

## **INQUIRY INTO KOALA POPULATIONS AND HABITAT IN NEW SOUTH WALES**

**Organisation:** Wollondilly Shire Council

**Date Received:** 2 August 2019

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Our Reference: 9081#776

Ms Cate Faehrmann  
Committee Chair  
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1 August 2019

Dear Ms Faehrmann,

### **Inquiry into Koala Populations and Habitat in New South Wales**

Thank you for the opportunity to make a submission to the Parliamentary Committee established to inquire into and report on actions, policies and funding by government to ensure healthy, sustainable koala populations and habitat in New South Wales (Inquiry).

The protection of the koala population and important habitat corridors from a range of threats, particularly from development, (including Growth Areas), within the Wollondilly Local Government Area is of strong interest to the local community. Council has taken a strong proactive position in advocating these concerns that has included the lodgement of "the Save our Koala" petition to the NSW Government containing over 13,000 signatures generated in less than three months.

Council consequently welcomes the undertaking of the Inquiry as a means of identifying mechanisms that would address experienced shortcomings in the applicable legislative/policy framework and enhance the long-term survival of the local koala population and their habitat. The Committee is requested to note however that the absence of any specific reference in the Terms of Reference to impacts on koala habitat from development pressure is disappointing.

A submission based on resolutions of Council as well as the experiences of Council Staff in relation to the protection of koalas and application of the legislative framework is attached. This submission provides background information over koala populations and threats to these populations within the Wollondilly LGA as well as comments and recommendations on individual Terms of Reference items for consideration by the Committee. A key recommendation is that the enhancement of the current offsetting mechanisms within the *Biodiversity Conservation Act 2016* to enhance its adequacy in protecting koala habitat be investigated by the Committee.



The Committee's consideration of issues raised requested issues for investigation during the Inquiry detailed in the submission would be appreciated. Council would also appreciate an opportunity to appear before the Committee in support of its submission noted to be scheduled for 16<sup>TH</sup> August 2019.

Please contact Council's Acting Manager Environmental Outcomes,

to arrange for attendance at the Hearing  
as well as for any enquiries regarding issues raised in the submission.

Yours faithfully

**Acting Director Infrastructure and Environment**





## **Submission to NSW Legislative Council 'Inquiry into Koala Populations and Habitat in NSW'**

**July 2019**

This submission provides comments on the NSW Legislative Council 'Inquiry into Koala Populations and Habitat in NSW'. This submission is based on resolutions of Council and experienced shortcomings by Council Staff in the protection and enhancement of the local koala population, habitat and movement corridors by the legislative and policy framework.

Council welcomes the undertaking of the Inquiry as a means of identifying mechanisms to address shortcomings in the current koala protection framework and enhance the long-term survival of koalas and their habitat across NSW, with particular reference to critical issues within and immediately around the Wollondilly Shire Council area. However, development pressure is a key threat to koala populations in the WLGA. Inadequate consideration of this in relation to the two State designated Growth Areas continues to be of major concern to Council and the local community it represents. It is therefore disappointing that the Committee's Terms of Reference does not specifically refer to this issue.

The submission has been written with a belief that inadequate practical action now will cause an extinction crisis in the near future.

### **BACKGROUND INFORMATION**

#### **1) Overview of koala populations and habitat in Wollondilly LGA and threats**

The Wollondilly Local Government Area (WLGA) is a peri-urban type LGA with a high diversity of landscapes and biodiversity values. It also contains a diverse range of other diverse flora and fauna including 90 threatened species.

Koalas are an iconic part of Wollondilly's natural history with the first recorded European sighting of a koala occurring near Bargo in 1798 by John Price. The adequate protection of the koala population within the WLGA has been a high concern to the broad section of the local community for a number of years. This concern is illustrated by the reporting of thirty sightings of koalas to Council's Koala Hotline since its establishment in mid-2015 as well as the number of articles in local newspapers.

