

EUROBODALLA SHIRE COUNCIL

PUBLIC FORUM

All members of the community who have registered have been advised that they have a **maximum of five minutes** to put their case.

Ordinary Meeting of Council on 10 May 2016

Name	Subject/Comments
Agenda Items – 10.00am	
Trish Hellier	M16/003 Grey Headed Flying Foxes
Peter Campbell, PCA for the development	PSR16/014 M386/12 – Residential Accommodation Units (33) and General Store – Lots 26, 28 and 30 Wharf Road, Batemans Bay

Good Morning Mayor Brown, elected Councillors, General Manager, Staff, people in the Gallery and those comfortable live streaming at home, and my Mum watching from above. My name is Patricia Hellier from North Batemans Bay. MR16/003 Headed Flying Fox Camp and Batemans Bay Flying Fox Dispersal Plan

My statement reflects my observation of this extra ordinary problem, and recently I observed problems with the Flying Foxes in Lennox Head, Ballina and in Alstonville. While visiting the area there was an article on television where a caravan park in Woolgoolga where the permanent residents had been invaded with the Grey Haired Flying Foxes, the problem had extended south to Coffs Harbour and we are all aware that there are many other locations effected obviously not to the extent to that of this camp in Batemans Bay and beyond and it has been described as "unprecedented".

Unfortunately ,there are those who I believe have only focused on what they believe is "what the Council has not done – instead of researching what the Council did last year" with a lot of misinformation being circulated even though the consultant's report is on the Council's Web Site.

I live at North Bateman's Bay we have the Flying Foxes in our area, in our trees on our land and have done so for the last 2 years or more and we are on tank water. I personally take exception to this Media Release: Bat Shit Bay – Brown Must Go - by Clr. Leslight and Clr. Innes stating "There was not one affected resident involved and the only independent community member, was an "observer" living north of the Bay " It is well known that these two Councillors are referring to me and I will reiterate I live at North Batemans Bay not North of the Bay, I believe my home is closer to the affected area of Batemans Bay than Clr.Leslight who I know lived in a rented flat in Batehaven, and I have been told by a neighbours of Cl. Innes that there is no Flying Foxes at Nelligen, I am fully aware of how Clr. Leslight will use a situation to try and mislead the voters of this shire for his own benefit and this is a prime example and that was one of the reason that my husband and I formally withdraw our support from Milton Leslight on the 3rd April 2015 – I would add last year in packing the car one night we did not realise that a "Flying Fox had entered our home" and on our return some 3 days later we encountered a dead Flying Fox on the floor, we certainly have had our experiences with the Flying Foxes

At a meeting with the General Manager and staff late August last year I raised the issue of the Flying Foxes along with a number of other issues that had been brought forward to our group Eurobodalla Concerned Citizens, I was shocked when the General Manager informed me that not one person from the community had put their hand up to join a committee over this very important issue and that there was a meeting the next day at the community centre in Batemans Bay. The next day I rang and asked if I could sit in at the meeting as an observer. I went to that meeting, Clr. Innes put in an apology for this meeting and apart from Mayor Brown there was no other Councillor in attendance.

A roster was organised to get community feedback and I put my name down for 3 sessions at the village centre and a session at the Community Centre. At no stage while I was in attendance did I see either Clr. Leslight or Innes at these session to witness how the Consultant interacted with the community. To Robyn Innes credit she did attend and give her views, it was very hard to get members of the community to comment and the session I attended at the Community Centre not one person attended. The common view from those that did take the time to comment and place

submissions in was that people wanted something done but they were very concerned where these Flying Foxes would end up all were NIMBY's (not in my back yard).

Clr Innes declared a conflict of interest last year when this issue was raised due to the fact that her mother was directly affected and she did not participate in the meetings, debate or voting on this issue and yet at the very last Council meeting on the 26th April 2016 she remained in the meeting and she actively participated in the debate WHY?.

I have now come to the conclusion that given this year the Flying Foxes have invaded the suburbs had these people come out and support those people living around the water gardens and if the community actively engaged in this issue as a "whole" there may have been a different result.

I have done some research and spoken to a horticulturist and he has told me that the "flowering gum" have a 7 year cycle and that he believes they are currently in this cycle, those trees that are flowing are "flourishing" and will continue to do so for the next 2 months and he was of the opinion that the Flying Foxes would remain until the "flowering period had finished".

For the last two weeks every time I have been in Batemans Bay which has been on average every day I have visited the water gardens and the last couple of day I have noticed that the outer section of this area that was previously covered with the Flying Foxes they are no longer there – now whether it was the drop in temperature last week over night to 5 degs. or the fact that they have stripped the foliage in the trees and moved on I do not know.

