

## **Report on the online survey**

### **Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020**

Legislative Council Portfolio Committee No. 7 – Planning and Environment is conducting an inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020. As part of the inquiry and to better understand the community's views on the bill, an online survey was conducted from Wednesday 9 December 2020 to Friday 5 February 2021. The survey is now closed with 1,096 responses received. In addition, the committee received 99 pro forma responses from people in support of the bill. Their response and views on the bill are set out in Appendix A at the end of this report.

The questionnaire was not intended as a statistically valid, random survey. Respondents self-selected in choosing to participate. This means that respondents were not a representative sample of the NSW population, but rather interested members of the public who volunteered their time to have their say.

This report summarises the responses expressed by participants and provides a sample of views on the Local Land Services Amendment (Miscellaneous) Bill 2020.

#### **The online survey**

The survey consisted of ten questions, concerning:

1. respondent's personal details
2. respondent's position on the bill
3. reasons for the respondent's support for/opposition to the bill
4. adequacy and effectiveness of the operation of the 1994 and 2019 Koala SEPPs (State Environmental Planning Policy) in protecting koalas and their habitat
5. current and potential incentives and challenges facing rural landholders who seek to protect koalas and their habitat on their land
6. current mechanisms to assess biodiversity values on private land when land use changes adequate
7. adequacy of current biodiversity assessment mechanisms
8. impact of current regulatory regimes on private landholders
9. effectiveness of local governments in managing koala populations and koala plans of management, and
10. any other comments.

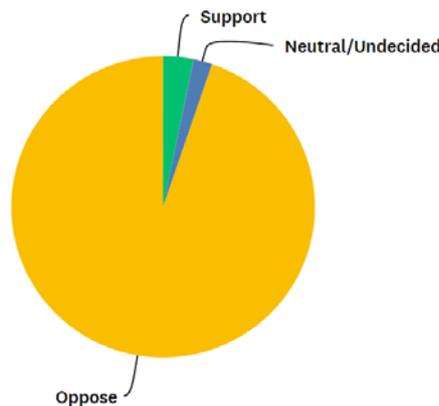
The survey received 1,096 responses in total. Not every respondent answered all ten questions.

## Question 2: What is your position on the Local Land Services Amendment (Miscellaneous) Bill 2020?

This question received 1,087 responses; 1,030, or 94.76 per cent of which indicated their opposition to the bill. Only 3.22 per cent of respondents supported the bill and 2.02 per cent of participants were either neutral or undecided. (See Diagram A)

**Diagram A** Survey participants' position on the bill

Answered: 1,087 Skipped: 9



ANSWER CHOICES	RESPONSES
Support	3.22% 35
Neutral/Undecided	2.02% 22
Oppose	94.76% 1,030
<b>TOTAL</b>	<b>1,087</b>

## Question 3: In relation to the previous question, please explain your position on the bill.

Out of 1,096 responses, 1,055 survey participants provided their reasons for supporting/opposing the bill. The following section summarises the key issues raised by reproducing quotes from survey participants.

### *Opposing the bill*

For those who oppose the bill, their main concern was that, if passed, the bill will weaken environmental and biodiversity conservation laws, thereby negatively impacting koalas and their habitat. Participants were concerned that koalas will likely be extinct in New South Wales by 2050 and called for environmental and biodiversity conservation laws to be strengthened, not weakened:

- If successful, this bill would unacceptably weaken environmental protections, placing additional pressure on species and ecosystems, the viability of which, is already in a precarious position under more stringent environmental protection laws.
- This bill [will] greatly [weaken] the protection of native habitat including koala trees, hollows, etc. It allows easier destruction and clearing of flora by a developer or landowner without any checks and responsibility as custodian for our unique fauna. We need laws or regulations for land clearing to prevent ignorant or biased money-making decisions for habitat destruction.

- Koala protections must be strengthened not weakened. The Bill will make it even easier than it is now for developers to destroy koala habitat and use a worthless system of biodiversity offsets to paper over their destruction.
- Koalas are an Australian icon. For Gods sake, they should be protected at all costs, not driven to extinction or losing what little habitat is remaining to them. Unforgivable and totally unacceptable. Australians are known for “a fair go “, this must extend to our magnificent, unique wildlife.
- This LLS Amendment (Miscellaneous) Bill 2020 would dramatically weaken laws supposedly put in place to protect important habitat and food sources existing on all private land, all of which is essential for the survival of the increasingly endangered Koala. Private landowners cannot be relied upon to protect potential koala habitat existing within their property.
- The LLS Amendment (Miscellaneous) Bill 2020 proposed dramatic weakening of laws for how and when developers and landholders are able to destroy koala habitat. It sought large expansions of exemptions for both developers and landholders from the Koala SEPP regulations. These exemptions would enable them to clear and destroy recognised koala habitat more easily. It also would stop councils being able to protect core koala habitat and from requiring consent for logging in environmental zones. If passed, the bill would have been disastrous for koalas.
- NSW koalas will become extinct by 2050. The state's koalas are fighting for their very survival, following the catastrophic bushfire season. Yet, at a time when this iconic species needs us most, the NSW Government has instead introduced the Local Land Services Amendment (Miscellaneous) Bill 2020; a piece of legislation that will remove many hard-won gains.
- It is not acceptable that developers can clear Koloa habitat, this bill is just political point scoring and those who approve it will be accountable when we lose an iconic Australian species. In the last 20 years native animals and biodiversity have suffered devastating losses - all due to government weakening of environmental laws. Australia is moving the wrong way - the world is watching, we are known to have the highest rate of deforestation in the world ( out of developed countries) Stronger protections are needed for koalas in NSW, not weaker ones. To stop koalas going extinct by 2050 the NSW Government must act fast to reign in the out-of-control deforestation rate and expand our national parks estate.