The Wollondilly LGA also contains seven threatened ecological communities as well as significant areas Shale/Sandstone Transition Forest (SSTF) and Cumberland Plain Woodland (CPW), which are listed as Critically Endangered at both the State and Commonwealth level. Both these ecological communities contain extensive areas of recognised koala trees and important koala habitat corridors. The distribution of these ecological communities in comparison to received planning proposals by Council (Map 1) indicates that a high proportion of planning proposals contain occurrences of these communities identified from broad-scale mapping.

The landscape and biodiversity values of the LGA are under significant pressure from a range of land use types including urban growth (both large Greenfield and small in-fill development) and vegetation clearance in koala habitat and essential movement corridors, much of it unauthorised. The population is projected to double to 100,000 or beyond over the next 20 to 30 years. This will intensify land use conflict in the one third of the Shire that is not made up of national parks and water catchment areas.



The mitigation or minimisation of adverse environmental impacts in the State designated growth areas at Wilton and Appin in particular is a serious current challenge that will grow. Council has serious concerns over adverse implications to koala habitat corridors as a result of its Local Environmental Plan and local mapping not directly applying to these Growth Areas. Large Greenfield urban growth, largely in the form of residential growth, is causing incremental loss of essential local habitat and corridors by 'a thousand cuts'.

## **2) Overview of Council position**

### **(i) Community Strategic Plan**

For many years the Shire has identified Rural Living as its vision. According to the current Community Strategic Plan (CSP) one of the key outcomes to be achieved is; "*An environment that is valued, preserved and protected, with new development planning and development proposals supporting these values*". CSP environmental strategies of particular relevance to the Inquiry include:

- Protect and enhance biodiversity, waterways and groundwaters;
- Protect the environment from development pressures; and
- Advocate strongly the interests of Wollondilly and its community in relation to environmental outcomes.

The protection of koala populations from a range of threats including development was a high priority issue raised in feedback received from Council during the preparation of the Strategic Plan.

### **(ii) Local Strategic Planning Statement**

Council is currently preparing its Local Strategic Planning Statement in accordance with reforms to the planning system that will give effect to the applicable District Plan, (Western Sydney District Plan) and inform local statutory plans and development controls. A key Planning Priority identified from internal and external consultation during the preparation of this Statement is "*Protecting Biodiversity including Koala Corridors*".

### **(iii) Council position and resolutions of relevance to the Inquiry**

Council has exercised strong advocacy on behalf of the community in expressing serious concern for the loss and potential loss of koala habitat and movement corridors. The importance of the latter should not be underestimated. Without adequate corridors koalas have inadequate access to highly specialised food, water and opportunities for breeding. While the focus is on koalas, protecting their environment (in fact enhancing their environment), benefits a huge array of other local fauna and flora that do not attract the same level of public interest.

The NSW Office of Chief Scientist and Engineer's Report on the Independent Review into the Decline of Koala Population in Key Areas of NSW released in December 2016 contains a number of recommendations of relevance to the above broad position. Council would therefore expect that all 11 recommendations detailed in this Report be fully implemented.

A number of Council resolutions have either explicitly or implicitly intended to promote the protection of koalas within Growth Areas (Wilton in particular). The most notable resolution occurred at the Extraordinary Council meeting of 30 April 2018 when Council decided to withdraw its 'in principle' support for Wilton New Town. Its willingness to reconsider its position was dependent on the satisfactory resolution of a number of matters. These matters included:



- *"The NSW Government defer any further release of land within the Greater Macarthur Growth Area and Wilton Growth Area until the NSW Government prepares and finalises a South Western Sydney Koala Conservation Strategy that protects koalas and their habitat corridors throughout the region. The Conservation Strategy should:*
  - 1. Be underpinned by approved, integrated Comprehensive Koala Plans of Management for Wollondilly, Campbelltown, Liverpool, Wingecarribee and Wollongong Local Government Areas in accordance with Schedule 1 Part 3 of the State Environment Planning Policy (SEPP)44– Koala Habitat Protection",*
  - 2. Include koala habitat and corridors with reference to the updated koala food tree species list that has been provided by OEH for the current review of SEPP 44 and we request that the review of SEPP 44 be finalised".*
- *"The rezoning of that portion of the Wilton South East Precinct that forms part of the Allens Creek primary koala habitat corridor be repealed by the Minister of Planning".*