Each time I have visited the area there has been people there – and last weekend 3 cars pulled up loaded with people they all walked straight into the gardens and thought it was a marvellous site ,all with cameras in hand obviously tourists – hopefully we may have gained some tourist dollars with the media attention draw to this issue. The suggestion to fence the gardens off perhaps some consideration could be given to a "viewing platform" be left as despite what some people think and say about the Flying Foxes others see them in a different light and at Taree there is a "Flying Fox Sanctuary"

I have read the Consultants Dispersal Plan – I do question now that Andrew Constance and Ann Sudmalis being involved are they trying to cut through the red tape over this situation?

Given that there is a figure of 6.2 million for the dispersal with no guarantee that it is going to work I have to ask if the local Aboriginal's have been consulted over this issue.

Given the financial situation that is now placed on our community I would also ask the Councillors to place a rescission motion in on NOM16/004 Southern NSW Marine Gateway as I believe this \$50,000.00 is much needed funds to help this dispersal.

Finally I would like to say I am disgusted as to the behaviour of some individuals at the Community Centre on the 27th April and I know that many people felt they could not get up and speak on other issues concerning them given the hostility in the room and I believe this flyer that was distributed by Clr Leslight was a to create conflict in this community and I believe that both Clr. Leslight and Clr. Innes are using this situation for what they see is their own political benefit as it is commonly know they both would like the Mayors position at the upcoming Council election .

I firmly believe our Community want professional representation and do not want elected representatives who put their names to MEDIA RELEASES HEADED – BAT SHIT BAY – BROWN MUST GO! You cannot force your opinions on others.

The community want Councillors elected who can put positive solutions to issues rather than those that are actively inciting personal attacks on other individuals .

FOOT NOTE – I AM SITTING HERE TYPING THIS STATEMENT IN DARKNESS UNDER A PORTABLE LIGHT AT 9.53PM ON MONDAY 9TH MAY 2016 – NO POWER HOPING THE BATTERY WON'T RUN OUT ON MY COMPUTER AND THAT I CAN GET MY STATEMENTS COPIED –PERHAPS THE FLYING FOX REVENGE? – POWER WAS OUT UNTIL 4AM 10TH MAY 2016 LINES DOWN DUE TO HIGH WINDS.