Respondents opposing the bill argued that in weakening environmental and biodiversity conservation laws, the bill makes it easier for land clearing by private landowners, including through 'self regulation' and the proposed 'allowable activity land' which undermines e-zones:

- This bill will stop core Koala habitat identified in draft and future council Koala Plans of Management from being included as Sensitive Regulated Land. The "allowable activities" in koala habitats are much too extensive and damaging and could include large scale land clearing in habitats where koalas have been seen and identified (regardless of whether the habitat is "core koala habitat").
- The bill seriously weakens koala protections. The proposed ‘allowable activity land’ will undermine E-zones. E-zones are intended to provide protection to land that is suitably identified as warranting environmental protections due to its environmental values. E Zones still allow habitat to be cleared. The LLS Bill 2020 freezes the inclusion of newly identified koala habitat in category 2 regulated land. It prevents koala habitat from being identified category 2 – sensitive regulated land (see cl 108(2)(b) of the Local Land Services Regulation 2018 (LLS Regulation). I also oppose the LLS 2020 Bill as it allows 30 years of private native forestry when koalas are found on private lands and are a landscape species. They do not understand boundaries, are an indigenous species that lived here before 'property rights' became the cry of some current politicians. The overwhelming reason for my opposition is that weakening koala protections will only hasten the trajectory of extinction in NSW.
- The [b]ill is a direct attack on biodiversity conservation and weakens the regulatory framework designed to oversee approvals. The main issue with this Bill was it placed too much power in the hands of private landholders who could be easily persuaded by logging companies or developers to manage land without independent assessments from Council's or LLS ... The extension of approvals from 15 to 30 years is also a major concern due to the loss of planning direction that can occur over a protracted period of time.
- After previous decades last century of unregulated koala decimation progress in conserving these unique animals has been made during the last 20 years. This bill undoes what progress was made. It

will allow the destruction of koala habitat removing their food source on private land and prevent council from protecting and managing local koala populations. It is reversal of the government's previous commitment to map koala habitat. Changes to zoning on E zoned lands will enable 'allowable activities', ambiguous at best, without development approval. The changes in this bill are not supporting the longevity of our koala populations so recently diminished after last summers bushfires.

Participants also considered that the bill will undo years of koala conservation work by state and local governments and communities across New South Wales:

- This Bill represent a significant leap backwards, undermining to a most worrying degree the hard-fought conservation gains over the last 20 years or more, by allowing destruction of trees on private lands and connected habitat which koalas depend on whilst hamstringing Councils from being able to take effective preventive action.
- ... all seven councils (Tweed, Kyogle, Lismore, Byron, Ballina, Richmond Valley, Clarence Valley) have made some investment in koala conservation. Five have prepared comprehensive koala plans of management (KPoMs), two of which are approved by NSW Planning. If enacted the Bill will severely reduce the value of these KPoMs ... thus emasculating Councils' and community aspirations. This is wrong.
- Our Landcare Group, "Friends of Cudgen Nature Reserve" are currently administering a substantial Environmental Trust Grant to restore and rehabilitate Koala habitat. The exemptions in this bill would enable them to clear and destroy recognised koala habitat more easily. It also would stop councils being able to protect core koala habitat and from requiring consent for logging in environmental zones. If passed, the bill would have been disastrous for koalas, and undo the work of groups such as ours, and in fact, be counterproductive to the ET Grant aims.

### *Supporting the bill*

The survey received a small number of comments from respondents supporting the bill who argued that agricultural and timber production can co-exist with koalas and that stringent and ineffective land management policies had prevented private land owners from contributing to the better management of private forestry:

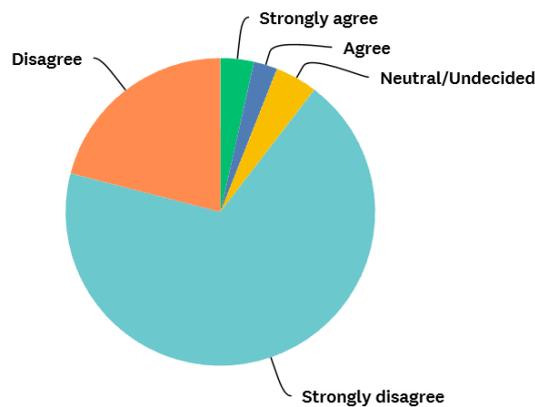
- There are numerous examples of state forests used for over 100 years for timber production that have also supported relatively dense koala populations feeding on the cycle of regenerating forests. Pine Creek State forest is just one example of many forests ... This shows why private land owners must be allowed to actively manage their native forests for timber production ... The Koala SEPP 2019 is typical of the lock up and neglect management regime ... The management by neglect model and exclusion of managed fire from the broader landscape, have helped underpin the increase in ecologically destructive mega fires in the past 20 years. The Koala SEPP 2019 and Guidelines set a destructive land management framework that would deliver negative environmental (for all biodiversity, not just koalas).
- The Koala SEPP seeks to overturn the balanced approach provided by the LLS Act and Biodiversity Conservation Act and create quasi-national parks on private lands with no consultation or compensation. The SEPP does nothing to protect true koala habitat...
- ... there needs to be clear lines between the conservation of Koalas and the ability of land holders to be able to use their land without too many restrictions and the massive amount of red tape that is applied by certain groups. There needs to be a concerted effort to reduce the amount of non-habitat trees within the forests that are restricting the growth of Koala feed trees.
- Land used for agricultural purposes will not have restriction on removal of native vegetation. Agriculture production is hard enough, without natural restrictions. Native vegetation and replanting/biodiversity is good for agriculture, don't need to be regulated. Exclusive provisions for one species is unrealistic, on the scale of all rural lands.
- I am in an area that has never seen a koala in over 200 yrs but still classed as koala habitat...

