

06 March 2020

## **Inquiry into Koala Populations and Habitat in NSW Port Macquarie, Monday 3 February 2020**

Response to Questions on Notice: Steve Schwartz

### Question on Notice

**The CHAIR:** Does it have the same restrictions in relation to private native forestry [PNF]? If core koala habitat is found in Bellingen, that triggers the PNF, therefore it cannot be logged—is it the same with Kempsey?

**Mr SCHWARTZ:** No, I do not think so.

**The CHAIR:** In other words, there is a more relaxed PNF operation going on in Kempsey than in Bellingen? Is that correct?

**Mr SCHWARTZ:** That could be, I am not sure.

**The CHAIR:** Would you be able to find that out on notice?

**Mr SCHWARTZ:** Sure.

### Response

Private Native Forestry (PNF) proposals are only required to consider Core Koala Habitat. The development controls provided by a koala plan of management do not apply to PNF activities. The PNF Code of Practice (PNF Code) sets out the requirements for protecting koalas on private land. The PNF Code prescribes that “*forest operations are not permitted within any area identified as 'core koala habitat' within the meaning of State Environmental Planning Policy (SEPP) 44 – Koala Habitat Protection*”.

By process and definition, Core Koala Habitat is only identified in approved Koala Plans of Management. The *Comprehensive Koala Plan of Management for the Eastern Portion of Kempsey Shire (2011)* (the CKPoM) is a plan approved in accordance with clause 13 of the *State Environmental Planning Policy No.44 – Koala Habitat Protection (SEPP44)*. To avoid any doubt, reference to SEPP44 in this response only refers to the policy of that name repealed on 1 March 2020.

A 2009 technical study undertaken to inform the CKPoM surveyed about 76,000 hectares of vegetated area in the eastern part of the Kempsey Shire. From this survey, the study identified about 53,000 hectares as Preferred Koala Habitat. This is habitat containing tree species that suit the unique feeding preferences of our local koala populations. The area of Preferred Koala Habitat comprises habitat categorised as Primary (1,190.44 hectares), Secondary (Class A) (23,064.05 hectares), and Secondary (Class B) (28,385.49 hectares), a total of 52,639.98 hectares. This mapping is reflected in the CKPoM (Attachment 1).

Preferred Koala Habitat is different to the SEPP44's 'Potential Koala Habitat'. SEPP44 defines Potential Koala habitat and is based on whether there is proportional representation of the limited set of koala food tree species prescribed in Schedule 2 of SEPP44. Due to the

general nature of Schedule 2, Potential Koala Habitat does not take feeding preferences of the local population into account, leading to differences between the mapped extent of 'potential' and 'preferred' koala habitat. Under the SEPP44 definitions and processes, Core Koala Habitat could *only* be identified within areas which first satisfy the definition of Potential Koala Habitat.

The two-step process set out by SEPP44 to identify Core Koala Habitat did not translate well to the scale of investigations typically required to prepare a Comprehensive Plan of Management. These look at landscapes rather than sites, and typically in the order of thousands, to tens of thousands of hectares. The required level of detail and ground-truthing to satisfy SEPP44 methodology is expensive and can be implausible. The SEPP44 steps were more suited to smaller, site-specific investigations as part of a development application.

With Kempsey Shire Council's limited budget, only two sites were assessed in detail in the technical study. These assessments identified a total of 8.6 hectares of 'indicative core koala habitat' that satisfied SEPP44 requirements. These areas were incorporated as separate maps within the CKPoM as 'core koala habitat boundaries' (Attachment 2).

The importance of the technical accuracy of Core Koala Habitat mapping under SEPP44 cannot be overstated. The accuracy, assumptions and chosen methodology to produce the Core Koala Habitat map at a landscape scale are the primary targets for dispute by any party whose right to use or develop land is potentially affected. The mapping methodology required to satisfy SEPP44 made comprehensive plans of management challenging to gain State approval on the one hand, and difficult to defend in a development scenario on the other. These challenges created a barrier to broader mapping of Core Koala Habitat. This context helps to explain the limited extent of mapped Core Koala Habitat in the Kempsey CKPoM.

Since the adoption of the CKPoM, development applications within the Preferred Koala Habitat area must survey for the presence of Core Koala Habitat. Several such investigations have identified a further four sites containing Core Koala Habitat not reflected in the CKPoM. These results suggest that there is likely to be more habitat within the Preferred Koala Habitat area that could be considered as Core Koala Habitat but remains unconfirmed.

There is no requirement for PNF proponents to conduct their own investigations for Core Koala Habitat as would otherwise apply to a development application under the CKPoM or SEPP44 and its successor. Instead the PNF Code tells the proponent to seek information from the State Government or local council, assuming such knowledge of Core Koala Habitat is held by those entities. For the reasons discussed above, this is unlikely to be the case in all instances, particularly in modestly-resourced councils such as ours.

To conclude, the PNF Code of Practice would prevent PNF activities only in the precise areas shown in Attachment 2. These areas comprise only a small proportion of the Preferred Koala Habitat shown in the CKPoM (Attachment 1) and an even smaller proportion of the koala habitat that might exist in the entire shire, making the overall effectiveness of the PNF Code in protecting koala habitat very low. It is not known whether the Core Koala Habitat mapped through the subsequent site-specific development application processes referred to above is considered by Local Land Services in PNF licensing approvals.

CKPoM for eastern portion of Kempsey Shire LGA