**REMOVAL OF BATS MEETING @ MUSEUM OPPOSITE CAR WASH
BATEMANS BAY**

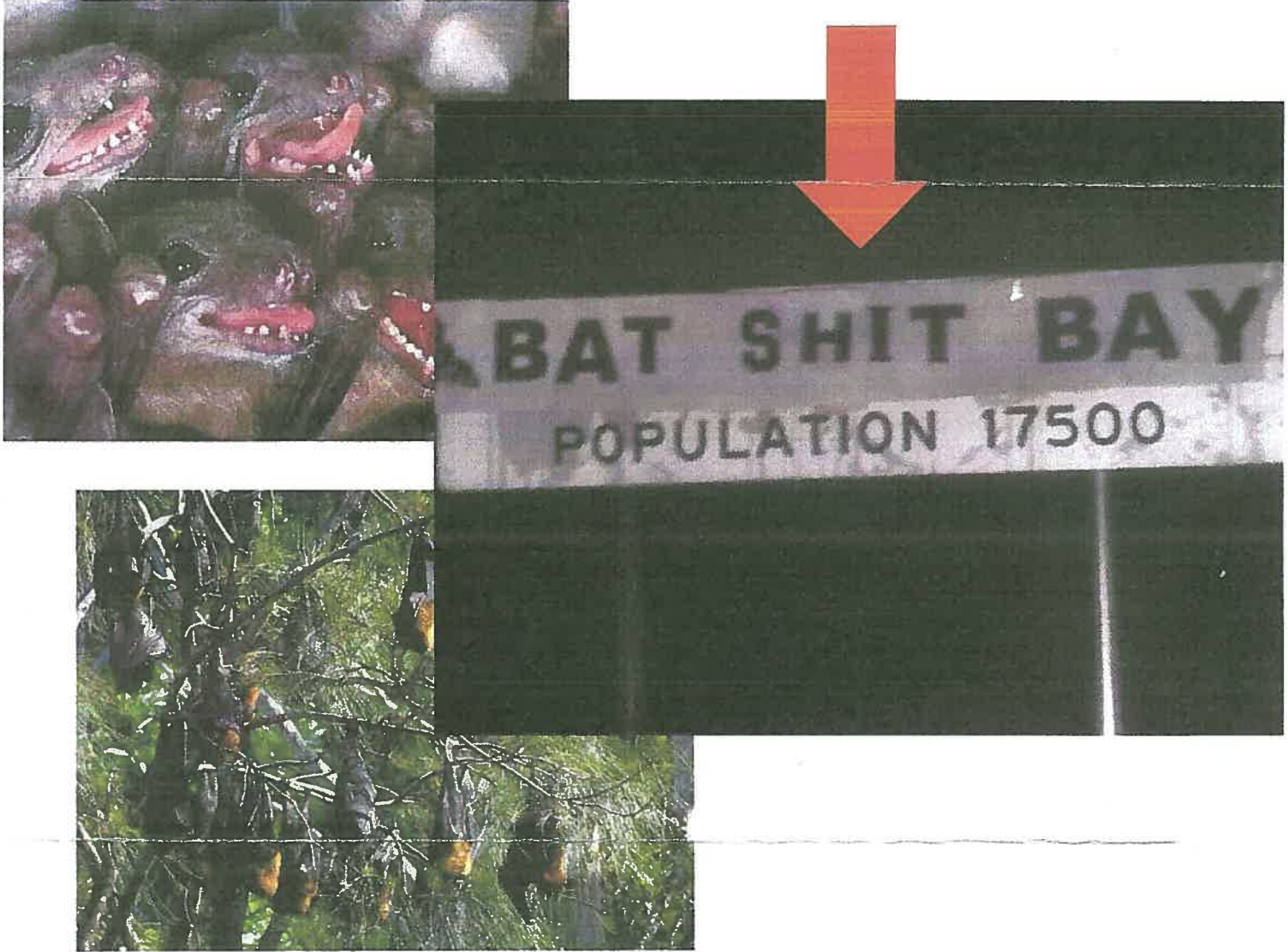
THIS WEDNESDAY 27TH APRIL @ 5.30PM

A COUNCILOR WHO IS SERIOUS ABOUT THE BAT PROBLEM WILL BE PRESENT & IS ASKING
SOMETHING WILL BE DONE ABOUT THE BATS IF ENOUGH PEOPLE ATTEND THIS MEETING
FOR COMMUNITY SUPPORT

PLEASE SPREAD THE WORD TO OTHERS ABOUT THIS MEETING
A VERY GOOD OPPORTUNITY TO DISCUSS THE REMOVAL OF THE BATS

BAT SHIT BAY – *BATS & BROWN MUST GO!*

This is Batemans Bay's welcoming sign



Public Meeting

There is a community meeting on the 27th April at Batemans Bay Community Centre, Museum Place, Batemans Bay starting at 5:30pm. All are welcome to attend.

Media release: Bat Shit Bay – Brown Must Go!

I am astonished by Mayor Brown's comments regarding the "Black Bat Plague" in Batemans Bay.

The mayor cannot sit back and blame the local member this time for being ill informed. It was Mayor Brown who led the steering committee deliberating on the bat infestation problem, and he was the one who promoted a management plan based on some minor pruning and "community education". I must seriously question the mayor's claim that this was an "independent community committee". There was not one affected resident involved, and the only independent community member, was an "observer" living north of the Bay.

Had Cllr. Brown and his supporting councillors acted last year to apply for dispersal, instead of ignoring the community's pleas of distress, we would not be in the current predicament. I recall very clearly an officer from the NSW Office of Environment and Heritage telling councillors that his department would do what Council asked, and despite my threats and begging, the opportunity for dispersal assistance was rejected. This decision was made in the full knowledge that I had the support of the local member and the majority of residents of Batemans Bay. Dispersal may have been "overwhelmingly rejected" by Cllr. Brown and the environmental bureaucrats directing his committee and the preparation of the \$70,000 consultancy report and management plan, I recall declaring at the time that the management report was a waste of rate payers money but dispersal was certainly not rejected by the people living with the problem. At a meeting of 60 residents that I attended at the Bay Museum only one person was happy with the bats. The attendees were hostile, but the mayor was nowhere to be seen.

Unfortunately, Cllr. Liz Innes, the only other councillor supporting the Batemans Bay community's right to a clean and healthy living environment, had a conflict of interest on this issue at the time. So I was a lone voice in Council trying to get justice for the growing number of Bay residents under attack from the bat infestation.

Will it take a case of Bat Lyssavirus or Hendra Virus to get this council to act?

Mayor Brown needs to explain to Minister Constance and our community the reason for wilfully misleading the broader community regarding his statement of "overwhelmingly rejected dispersal". His committee was NOT an independent community representative committee and as such his statement on behalf of the community was deceptive and misleading!

On Monday, Mayor Brown met with the Federal Minister for Environment, Greg Hunt, and we believe he advised the Minister that the community **was divided** on the issue of **dispersal**. If this is correct, Mayor Brown has again displayed his complete contempt towards the community that is forced to live with this repugnant situation.