The following events and/or activities by Council has occurred since the above resolution:

- There has been no deferment of further land releases within the Greater Macarthur Growth Area and Wilton Growth Area. However, a Development Application for the South East area of Wilton which is not covered by the Council's Local Environmental Plan (LEP) or Development Control Plan (DCP) was lodged during 2018.
- Council held a public awareness campaign that involved the lodgement of The 'Save Our Koala' petition containing more than 13,000 signatures that was generated in less than three months. The petition was debated in parliament on 27 September 2018.
- Council has undertaken mapping of koala habitat corridors (primary and secondary) across most of the Wollondilly LGA under the OEH's Save our Species Funding Program. This mapping identified a number of important primary corridors in the Wilton Priority Growth Area including within the rezoned Wilton South East and North precincts. *The Committee should note that Council is currently seeking further funding to complete this mapping.*
- Council held a very successful public Koala Summit in September 2018 that had 100 participants and featured presentations from the World Wildlife Fund, Total Environment Centre, Department of Planning and Environment and Office of Environment and Heritage.

However, the following matters of relevance to the protection of koala populations and habitat are viewed by Council as having not been addressed and remain outstanding:

- Council Staff have been advised that the draft Development Control Plan for the Wilton Priority Growth Area draft developed by the NSW Department of Planning, Infrastructure and Environment has been completed and will be placed on public exhibition from 7<sup>th</sup> August 2019.
- Two important relevant plans; the Cumberland Plain Conservation Plan and Green Plan applying to the Greater Macarthur Investigation Area (that includes the Wilton Priority Growth Area) are yet to be completed. The understood prime purpose of the Cumberland Conservation Plan is to accurately identify the extent and conservation values of this Investigation Area that includes koala habitat corridors.
- The preparation of the South Western Sydney Koala Conservation Strategy that would provide an integrated framework for the management of koala populations within the Wollondilly, Campbelltown and Wingecarribee LGA's and link more localised Koala Plans of Management has not yet commenced based on available information to Staff. *The Committee should note that Council is in the preliminary stages of preparing a Comprehensive Koala Plan of Management for the Wollondilly LGA in accordance with SEPP 44.*



- The status of the review of State Environmental Planning Policy- Koala Habitat Protection No 44 (SEPP44 and its proposed incorporation into a new Environmental Policy (both announced in 2017 by DPIE) is unknown.

It is Council's view based on the above outstanding matters that the NSW Department of Planning and Environment (now Department of Planning, Industry and Environment) has been undertaking land use planning adversely impacting on the survival of koalas within the Wollondilly LGA without strategic direction as a consequence of continuing shortfalls in baseline data and research. In particular, Council is strongly concerned that the largest disease free koala population in NSW is not currently protected by an Integrated Regional Koala Conservation Plan that conserves habitat corridors across the region.

## **SPECIFIC COMMENTS ON TERMS OF REFERENCE FOR THE INQUIRY**

**Term of Reference Item 1: The status of koala populations and koala habitat in New South Wales, including trends, key threats, resource availability, adequacy of protections and areas for further research.**

This ToR item is recognised as having broad application to koala populations and koala habitat across NSW. However, the following provides an overview regarding issues associated with the status and key issues of the koala population within the Wollondilly LGA for consideration by the Committee.

### *(i) Overview of knowledge regarding koala populations within the Wollondilly LGA*

Increased numbers of koala have been recorded at a range of locations within the Wollondilly LGA over recent years. Their habitat corridors exists across six local government areas; Liverpool, Campbelltown, Wollondilly, Wingecarribee, Sutherland and Wollongong. The population is currently estimated to be made up of 350 to 400 individuals.

This population therefore has state and national significance. The koalas north of Picton Road to Campbelltown are part of the only population in the State that is Chlamydia disease free.