**Question 4: Do you agree that the operation of the 1994 and 2019 Koala SEPPs (State Environmental Planning Policy) have been adequate and effective in protecting koalas and their habitat?**

This question received 1,088 responses; 975, or 89.62 per cent of which considered the policy inadequate/ineffective. Only 5.97 per cent of respondents considered current policy adequate and 4.41 per cent of participants were either neutral or undecided. (See Diagram B)

**Diagram B** Survey participants' views on the adequacy of the 1994 and 2019 Koala SEPPs

Answered: 1,088 Skipped: 8



ANSWER CHOICES	RESPONSES	
Strongly agree	3.49%	38
Agree	2.48%	27
Neutral/Undecided	4.41%	48
Strongly disagree	68.66%	747
Disagree	20.96%	228
<b>TOTAL</b>		<b>1,088</b>

**Question 5: In your opinion, what are the current and potential incentives and challenges facing rural landholders who seek to protect koalas and their habitat on their land?**

The committee received 1,029 responses to this question. Most respondents stated that currently there are either no, or insufficient, incentives to entice landholders to protect koalas and their habitat.

While many landowners want to protect koalas, participants noted that their first priority is their financial livelihood and supporting their family. Therefore, respondents recommended financial incentives such as stewardship programs, tax rebates and government grants to be offered to landholders:

- Rural landholders who know the importance of koala protection faces pressure from a lack of money to protect them; fencing, paying bills, feeding the family.
- Time, money, lack of knowledge, and resources ... They may have pets or earn a living from running a business on their property or land-use changes.

- Lack of perpetual financial incentives (ie without tedious annual grant applications) for farmers and rural residential landowners on degraded lands to restore and maintain permanent secure habitat protection for koalas in known habitat areas, or to plant and maintain sections of land for soil, water and biodiversity benefits.
- ... financial support to have their section of land regarded and restored as a sanctuary/safe zone for koala conservation.
- Government incentives such as stewardship programs can help provide rural landholders with some income and in turn, they can help koalas thrive. They can also develop eco-tourism businesses like tours, souvenirs made in NSW.
- ... there is potential for incentives in the form of tax rebates, subsidies for environmental protection works, bush regeneration, weeding, habit restoration, and education on farm management for the future.
- More funding for surveying and assessing potential sites of important habitat on private land will support farmers and landholders in understanding the species that their land supports, and what they can do to protect them.

In addition, participants called for more education and professional advice to be made available to in order to assist landholders:

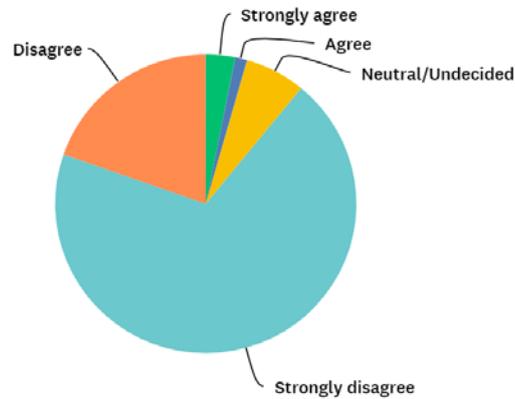
- ... access to timely professional advice, often over-complicated and at times restrictive program and funding application processes, and various red tape issues. Also the uncertainty of ongoing Commonwealth or State funding being available for highly beneficial, longer term, on-ground, sub-catchment koala corridor/biodiversity projects that rural landholders might wish to get involved in.
- Challenges are overwhelming: can be personally costly. You attempt to combat a silo mentality. The entities you seek for advice and practical assistance are sorely lacking and/woefully inadequate due to engineering for contrary vested interests, laziness, over-worked & understaffed, too hard basket ... I am a rural landholder.
- Expanding employment opportunities within existing independent land care regeneration groups, direct accessibility to these groups to be made easier and more affordable to land owners for their assessments, soil, tree, plant and wildlife identification advice. Government providing education to be more available to land owners in organic farming and soil protection practice living alongside the preservation of existing wildlife and Koala habitats and planting for future sustainable preservation of wildlife areas. And most important – Councils and government to recognise and formulate safe connecting wildlife corridors throughout their regions, assisting land owners in those areas with preservation and regeneration plans along with financial assistance.
- Landholders need to be educated & informed and encouraged to seek as a minimum to not decrease the amount of native vegetation on their land. For this to occur I suggest that a betterment tax be imposed on land value increases on all land & for that tax be used to assist landholders to maintain & increase the native biodiversity on their land. Part of the assistance can be grants to enable mapping & assessing what the areas of high conservation value on their land. In particular to confirm the areas where Koala habitat exists. Furthermore farmers & landholders can be educated & assisted to seek carbon offset monies available so that their maintenance & improvement of native vegetation also assist NSW meet its share of carbon sequestration to prevent further global warming.

**Question 6: Do you agree that current mechanisms to assess biodiversity values on private land when land use changes are adequate?**

When asked whether current mechanisms are adequate in assessing biodiversity values of private land for land use changes, 89.07 per cent, or 962, of the respondents indicated that they disagreed/strongly disagreed that the mechanisms were adequate. Only 4.45 per cent of the participants considered the assessments adequate and 6.48 per cent of the respondents were either neutral or undecided on this matter. (See Diagram C)

## Diagram C: participants' views on the adequacy of current biodiversity assessments mechanisms for land use changes

Answered: 1,080 Skipped: 16



ANSWER CHOICES	RESPONSES	
Strongly agree	3.15%	34
Agree	1.30%	14
Neutral/Undecided	6.48%	70
Strongly disagree	69.44%	750
Disagree	19.63%	212
<b>TOTAL</b>		<b>1,080</b>

### Question 7: In relation to previous question, please explain why you consider current biodiversity assessment mechanisms adequate/inadequate.

There were 1,018 responses to this question. In line with the previous question, most survey participants considered current biodiversity assessment mechanisms to be inadequate, due to high land clearing rates, underqualified biodiversity assessors and the perceived ineffectiveness of the biodiversity offset scheme.