I am fed up with the rhetoric and talk fests. Action is well overdue, and I request my fellow councillors to get a dispersal application agreed and in the mail before the community takes action into its own hands. Cllr. Brown is entirely accountable for his complacency and inaction in this case, and should stand aside for his contempt towards particularly the Batemans Bay community, and now a major part of the shire as the bat problem expands.

Cllr. Milton Leslight
Cllr. Liz Innes

20 April 2016

MEDIA RELEASE



Eurobodalla Councillor calls for a "State of Emergency" to be initiated due to the Black Bat plague. The Federal and State Governments need to act **IMMEDIATELY**.

Normally when there is a natural, or in this case man made disaster, when human lives and health are at risk a state of emergency is called. This allows for immediate action, by bypassing normal bureaucratic processes.

Tragically, a long bureaucratic process incorporating a dispersal plan has been drafted for the South Coasts Eurobodalla area which discusses trying to fast track a mountain of State and Federal legislation, at a minimum cost of \$7 million dollars (likely far more) including years of studies and monitoring. No consideration as to the devastation to the local economy or potential mental and physical health issues. The main concern is the welfare of the Bats.

Under a 'Duty of Care' legislative requirement, those overseeing this disaster must call the emergency, take immediate actions to protect lives and property. Not hand over the situation to unnecessary procrastination with bureaucratic processes.

It is interesting to note that the new draft plan does not show this option for immediate action.

Councillor Leslight has been calling for the situation to be addressed since early 2013, with the exception of Clr Innes the Mayor and all other councillor's disregarded the call to action, had the situation been addressed earlier it may well not be the magnitude it is today.

Perhaps the bureaucracy cannot deal with this problem, because they may well be the problem?

Media contact
Milton Leslight

RESIDENTIAL ACCOMMODATION UNITS (33) AND GENERAL STORE

LOTS 26, 28 AND 30 WHARF ROAD, BATEMANS BAY

Argument for removal of conditions 20 and 70 of the development consent

The Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) was introduced by the Federal Government and commenced on 1 May 2011. The purpose of the standards is to:

1. Provide for equitable and dignified access to new buildings and those areas of existing buildings that undergo renovation or upgrade that requires a building approval, and
2. Provide greater certainty to those involved in the design, construction, certification and management of buildings in relation to the level of access required in the buildings covered by the Premises Standards.

The Premises Standards specify a nationally applicable set of Performance Requirements in providing non-discriminatory access to, and use of, those buildings and areas of buildings to which they apply and provide technical Deemed-to-Satisfy Provisions for these Performance Requirements.

One of the main objectives behind developing the Premises Standards was to develop a single set of design and construction requirements covering access to new buildings and upgrades to existing buildings.

The Building Code of Australia (BCA) has been amended so it is consistent with the Premises Standards. NSW building laws and regulations have also been amended to ensure administrative provisions of the Premises Standards are also consistent as far as possible.

Access to private residences (Class 1a buildings) is not covered by the Premises Standards, that is, there are no requirements to make these buildings accessible.

The requirements set out in Clause 4.6 of Council's Residential Zones DCP for 25% of units to comply with AS4299 – Adaptable Housing is therefore more onerous than the Premises Standards. However, this policy stance does not have to be accepted by Councillors as stated in the conclusion to the report being considered today:

".....there is possible merit in reducing the number of units that need to comply with AS4299 due to the BCA classification and flooding issues."

Council, if it is of a mind to do so, may depart from the adopted policy position contained in the Residential Zones Development Control Plan.

Section 74BA of the Environmental Planning and Assessment Act 1979 (EP and A Act) states that the principal purpose of a development control plan is to provide **guidance** on the following matters to

the persons proposing to carry out development and to the consent authority for any such development:

- a) giving effect to the aims of any environmental planning instrument that applies to the development,
- b) facilitating development that is permissible under any such instrument,
- c) achieving the objectives of land zones under any such instrument.

Section 74C (5) of the EP and A Act provides that a provision of a development control plan (whenever made) has no effect to the extent that:

- a) it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or
- b) it is inconsistent or incompatible with a provision of any such instrument.

We would argue that the requirement to provide adaptable housing is inconsistent with the aims of the Eurobodalla Local Environmental Plan 2012 (LEP) as set out in Clause 1.2 of the LEP.

Further, Section 79C (3A)(c) of the EP & A Act requires that where a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority may consider those provisions only in connection with the assessment of that development application. The report before Council today specifically draws attention to other developments applications with regard to compliance with the AS4299 provisions of the DCP. Drawing Council to consider other development applications is clearly an error in law and would see any decision made on that basis set aside by the Land and Environment Court.

Recommendation

On the basis of the above argument we recommend that Council delete conditions 20 and 70 from the development consent.