Council participated in a Baseline Survey Pilot Study with the NSW Office of Environment and Heritage during April and May 2016 which involved koala surveys at 58 strategic locations. The Report on this Baseline Study prepared by Dr Nicholas J. Colman MSc, B.Env.Sc (Hons) broadly concluded that:

*A greater study effort into the koala population, their habitat-use (i.e. possible home ranges) as well as the flora (food/shelter trees) of Wollondilly is warranted. A major priority is the identification/protection and enhancement of koala habitat and vegetated corridors that koalas utilise for movement across the landscape or for home ranges. In addition, this study detected other threatened fauna that would also benefit from increased koala protection strategies.*

The Study enhanced previous expressed propositions that the WLGA provides a potential meeting point between the Chlamydia positive Southern Highlands koalas and the Chlamydia free Campbelltown population. It also identified that koalas are utilising a range of existing bushland corridors for movement and are expanding into areas not generally recognised as being koala habitat.

### *(ii) Mapping of koala habitat*

Council commenced a Koala Conservation during 2017 in partnership with a number of organisations, principally the Office for the Environment and Heritage (OEH) with funding under the Save Our Species program. Other partners included neighbouring councils, University Sydney koala health hub, Conservation Volunteers Australia and Wollondilly Wildlife Information, Rescue and Education Service (WIRES).

The focus of the project was to map koala habitat and identify population densities and koala movements across the WLGA. Mapping of primary, secondary and tertiary koala habitat corridors has been completed. Ground surveys have shown that there is a healthy and growing colony of breeding koalas in the local region.

The koalas of Campbelltown are linked with those living in Wollondilly and Wingecarribee through a habitat corridor that runs through Appin to Wilton and down to Avon Dam and Bargo. Local waterways have been identified by mapping associated with Project as providing critical movement corridors. The findings of this Project that the protection of these corridors should include adequate widths of 450m on both sides of 3<sup>rd</sup> order waterways and above rivers, 250m from 2<sup>nd</sup> order waterways and 150m on 1<sup>st</sup> order waterway is supported by Council Staff.

*(iii) Resourcing needs and areas of further research within the context of NSW Koala populations*

One of the biggest resourcing needs is the allocating of funding for further research including surveys and mapping to accurately identify current populations, their movement patterns and location of corridors (primary and secondary). Further research requires significant expenditure that is beyond the resources of Council. More specific scientific knowledge is needed to inform and ensure the adequacy current legislative and policy frameworks.

Topics for further research include more knowledge on minimum habitat corridor widths in areas where development is planned, more analysis of tree species utilised by koalas for food, movement and health breeding, disease prevention and treatment. **The Committee is requested to investigate the following areas of research in collaboration with all relevant stakeholders as part of the Inquiry:**

- Analysis of key threats to koalas, their broad habitat and movement corridors which should include an analysis of threats presented by development pressures.
- Analysis of the adequacy of state and commonwealth legislative and policy framework in ensuring a sustainable koala population and habitat in NSW.
- Adequacy of resourcing and mechanisms for funding of larger surveys and more mapping by stakeholders including local government.

**Term of Reference Item 2: The impacts on koalas and koala habitat from:**

- **The Coastal Integrated Forestry Operations Approvals and Regional Forest Agreements,**

No specific comments are provided as Item is not applicable to the Wollondilly Local Government Area

- **The Private Native Forestry Code of Practice.**



No specific comments are provided as Item is not applicable to the Wollondilly Local Government Area

- **The old growth forest remapping and rezoning program,**

No specific comments are provided as Item is not applicable to the Wollondilly Local Government Area. **However, Council requests that a vigorous investigation be undertaken prior to rezoning and removal of old growth forests and that koala populations should be retained.**

- **The 2016 land management reforms, including the Local Land Services Amendment Act 2016 and associated regulations and codes.**

Approximately 88% of the WLGA outside National Park and Special Drinking Catchment Areas is zoned rural and covered by the *Local Land Service Amendment Act 2016* and associated regulations. These rural areas contain significant areas of koala habitat and important koala corridors, including Shale/Sandstone Transition Forest (SSTF) and Cumberland Plain Woodland (CPW) as noted above as well as significant waterways (riparian corridors).