Survey respondents referred to high land clearing rates as proof that inadequate biodiversity assessment mechanisms are currently in place:

- Current mechanisms to assess biodiversity on private land following land use changes are inept and have contributed to a massive spike in NSW land clearing. In 2018, clearing of woody vegetation doubled to 60,800 ha and 72% of the 75,000 ha of Rural Regulated Land cleared was described as “unexplained”. The June 2019 Auditor General report ‘Managing Native Vegetation’ found that “the clearing of native vegetation on rural land is not effectively regulated and managed”, being fraught with problems of weak processes, poor assessments, inadequate protection, limited monitoring and poor enforcement.
- ...if the current mechanisms were adequate we would not have lost so much habitat, we would have more koalas, native fauna and flora would not be under so much stress and we would not lost so much vegetation to clearing.
- ... current biodiversity assessment and monitoring mechanisms are at times inadequate because there continues to be reported and visible areas where clearing Koala and other important biodiverse habitat has in recent times and still is occurring here on the far North Coast.

- In recent years we have seen a massive increase in the rate of clearing rural land. This suggests to me that current means of assessing biodiversity on private property is woefully inadequate. It would seem that protection of native vegetation on rural land is not effectively managed - resulting in ignorance on the part of some land holders, poor monitoring by authorities and inadequate enforcement.
- Current mechanisms are clearly not working. Land clearing has increased significantly in recent years and generally incurs no penalties. Clearing of Koala habitat in Tweed has gone without any comeback on the landholder ... Self-assessment is a total waste of time, how can a landholder with no knowledge of tree species undertake an assessment?
- As a land owner myself, and my family having lived in the Northern Rivers region for 45 years, I see no biodiversity assessments taking place, the increase for excessive land clearing has escalated ... Many land owners are rapidly clearing due to onsite wood chipping and no accountability or assessments seem to be taking place in the core koala habitat region.

Participants also questioned the suitability of biodiversity assessors or self-assessment, arguing that they were either not experts in the field, or were engaged by people with potential conflicts of interest; which they stated is permissible under the current biodiversity assessment framework:

- Assessments are undertaken by people who don't understand koala habitat use or koala behaviour ... Also inability to identify scratches, find scats, see koalas. Most who do assessments, I would not trust their results or conclusions. Many just go straight to offsets ignoring retention and buffers.
- From my personal experience, there are examples of questionable flora and fauna surveys undertaken by private consultants appointed by the proponent
- Assessing biodiversity using consultants employed by the proponents constitutes significant conflict of interest.
- There are many reasons but the principal one seems to be that these assessments are done by so-called experts who are engaged by the proponents of the land clearance. These experts know which side their bread is buttered and will invariably make favourable assessments or recommend rehabilitation and remediation measures or conditions of consent that are laughably inadequate, unrealistic and/or totally impractical to anyone who really understands the nature of koala behaviour and their needs to survive, let alone prosper.
- Environmental and Species Impact Statements are paid for by the development proponent, so the sub-contracted ecologists must produce a report that their employer finds acceptable. Reports are often written on the basis of very short term investigations, and are unable to be refuted because there is no permissible access to private land to investigate further by independent groups. However there is always another "independent" ecologist who will be paid to conclude that the koalas in the area will not be caused to become extinct because a certain parcel of land is to be cleared where they are living and breeding. Not enough is commonly understood of the koalas' preference for certain food trees because of the nutrients in the soil.
- Koalas are notoriously hard to spot. Many private landowners would be totally unaware that they have Koalas on their land, so self-assessment of biodiversity is a nonsense - specialist ecologists would be needed to survey the land - what private landowner is going to pay for such a thing? This responsibility MUST be the government's, not the landowner's. Governments are supposed to govern when there is conflict, eg, in this case, a conflict of land use. The NSW government is failing Koalas badly when they leave all assessments and land use decisions to landowners.
- The major issue as I see it, is the piecemeal approach taken by well-meaning strategies such as the Environment Protection and Biodiversity Conservation (EPBC) Act which looks at parcels of land in question in isolation of the surrounding area, so cumulative impacts are not considered and bit by bit local Biodiversity is eroded. Self-assessment regulatory regimes have never worked to the benefit of integrity ... Biodiversity surveys are conducted with a financial incentive to permit rather than protect; over very brief timeframes, often failing to accurately assess presence, and under a self-management regime lack accountability unless challenged by an independent arbiter. The actual overall negative impact on biodiversity by Biodiversity offset mechanisms, Bio banking etc. are now well recognized and documented.

Further, respondents raised concerns about the Biodiversity Offsets Scheme. Under this scheme, anyone intending to clear land can obtain the land clearing permission by purchasing 'biodiversity credit' to make up for lost biodiversity. Respondents opposing the scheme argued that biodiversity cannot be simply 'offset' and there are no compliance mechanisms or ongoing monitoring to ensure the restoration of the lost biodiversity:

- The BBAM and Biodiversity Offsetting scheme does not protect threatened species. It allows for localised extinctions in exchange for money or for another species to be nominated for protection. Monitoring and review and compliance is limited. Evidence that this program is successful virtually non-existent.
- Offset plantings are often unsuccessful due to maintenance not being conducted and no method of follow-up or penalty. It is foolish to think that a cleared area can be planted with small saplings and become appropriate habitat. It is simply slaughter to destroy habitat before providing any alternative trees that in some areas may take more than 10 years to mature enough to be a food resource.
- Biodiversity credits and offsets are inadequate in replacing one habitat with another that is often totally unsuitable and unlike the area to be cleared. It was nothing but a cynical attempt to silence critics.
- I don't believe that biodiversity offsets are a way of saving koalas as has recently been highlighted at the public outcry to the Brandy Hill quarry expansion. The premise of 'no net loss' does not seem to take into account that there is always net loss when prime habitat is being destroyed and replaced by kindly donated secondary habitat which the developer did not want or need, and in which another koala hub may already be residing.
- The Biodiversity Conservation Act 2016 has increased land clearing predominately through bio-banking offsets. The irony is a farmer/developer can usually clear more land by seeking approval than if they clear land without. Offsetting has a pernicious impact on biodiversity especially hollow bearing trees that usually take 100+ years to establish. Clearly hollow-bearing trees and offsetting with land that has less hollow-bearing trees creates a net negative effect. The preferred feed and habitat trees of koalas tends to be older and larger which again has a negative trend for this species. Bio-banking should be removed as an option when assessing private land development and we should seek to reduce our ecological footprint with strict adherence to Ecologically Sustainable Development and Precautionary principles.
- Biggest problem of all is the lack of offsets in the market 4-5 years into the scheme. Everyone (including large mining companies) want to exercise the option of paying into the trust so they can get on with their development, yet very few people are finding it worthwhile producing the offset credits required to meet the trusts obligations. ... The trust setting prices and only buying credits at "reasonable market price" hinders the market price from reflecting actual demand, such that offset credits are undervalued. The drivers of the scheme have been made aware of this but are not willing to make any changes. General consensus around consultants is that the system will implode, ultimately leading to approved developments with no fulfilled offsets.

