policy rightly recognised that education was key to resolving most problems with urban flying-fox camps, and that dispersals should be a rarely used last resort. The statement about education in the discussion paper is meaningless in the absence of any education strategy or resources for education and with the policy’s focus on dispersals. Placing responsibility in local councillors who can and often do ignore expert advice or don’t have the resources to obtain expert advice, and who will be subjected to strong local pressure to get rid of flying-fox camps will inevitably lead to poor decisions. Consultancy firms are currently touting for work in this area and could mislead councils about the potential for successful outcomes from dispersals.¹

Recommendation:

Develop a new solutions-focused, evidence-based policy that recognises dispersals as a generally ineffective approach to unwelcome flying-fox camps and prioritises education and practical measures to mitigate impacts.

What needs to be taken into account for a solutions-focused policy?

Flying-fox biology

- Food is the main driver for flying-fox movement, and dispersals are unlikely to drive flying-foxes far from a food source (most dispersals result in movement of <1km).
- Flying-foxes show strong fidelity to roost sites.
- Available roosting sites have been reduced or encroached on due to clearing and urban expansion.

What works?

- Education: thousands of Queenslanders demonstrate it is possible to live peaceably and safely near a flying-fox camp.
- Local planning to protect roost sites and buffers and limit development in the close vicinity of camps.
- Assistance to affected residents (eg double glazing, covers for vehicles and pools).
- An assessment tool outlining all relevant considerations, risks and costs, and prioritising alternatives to dispersals.

When are dispersals (including camp destruction) likely to work?

- Nudging or pushing along a continuous vegetation corridor (as occurred in Melbourne) but repeat action may be required in future.
- When there is only one potential roosting site in town and it is modified or destroyed to prevent re-occupation (as occurred in North Eton) but repeat action may be required in the future.
- When there are alternative nearby existing roost sites (as in Warwick).
- When new nearby roost sites are created (no guarantees).

¹ One consultancy firm advertising for work in this area is selling ‘Bat Relocation products’.

Contrary to the public interest

*The expression “in the public interest” directs attention to that conclusion or determination which best serves the advancement of the interest or welfare of the public, society or the nation and its content will depend on each particular set of circumstances.*²

Unlike decisions made under the Nature Conservation Act, the new approach will not require decisions to take the public interest into account. The public interest requires a focus on interests beyond those of the few people living near camps. It is a fabrication to say that bats have previously been put before human health and wellbeing. Freely permitting dispersals will be contrary to the interests of many people – when it causes prolonged neighbourhood disturbance with noise and smoke, when it results in a problem and conflict being shifted elsewhere, when it causes division and conflict in communities, when it wastes taxpayer funds (including scarce environmental resources), when it adversely affects wildlife-valuing residents for whom flying-foxes are a vital part of their quality of life, and when it is inconsistent with humane treatment of animals. It is not in the public interest to invest local governments with responsibilities for which they have no expertise.

Recommendation:

Develop a new policy that protects the public interest, including in reducing conflict associated with urban flying-fox camps, preventing the shifting of problems and waste of public money.

Contrary to ecological sustainability and animal welfare

Conserving biodiversity and the humane treatment of animals are in the public interest and important in their own right. An increase in dispersals resulting from the implementation of this policy will result in increased stress on flying-foxes and potential disruption of breeding cycles. Combined with other impacts resulting from loss of habitat and increased frequency of extreme climate events, they will add to deleterious outcomes for flying fox populations. Poorly executed or poorly timed dispersals will increase the risk of harm and injury to individual animals. The main victims are likely to be dependent young incapable of flight stranded in trees. As noted below ('Deficient code of practice' section), the policy provides little protection against such inhumanity, and actions are proposed to be exempt from the Animal Care and Protection Act. Importantly, this permissive policy is founded on and will further foster intolerance of flying foxes. As a result, both conservation and animal welfare problems will be further exacerbated by an increased risk of illegal harm of these animals.³

Recommendation:

Develop a new policy that aims to protect human health and wellbeing and flying-fox welfare and conservation, recognising that these aims are compatible.

Alienation of important stakeholders

This policy was developed in breach of an explicit commitment by the environment minister that flying-fox advocates would be consulted about any proposed changes in law and policy on flying-foxes. Much worse, the changes will exclude the public and those who act in the interest of flying-foxes from any say in decisions to disperse or destroy camps. This extremely brief consultation is the only formal opportunity for public comment on the policy but is focused only on limited aspects of the policy, not on the policy itself. Contrary to some statements, this policy is not a result of an election promise, and in June 2012, the environment minister said devolution to local government was not being contemplated.

² *McKinnon v Secretary, Department of Treasury* (2005) 145 FCR 70

³ Dominique Thiriet (2010) 'Flying Fox Conservation Laws, Policies and Practices in Australia - A Case Study in Conserving Unpopular Species', *Australasian Journal of Natural Resources Law and Policy* 13(2): 161.

The new policy is likely to increase the burden for wildlife rescue and care organisations, which have already been detrimentally affected by the unjustified hysteria about flying-foxes. The government relies on these voluntary organisations to conduct an essential public service (and financially benefits from it) but completely disregards their interests in this policy.

The lack of consultation in policy development and proposed for future decision-making about urban camps is contrary to the requirement in the Nature Conservation Act that it 'is to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, landholders and interested groups and persons, including Aborigines and Torres Strait Islanders'.

Recommendations:

Hold meaningful consultation with those who act in the interests of flying-foxes (and have helpful expertise) before a revised policy is developed.

Recognise wildlife rescue and care organisations as high priority stakeholders who provide a substantial public benefit and whose interests must be considered in a revised policy.

Ensure that processes for decisions about flying-fox camps include best practice elements of community engagement, including meaningful and timely public consultation with the range of stakeholders, and transparency, including publication on the internet of all relevant documents and proposals.