Koala populations are currently subject to the adverse effects of vegetation clearance in these areas, which is understood the Wollondilly LGA has one of the highest levels in NSW. The reasons for this clearance have been noted to be in regard to agricultural activity, rural lifestyle issues and pre-emptive clearance on large development sites. Council Staff are currently collaborating with Local Land Services and the OEH in a multi-faceted project to reduce this level of unauthorised vegetation clearance.

In its submission on the biodiversity conservation land management reforms Council expressed satisfaction at Local Land Services (LLS) having responsibilities for implementing the regulations and codes subject to adequate resourcing. The Committee should note the disappointment from Council Staff over the now apparent inadequate resourcing of LLS. The submission also identified a range of concerns over adequacies of the amendments in protecting biodiversity including koalas. Council continues to have concerns including the following issues previously raised in Council's submission.

- (i) *The definition and protection of environmental features*

The inclusion of a range of provisions regarding the identification and exemption of clearing provisions in certain ecological communities was supported in principle. However, Council's submission expressed the view that the reform package did not contain sufficient adequate provisions to manage and regulate the loss of native biodiversity occurring on private land.

The Wollondilly LGA was placed within the Central West Division as part of reforms associated with the establishment of LLS's. This arrangement permits clearing 10 metres either side of perimeter fencing and 3 metres either side of internal fencing without consent. These exemptions have been observed on occasions to result in significant biodiversity losses on smaller rural land allotments including koala habitat. Council's submission requested that the Wollondilly LGA be incorporated into a region with similar land use activities such as other peri-urban councils under the new framework. This did not occur.

- (ii) *Issues associated with categories under the land management reforms*

In relation to Regulated Category 2, the broad land use categories contained in the Land Management Code were viewed as being broadly consistent with the *Native Vegetation Act*



2003 (NVA) and therefore supported in principle. The submission noted the following concerns which still exist:

- Section 15 of the Code was not considered sufficiently stringent in preventing clearance for 1<sup>st</sup> and 2<sup>nd</sup> order streams given their location in the upper catchment.
- The statement in Section 16 of the Code that landholder of land on which the set aside areas has been established “must make reasonable measures to manner the set aside area in a manner expected to promote vegetation integrity” was not considered sufficiently stringent to ensure positive biodiversity outcomes from such areas.

The submission also raised the following shortcomings in the proposed assessment and approval pathway in relation to Category 2 Sensitive Lands:

- There was a reliance on largely self-assessment of the presence of endangered ecological communities by proponents;
- The level of rigour undertaken by the Land Management Panel in reviewing clearance proposals on Category 2 land appeared to have a low ecological focus;
- While the Category 2 Sensitive land was welcomed, the Code was viewed to be generic in nature with inadequate specifics as to which “certain activities” would be allowed on land with this Category.

These concerns outlined above remain valid as does the adequacy of the offsetting mechanisms within the new biodiversity conservation framework in maintaining koala populations and corridors in a local and regional context. There is further comment on the later below.

**The Parliamentary Committee is requested to note that the above issues and shortcomings of introduced reforms to the land management framework remain valid. The Committee is requested to examine appropriate amendments to the land management reforms to enhance its adequacy in regulating native vegetation clearance to protect koala populations and associated habitat (including local and regional corridors) in collaboration with all relevant stakeholders including local government.**

**Terms of Reference 3: The effectiveness of State Environmental Planning Policy 44 – Koala Habitat Protection, the NSW Koala Strategy and the Biodiversity Conservation Act 2016, including the threatened species provisions and associated regulations, in protecting koala habitat and responding to key threats.**