The survey also received some responses stating that current biodiversity assessment mechanisms are adequate:

- I think the present system has worked well for many years but looking at the state of some of our protected species, they are struggling to survive and maybe it should have been stronger
- From examples I have seen/read assessment is Ok. The problem, is more the follow up and what really happens after.
- The assessment methodology already exists and is successfully implemented in the biobanking assessment process. Any assessment methodology must require the assessor to actually visit the site and look. A desktop assessment is not appropriate.

### **Question 8: In your opinion, what is the impact of current regulatory regimes on private landholders?**

This question received 1,007 responses, with the majority of the respondents considering that the current regulatory regime has no, or very little, impact on private landholders, which results in an increase in land clearing and loss of habitat for native animals including koalas. Many survey

participants, including some private landholders, called for a stronger regulatory regime to help preserve biodiversity on privately owned land.

- There is no impact as there are no real regulatory regimes or enforcement. This is leading to disastrous environmental outcomes.
- Are there any? Because in the past few years I have seen continuing loss of native vegetation & habitat. Just because someone has the title deeds doesn't mean they have the right to destroy or damage environmental values of an area.
- They can basically do what they want. There is NO policy for protection of Wildlife mainly KOALAS
- It is too easy for landholders to clear koala habitat for either existing agricultural activities or private forestry. Councils continue to be pressured by wealthy developers to agree to demands to clear known koala habitat for housing, mining and other developments.
- From my and my neighbours experience in this area private landholders can do what they like. The council doesn't prevent or deter the cutting down of trees in suburbs that koala live. After a tree had been illegally removed there is no penalty. It's disgraceful ... The lax and ineffective regulatory regime for private forests does not meet community expectations and wants.
- Current regulatory demands on landholders are lacking and limited, leading to detrimental environmental outcomes. There are few restrictions placed on farmers or rural landholders regarding plans to develop or clear land on their property. This bill sought to loosen restrictions even further, which would have resulted in higher rates of land clearing and habitat loss for koalas.
- The current regulatory regimes allow private landholders to clear, log and degrade native forests with very little oversight, monitoring or evaluation of species loss or environmental degradation. Any negative long term impacts on adjacent or neighbouring lands and waters is not accounted for or evaluated. Cadastral boundaries fail to demarcate environmental and social impacts. The management of private land goes largely unregulated and in the wrong hands this has long term detrimental impacts on landscape scale environmental values which impact whole communities through erosion and water pollution, loss of biodiversity and wildlife corridors, increased fire intensity and risks, loss of regional rainfall, as well as species extinction, loss of forest habitat values and ultimately the degradation and collapse of our ecological systems, which support all life and help to mitigate atmospheric carbon.
- The effect on landholders should be considered in light of the long-term impacts of an inadequately unregulated system - land degradation will ultimately affect them, too. Private landholders are not necessarily the best judge of what is good for the long-term survival of the ecosystem. This is why laws that consider the needs of private landholders, but make it difficult for them to wantonly destroy the environment for their individual requirements, are essential. The law has never acknowledged in principle that private property should take precedence above the general good, and here is perhaps the strongest case in point.
- Impact? I am a private land holder of 120 acres of previously 60% cleared land. I have 7 major allies that are effected by my neighbours land use. .... I have spent loads of money replanting the correct vegetation on my property to counteract the destruction of the property's next to me. All of my neighbours have more than 90% clearing. One of my neighbours has thousands of acres of 90% cleared land and continues, unchecked, to clear more. There is no regard to types of forest, native animal use slopes or creek edges. .... Regulatory Regimes? There are none such environmental conservation ones that exist! It's appalling.
- As farmers who work daily on the land we recognise that forests are an essential part of our lives: for generating regional rainfalls, lowering regional temperatures, carbon storage, regulating stream flows, limiting erosion, as habitat for native species, as well as our peace, wellbeing & sanity. Any significant loss of these benefits through clearing and logging affects all landholders. In this time of climate and extinction emergencies, the need is even more urgent for us to retain as much forest as possible for carbon capture and sequestration, as well as habitat for our wildlife, which must include the iconic Koala. The woefully inadequate regulatory system for private forests is not appropriate for our times or acceptable to the majority of our community.

Some respondents spoke about the challenges facing private landowners, including complexity of the regulatory framework and the needs and rights of landowners to be respected and supported:

- The land belongs to the landholder and all costs associated with the running of the land is borne by the landowner. Therefore any delay or restriction placed on them is an additional cost or even worse a complete change of plan.
- The regulatory process is seen a cumbersome and unclear. Land owners see the requirements as being wasteful and unfair.
- Private landholders do not feel supported in protecting their land and commercial pressures often override their love of the land. There needs to be coordinated support for landowners.
- Seen by many landowners as a 'bureaucratic' imposition. Lacks appropriate incentives for mutually beneficial partnership with government in connected habitat management.
- Lacks basic common sense. Landholders should be respected.
- I think they can be confusing as they are quite complex, so I understand the anger and frustration of some landholders, but I'm reluctant to suggest simplifying them as that usually means giving developers carte blanche to clear fell forests in this state.