Deficient code of practice

The proposed code of practice does not warrant that name for its requirements as outlined in Appendix 2 are pathetically scant. It would allow local governments to disperse any urban camp with no justification, no consultation, no consideration of consequences for other people and flying-foxes, no monitoring or reporting of outcomes and no requirement to take responsibility for consequences, particularly beyond a local government boundary. The stricter conditions that the Commonwealth has imposed for some grey-headed and spectacled flying-fox camps will hopefully provide some limits in some places.

The code of practice is silent on the most important issue – under what circumstances it is justified to disperse camps and what should be considered in these decisions. The code lacks any requirements to assess whether it is in the public interest to disperse or destroy a flying-fox camp and to assess the risks of dispersal – for flying-foxes, people elsewhere, including in other local government areas. It does not require local government to take responsibility for adverse consequences.

The code lacks basic elements of good process – transparency, requirements for public consultation, for monitoring and reporting the outcomes of dispersals.

The code of practice is shockingly bereft of basic protections for animal welfare that have been considered essential for dispersals – in particular, that dispersals must not proceed at times when there is a high risk of harm to flying-foxes (when there are dependent young and when females are heavily pregnant); and there must be a vaccinated vet or wildlife carer available and capable of rescuing injured or young flying-foxes and to advise when animal welfare is compromised. This latter requirement is also in the interests of human welfare because of the greater risks of interactions between people and flying-foxes during dispersals. The requirement to stop a dispersal if it results in injury or death of a flying-fox is important as one safeguard but could be of limited value in preventing adverse animal welfare outcomes, particularly because a lack of oversight by the state government will result in that being ignored and because the chaos of some dispersals makes it difficult to discern. It will depend on whether the person in charge has an adequate knowledge of flying-foxes to be able to distinguish dependent young and distressed flying-foxes, or is advised by someone who does have such knowledge. The lack of prescription in the discussion paper about the level of knowledge required of a person

'knowledgeable about flying-fox behaviour' does not provide confidence. The code of practice also fails to specify that the so-called knowledgeable person must have authority to stop a dispersal.

Recommendations:

(subject to the over-riding recommendation that devolution to local governments is rejected)

Provide a complete draft of a code of practice for public consultation – the outline in appendix 2 is much too vague.

Make sure that the code is enforceable, with adequate penalties for breaching the code

Make sure that the code clearly identifies who is liable in cases of a breach. This is particularly important if a council is relying on a large number of residents to conduct dispersal activities.

Outline an assessment process that must be followed when councils make a decision about flying-fox camps that incorporates standard elements such as public consultation, and the consideration of risks of established camps and of dispersal based on expert advice.

Specify that the public interest must be considered in decisions about urban camps and develop criteria for the public interest, including the interests of people who live in alternative camp locations (including outside the local government area), those who conduct wildlife rescue and care services, those who appreciate living with flying-foxes, and those with concern for the environment and animal welfare more generally.

Develop animal welfare provisions that will prevent harm to flying-foxes during dispersals, including prohibiting dispersals during times when there is a high risk of abortion or separation of young from their mothers or when there are food shortages, and requiring the presence of a veterinarian or wildlife carer with the experience to assess welfare status of flying-foxes and the authority to stop a dispersal when there is risk of injury or death to flying-foxes.

Require councils to provide public notification of all planned dispersals at least 7 days in advance.

Require councils to notify and consider the views of other local governments if there is a risk that dispersal will result in flying-foxes shifting to other local government areas.

Specify flying-fox knowledge and experience criteria that must be met by those who coordinate or have authority over the coordinator of dispersal actions.

Require monitoring of and public reporting on the costs and outcomes of all dispersals.

Additional recommendations

DEHP monitor all dispersals and publicly report every 6 months on the numbers conducted and their outcomes.

Develop and properly fund a flying-fox education program with the aim of eliminating the pressure for unnecessary dispersals and reducing community conflict about flying-foxes. This should include providing resources for community groups to conduct education, in recognition of their expertise and effectiveness.

Require all council officers advising on flying-fox camps and any coordinators of dispersal to attend training programs about flying-foxes or have employed recognised experts to advise or coordinate.

If individuals apply for a permit, DEHP must seek advice from the council (the discussion paper only says it will consider their views).

Reduce the 1 km buffer around the proposed UFFMA to 300 metres, which exceeds the maximum distance at which a flying-fox camp would impact on residents.

Do not devolve authority to local governments to disperse non-urban camps.

Response to questions in discussion paper

Q1: No. For reasons outlined above.

Q2: No. The impacts of urban flying-fox camps do not extend beyond 300 metres at most.

Q 3: No. For reasons outlined above.

Q4: No. It needs to include:

- Prohibition of dispersals during recognised times of high risk of abortion and separation of young from their mothers.
- Prohibition of dispersals during times of food shortages for flying-foxes.
- A definition of a person 'knowledgeable about FF behaviour' as a rabies-vaccinated veterinarian or wildlife carer with relevant flying-fox experience, with authority to stop a dispersal when there is a risk of harm to flying-foxes.
- Limits to the extent of dispersal activity permitted, including the number of consecutive days and the total number of days in any one period. Repeated ongoing harassment should not be permitted.

Q5: The only ethically and legally defensible approach is to not permit dispersals when there are dependent young at risk. Abandoned young will normally be in trees too high for carers to access, whether to catch the young for care or for euthanasia. Alternatively, they will be dropped by their mothers in these urban areas and are likely to be encountered by curious school children. Either way, this policy requires the full support of rabies-vaccinated individuals experienced in handling flying foxes. Permit holders would need to meet the costs of such a service. Veterinarians are unlikely to comply with requests for euthanasia.

Endorsing groups

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