*(i) Effectiveness of State Environmental Planning Policy No 44 (SEPP 44)*

Council considers this SEPP to be a very important development planning document and is very disappointed with the delayed implementation of a revised SEPP. In 2017 Council made a submission on intended amendments to this SEPP detailed in an Explanation of Intended Effects. The Committee is requested to note that practice of not exhibiting the completed document is strongly opposed on a number of grounds including transparency. The following provides an overview of shortcomings in the current version of the SEPP raised in Council's submission based on the experiences of its application by Council Staff:

*(a) Adequacy of the current SEPP*

The statement in the Expression of Intended Effect (EIE) that the *“aim of the SEPP is appropriate and will continue to be to protect koala habitat to ensure a permanent free-living population over the present range and reverse the current trend of koala population”* is supported. However, Council's submission outlined the shortcomings in the current version of the SEPP:

- The list of koala tree species does not reflect up-to-date knowledge regarding the habitat and movement of koalas.
- The current definition of 'Core Habitat' for koalas does not adequately capture the significance of a site proposed for development in terms of a site specific and landscape context.
- Reports accompanying development applications have almost unanimously been observed to state that SEPP 44 does not have any implications to the proposed development largely based on the absence of koala recordings on a site proposed for development and are often based on poor assessment methodology of lack of data.
- The preparation of specific Koala Plans of Management has occurred on an extremely rare basis due to a combination of factors including the non-identification of 'core koala' habitat on site and expenses incurred and timeframe involved in the preparation of such plans.

(b) Link of the SEPP to the Koala Recovery Plan

The EIE was noted to state that the proposed species list was to be consistent with the NSW Recovery Plan for Koalas. However, there was an absence of any discussion on proposed procedures to ensure the consistency of the definition of 'koala habitat' and Guidelines for Development' within the revised SEPP to this Recovery Plan.

(c) Proposed revised approach of the updated SEPP

The definitions of Core and Support Core habitat in the current version of SEPP 44 have been observed to be largely ineffective in protecting the impacts of development on koalas and their habitat. The statement in the EIE in relation to this matter *“the updated definitions will be replaced with definitions that identify the characteristics of plant communities which make up koala habitat and if there is evidence that koala are present”* was therefore welcomed in principle.

The EIE proposed an approach of providing detailed guidelines for koala habitat impact assessment as an alternate to the current approach of requiring a site specific Plan of Management for a development impacting on core habitat. The submission recognised the potential benefits of this approach in terms of improving the effectiveness of the definitions in the SEPP and by extension, informing the adequacy of the revised SEPP in protecting and managing koala habitat. It stated however that the revised SEPP needed to capture the usage of a particular site by koalas in both a local and broader landscape context.

Council's submission consequently requested that the revised SEPP require the proponent of applicable development applications carry out the following activities in identifying whether a site contains 'koala habitat':



- The analysis of historical records to determine the previous presence of koalas and behavioural patterns of koalas on the site;
- The undertaking of comprehensive surveys to identify the presence of koalas consistent with best practice across all vegetation communities present on a site proposed for development;
- An analysis of the observed and identified potential behavioural usage of the site by koalas across all vegetation types within the site based on a detailed assessment, (which is not restricted to habitat species listed in the revised SEPP 44); and
- The role of the site in a landscape context in allowing for the movement of koalas based on a detailed assessment and analysis of existing records.

**The Parliamentary Committee is requested to note that the above issues and shortcomings of the SEPP 44 remain valid. The Committee is requested investigate in detail these issues and identify measures that would ensure its adequacy in protecting koala populations and habitat in consultation with all relevant stakeholders.**

*(ii) Effectiveness of the NSW Koala Strategy*

The content of this strategy was a disappointment to Council, with a lack of adequate actions that focus on the causes of the problem. The Strategy did not take adequate account of the findings in the NSW Chief Scientist and Engineers' 'Independent Review into the Decline of Koala Populations in Key Areas of NSW' March 2016 report. The Strategy also did not specifically address important issues associated with protecting the only disease free koala colony in NSW.