**Question 9: In your opinion, how effective are local government in managing koala populations and koala plans of management? Please explain your position.**

The committee received 1,044 responses to this question. Many survey participants considered that local government plays a critical role in managing koala populations and koala plans of management. However, respondents contended that the effectiveness often depends on the council in question, and that most councils lack the necessary resources or expertise.

In assessing councils' role and effectiveness in the management of koala populations, respondents provided the following observations:

- For the past decades, local governments have not been very effective in managing koala populations and koala plans of management. They can however play a critical role in ensuring the protection of koalas, given their part in approving various development applications. But adequate resources, judicial support and incentive are needed to help local governments that have koala populations, in undertaking the development of comprehensive koala plans of management for their LGA. This then leads to greater protection for koalas and their habitat.
- It is variable. Some Councils have succeeded in preparing Koala Plans of Management (KPoM), although mostly for only parts of their Local Government Area. Others have prepared them (with Government participation) but the Department of Planning refuses to approve them. Most Councils haven't tried to prepare KPoMs. The costs and Government obstruction have hampered progress ...
- Local government management is critical. Development applications effect local areas and the local government needs the resources, support and ability to approve or disapprove based on local Koala Management plans without State interference. There needs to be local comprehensive koala plans of management to ensure the most adequate and appropriate protections of koala populations.
- Local governments can only be as effective at managing koala populations as the laws allow them to be. This bill increases the cost burden on local councils in the preparation of KPoMs while also significantly reducing their effectiveness in being able to protect koalas. Of critical importance, this bill makes it harder than ever for councils to protect koalas by removing their power to control logging of habitat on private land and given the proposed 'allowable activities' on areas of core koala habitat.
- Not effective at managing koala populations because local government still goes ahead with developments (housing, roads, mines) in critical koala habitats, even against independent studies that state no development should occur.
- There are local councils who want to do more to protect Koalas and have stated their opposition this Bill. But the NSW Government is not providing additional resources to councils and the proposed amendment Bill is essentially turning local councils into toothless tigers.

- Local governments are constrained by state legislation. When the legislation is hollow, the motivation to act in the interests of native fauna is emasculated ... Local governments are likely to act only when they are mandated to do so.
- Some local governments are forced to keep changing and modifying their management plans due to interference from connected state politicians trying to feather their nest with tax payer money.
- I think this should be a state government responsibility, not a local govt responsibility. Local councils do not have the expertise to manage this very critical situation.

Some respondents called on the NSW Government to provide financial support and resources to help councils develop koala plans of management.

- ... Financial support provided by the NSW government is critical to establish accurate and workable plans where prime koala habitats are mapped and then proactively protected from logging and agriculture. Currently based on the evidence, the local governments need much more support by the state government to be more effective in this area.
- Less than a dozen local Councils in NSW have developed a KPoM and even then, only in small sections of their LGA. It takes considerable commitment, time and money to develop comprehensive KPoMs and most councils do not have these resources to spare. Many councils rely on volunteer efforts to protect koala and rehabilitate habitat. Many Local councils want to protect koalas, as is evident by the number of councils speaking out against the bill, including Bellingen, Tweed and Byron Shire councils.

### **Question 10: Other comments**

In response to this question, participants generally reiterated their position on the bill as outlined in earlier answers to questions. For example, to protect koalas and their habitat and strengthen environmental and biodiversity laws:

- Stronger protections are needed for koalas in NSW, not weaker ones. To stop koalas going extinct by 2050 the NSW Government must act fast to reign in the out of control deforestation rate and expand our national parks estate.
- I believe there are good intentions by the NSW Government with regard to koalas. Where relevant protection laws were in place, they were often let down by enforcement which was lacking possibly due to resourcing issues. But please - don't give up, please don't weaken the laws you already have - strengthen them.
- It's time to increase koala protection measures to ensure that habitat is not cleared without much more stringent and transparent processes. This should also include State practices such as logging State forests rather than undertaking sustainable harvesting on previously cleared or burnt land. It's time for Australian Governments at all levels to step back and see the habitat destruction resulting from their approvals and practices. Land cultivation and development is necessary but it needs to be more strictly controlled and ideally limited to areas that won't see more prime habitat lost.
- I am shocked the Government owns precious little land. There is still a moral obligation on the Government to serve the best interests of the community and not allow wilful destruction of the land and its inhabitants.
- NSW Government has a responsibility to protect its environment and wild life. The koala are unique to Australia and are being targeted and neglected instead of being protected as they should. Studies indicate clearly the vulnerability of the koala in general and particularly after the terrible 2020 fires; they indicate the danger that koala can be extinct by 2050 unless we revere them and protect them and yet the new koala SEPP 44 leaves the koala more vulnerable because it makes it easier for its habitat to be destroyed. It is time humans learn to live with wild life rather than abuse it and mistreat it for its own purpose and it is time for Government to lead the way - that is what it was elected for!

## Appendix 1: Summary of content in pro forma

The committee also received 99 pro forma responses in support of the bill with some participants including additional remarks to highlight their views. The committee resolved to include a summary of this information in an appendix to ensure the views of stakeholders supporting the bill are also detailed in this report.

### Pro forma position on the bill

The pro forma supported all proposed amendments in the bill although notes that Clause 'a' as outlined in the explanatory note is no longer required as the State Environmental Planning Policy (Koala Habitat Protection) 2019 has been repealed.

### Reasons for supporting the bill

The pro forma outlined the main reasons for supporting each of the objectives of the bill as outlined in the explanatory note: removal of dual consent in the approval of private native forest plans; the extension of private native forestry plans from 15 years to 30 years; the requirement for relevant ministers to consult with each other before making a private native forestry code of practice; and allowing native vegetation clearing in certain circumstances without the need for authorisation under other legislation:

1. For private native forestry, the Bill removes the need for dual consent and the unnecessary involvement of Councils, who have no expertise or specialist knowledge in forest science. Under the current governance arrangements, the process is far from satisfactory. On the north coast alone, there are 35 individual Councils each taking a different approach to how private native forestry is treated. For private landholders required to obtain development approval, the process is akin to a lottery. Removing the involvement of Councils will remove this uncertainty without removing the LLS regulatory framework, which provides environmental protection.
2. The provision that extends the approval period of a PNF Plan from 15 to 30 years is another important measure. The additional time will provide landholders with the confidence they need to invest in their forests' future, potentially seek forest certification and reduces the need to maximise timber revenue in single harvesting events. This measure will be both good for the forest and good for the environment.
3. Ensuring that the Minister administering the Forestry Act and the Minister administering the Fisheries Management Act are consulted on the formulation of the PNF Code is important.
4. Allowables under Schedule 5 of the Local Land Services Act should be permitted on a range of Standard Template LEP Zones, including E-Zones and Rural Zones.

The pro forma stated that the generic term 'land clearing' is often used when referring to forestry operations and described this as misleading. The pro forma discussed the legislation governing forestry operations as well as the distinction between hardwood and softwood forests, noting that koalas do not reside in softwood plantations:

The assertion that 'land clearing' occurs within NSW without check, particularly when it comes to the forest industry operations. As recently as this year, the University of Newcastle Business and Law Facility issued a Report where the term 'land clearing' was used to describe forestry operations within NSW.

Forestry operations, as all land management in non-urban areas within NSW, is strictly controlled by legislation.

NSW legislation recognises three different types of forestry:

1. Public native forestry authorised under the *Forestry Act 2012*,
2. Plantation forestry authorised under *Plantation and Reafforestation Act 1999*,
3. Private native forestry authorised under Part 5B of the *Local Land Services Act*.

Native forestry operations in State Forests are authorised under the Forestry Act. These operations are governed by the Integrated Forestry Operations Approvals (IFOA) administered by the NSW Environment Protection Authority. The rules and protocols contained within the Approvals do not permit 'land clearing'. Instead, there is strict 'selective harvesting' undertaken which occurs on approximately 1% of the area contained with NSW State Forests per annum.

There is a distinction between hardwood and softwood forests. Australia's native forests are hardwood forests, Cypress pine being the main exception. The timber imported from countries to Australia's north and from rainforests may also be called "hardwood". Softwood is the timber obtained from plantations of generally Pinus species and is the timber mostly associated with the construction industry where it is used for framing. Koalas do not reside in softwood plantations.

This distinction does not generally occur in the context of environmental sector commentary. Their objective is to close all forestry activity within Australia. Presumably the preference of such commentators is to see Australia's timber needs fulfilled by imported hardwood timber from overseas forests, with unenforceable regulatory regimes, where clear felling occurs with limited regulatory oversight.

The Plantation and Reafforestation Act sets out regulatory provisions for the operation of plantations. When references to 'land clearing' are made (usually accompanied with pictures in journal articles, or footage on television, using images of a cleared hillside) it is often a harvested plantation that is shown. This is not native forests as is frequently suggested.

Hardwood plantations have been planted with mixed success, as Australian native trees need to be suitable to the environs where plantations are established. This has historically not always been the case. All plantations require management and maintenance in the early part of the growth cycle. This makes the capital costs high.

The pro forma also discussed forestry principles in a working native forest as well as critiquing the view that harvesting in forests increases the chance of bushfires. The pro forma indicated that the greater risk for bushfires is the accumulation of exotic ground cover and native litter and that the key to koala preservation is first removing this bushfire threat:

Cross tenure environmental governance is an important and ignored issue within NSW. When a fire starts in a NSW National Park, it will not stop at the boundary with private property or State Forest. It will decrease in ferocity where careful forestry maintenance is applied using sustainable ecological environment principles on private property or State Forests. Evidence of this occurred as recently as 2019/2020 bushfires by people on site who had prepared and not those at a desk hundreds of miles away.

When the issue of koala habitat is considered, native forest management is paramount. Whilst bushfire is recognized by serious commentators as the greatest threat to koalas and their habitat, ground cover is an important determinant of where koalas will choose to locate. It is at last recognised by the NSW bureaucracy that koalas do not remain in a single tree. They move about and do so by coming down out of trees and moving across reasonably open ground to their destination tree. An environment full of dense exotic ground plants including lantana will cause a koala to move from the area. What audit or oversight is conducted in State owned national parks concerning the health of any koala habitat located in these areas? What identification of koala habitat of the kind and nature set out in the Guidelines to the State Environmental Planning Policy (Koala Habitat Protection) 2019 has occurred in the NSW national parks? The results of such research, if it does exist, have not been published.

Even more disturbing for koala populations and koala habitat trees is that the megafires of 2019/2020 mostly started in National Parks. Ground cover was a major contributor to this. It was because proper forest management was not consistently applied. Native forests cannot be simply locked up. To do so is a medium-term surety of habitat loss through truly destructive fires that dramatically alter the forest through soil change and destruction of seed.

The current comparison between NSW's non-working forests and working forests is stark. Not because the working forests are world class examples of well managed forest but sadly because the non-working forests are operated as a lock up forest.

A working forest is one where harvesting of timbers is used to stimulate regeneration and growth of retained trees through the creation of space and light. Whilst this is presented as a negative, it is well known that this activity aids the growth cycle of trees that provide a source of nutritious koala foliage. Nobody denies that the removal of trees can leave a disturbed part of the native forest. What is not readily understood is how this disturbance can benefit the natural growth and health of the forest. Forest scientists who operate in the forest understand this principle.

Forestry operations in a working forest is about the long-term sustainability of wood supply. Its focus is the management of the forest to ensure it is nurtured and grown in a cycle of constant renewal.

The National Forest Policy Statement established through the Australian Government as a signatory to the Montreal Protocols, sets up a forest management structure that is recognised internationally as being comprehensive and balanced. Unfortunately, successive NSW State Governments in administering the policy obligations choose to ignore many of the key principles when managing National Parks.

Working forests, if managed well, provide a timber supply to meet the community's needs under strict environmental standards and as field research shows will provide habitat for koalas and other species. The Australian landscape requires active management, just as the First Nations peoples did, thousands of years ago.

Post the 2019/2020 bushfires, some researchers and their favoured media outlets, have stated that harvesting of forests results in increased flammability and a greater chance of bushfire. These statements require careful consideration.

These reports are 'works of meta research' and modelling which immediately causes a problem. Many of these reports are not sourced. The methodology for the selection of these reports that constitute the 'review' of available research is not provided. Any bias that exists is not countered as would be expected in rigorous peer review. The 'field reports' are rarely investigated. Often this work is a 'desk-top' review, yet native forestry is an on the ground bush science. Proper forest research requires field validation which is costly.

It is well known in forestry that when timber harvesting takes place there is a window of about seven months where the residue from harvesting, if not subject to a post-harvest burn, will present an increased risk. All of the recent reports of timber harvesting and bush fires suggest that the risk lasts forever. None of these reports contain validated research. The greater risk is accumulation of exotic ground cover and accumulation of native litter and debris in the absence of management. Is a far more serious issue than residues from timber harvesting. Remembering the key to koala preservation is removing firstly the threat of bushfires, their greatest threat.

Additionally, what these reports do not mention is that where timber harvesting residue is collected immediately after the selective harvesting operation, the bush fire risk is removed. This occurs in some locations within NSW. However, the expansion of this model more widely in NSW, faces serious administrative hurdles and bureaucratic barriers or possibly just inaction.

### **Additional comments**

Some individuals submitting the pro forma provided additional comments regarding their views on the bill, including the protection of koalas and the environment:

- Dual consent needs to be removed to stop confusion when working from one area to another, we can work in up to 8 different LGA in a year. We strongly oppose this part of the legislation and back a single place of State Government legislation.
- Removal of dual consent is an important measure as all the control measures & regulation required to protect the environment are already contained within the PNF Code. We operate across the whole North Coast which has a myriad of council areas contained within it. It is near impossible to keep up with the differing approaches of each council & most of them have no silvicultural expertise. This just adds another management & cost burden to the landowner for no environmental benefit.
- Extending the approval period from fifteen to thirty years is an important measure as the current 15 year approval period really only allows for one cutting cycle in most native forest situations. This can lead towards high grading as landholders seek to manage sovereign risk. A longer period of approval allows a forest owner to take a longer term view conducting intervention for the longer term health & productivity of the forest.

- If these laws and regulations are not fixed and the great koala National park comes there will see bushfires from one end of the country to the other, the wild dog feral animal problem will continue to explode, it won't be the loggers and sawmillers fault that the koala is gone it will be blind sided government losing control of our country, for goodness sake timber is renewable for everyone not just koalas.
- I spend much of my time working in forests in NSW conducting forest thinning work which is done to promote the healthy growth of the best trees. The removal of competition allows the best trees to grow better timber with less stress. It also allows sunlight to reach the forest floor which enables native grasses & ground cover to flourish where previously, with the dense trees numbers, there was bare dirt & weeds. This can cause erosion which degrades the land. Landholders need the provisions of the PNF Code & Allowables to be able to conduct this work which is good for the forest & good for the wildlife which lives in these forests.
- We love koalas & want to see them thrive. That is why we participate in NSW DPI koala research to ensure that our management practices continue to support healthy koala populations in our forests. We find that a combination of cool burning in late winter & light cattle grazing maintains a cleaner forest floor with reduced weeds & healthier forest for free movement of native animals in and through the forest. We can only maintain this if we can conduct our routine cool burns & to do this safely without threat to our neighbours. We need the Allowables to establish & maintain suitable access tracks & fire breaks.
- I and my family experienced firsthand the loss of our farming property infrastructure including the farm residence, stockyards, storage sheds, fencing and some cattle in a firestorm on 8 November 2019. The fire originated in a National Park left uncontrolled, burning through an unmanaged ground fuel load to create a massive firestorm, travelling through a state forest then on to several private properties, including ours, causing huge damage and trauma to the owners. Notwithstanding this, an appeal was made while the fire was still in the National Park to allow backburning from the private property into State Forest to provide a firebreak. This was refused by Govt Depts threatening massive fines if the back burn was commenced. The result was the massive losses with no compensation or recourse to the decision made by the Depts. Twelve months later our property has recovered very well following rains mainly because we have had a continual land management policy of controlled burns, grazing and thinning of the forest section - with a much lesser ground floor fuel load - with abundant wildlife returning. This is in stark contrast to the neighbouring state forest areas and rain forest areas which were totally destroyed due to the massive fuel loads left unmanaged.
- I have always believed in protecting the natural environment in a manner that offers balance to all creatures, humans included. This money saving mentality of locking up the native forests, segregating humans from the beauty of our natural world is both irresponsible and dangerous to the long term survival of all. When people stop interacting with the natural world of nature the term of nature begins to drift to a new nature i.e. built. The "lock the gate and throw away the key" management approach only allows exotic flora and highly efficient predatory species to flourish, species in which Australian indigenous flora and fauna has not had the chance to adapt appropriate defences against. Allowing forest to become dense in non-rain forest areas sets the scene for "wild life genocide" through wild fires that burn with such intensity as a result of excess fuel and extreme temperatures. The timber industry when managed in an inclusive and consultative manner with indigenous communities and noncomplex authority bodies can serve to bring balance to human/wildlife interaction and sustainability, hence halting a "Drift into wildlife failure".