Inadequate appreciation was shown for the adverse impacts of large scale Greenfield urban development, for example the DPE's rezoning of South East Wilton which if implemented as planned to meet State government lots per hectare requirements, will bisect the southern portion of the vital Allens Creek koala corridor.

Given that that the majority of koalas are believed to live on private owned land, a primary cause of the impending koala extinction is the loss and fragmentation of koala habitat on private land through both approved developments and illegal vegetation clearing. Current State planning legislation and documents do not adequately address this and may recently have made the situation worse.

Despite the high number of koalas being hurt or killed on State roads there was no funding assistance for the provision of koala care facilities in South Western Sydney or any announcement of additional funding for more scientific research in the area.

Whilst it is noted that the Strategy included some positive initiatives, identified weaknesses in the document include:

- Not providing a Strategy with a whole of government approach to stabilise and increase koala numbers (this was a key recommendation from the Chief Scientist).
- Not improving koala outcomes through changes in the planning framework (the least expensive and most effective means of saving our koalas is to protect completely the mature flora biodiversity we have left).
- Not guiding and encouraging best practice for development in areas of koala population across tenures, industries and land users.



- Not identifying priority areas for conservation management and threat mitigation.
- Investing only \$20m to buy land with koala habitat for a National Park is not enough to make a real difference.
- Claims in the Strategy about the creation of 12 new reserves were misleading. The majority of the identified reserves appear to be State Forests, existing restrictions within will not create a significant net improvement for koalas.
- Not facilitating the exchange of information across land managers, local government and the research community.
- The reference to the koala population in the Greater Macarthur region is restricted to one reference on a map that shows Picton Road as a traffic shortcoming, and has minimal reference to koala populations in the Greater Macarthur Region.

**The Parliamentary Committee is requested to note that the above issues and shortcomings of the NSW Koala Strategy remain valid. The Committee is requested investigate in detail measures that would enable the Strategy to provide a comprehensive whole of government framework for the management of koala populations and habitat and their protection from a range of threats (including development).**

*(iii) Effectiveness of the Biodiversity Conservation Act 2016 in protecting koala habitat and responding to key threats*

The Wollondilly Local Government Area is currently listed as an Interim Designated Area under transition arrangements associated with the introduction of the *Biodiversity Conservation Act 2016* (BCA), which are due to conclude on 26<sup>th</sup> November 2019. Council Staff have consequently limited experience in its operation. However, the following provides an overview of the concerns of Council regarding the adequacy of aspects of this Legislation in protecting koala habitat based on its submission on the draft BC Act dated June 2017.

**(a) Relationship of the revised SEPP 44 to the Biodiversity Conservation Act 2016**

There are concerns that the effectiveness of the revised SEPP in protecting koala habitat will be constrained by the BCA following its formal introduction in the later part of 2017. These concerns are based on considered inconsistencies between the proposed broad approach of the revised SEPP 44 (protecting koala habitat based on the vegetation characteristics of a for this development site) and the provisions of the BCA. While acknowledging the Regulation Act is yet to be publicly released, Council Staff view the Gazetted Act as allowing for removal of habitat subject to offsetting measures).

**(b) Offsetting mechanisms under the Biodiversity Conservation Act 2016**

Council's submission on the revised SEPP 44 expressed concern over the effectiveness of the revised SEPP in protecting koala habitat being constrained following the introduction of the BCA. This concern was based on considered inconsistencies between the proposed approach of the revised SEPP, (protecting a site based on its vegetation characteristics), with the offsetting approach of the BCA.

The provision of criteria specifically related to koalas on the Sensitive Biodiversity Values Land Map partially addressed this concern. In addition, this criterion is viewed as only having the effect of requiring offsetting the losses of any koala habitat associated with a development located on this Map. There is also an apparent absence of any provisions which require such offsetting to be targeted at maintaining or enhancing such habitat in the local area.

In addition, the submission expressed strong opposition to this Map being restricted to core habitat based on Section 7.3(3)(b) of the Biodiversity Conservation Regulation, which lists as the criteria “*land identified as koala habitat in a plan of management made under State Environmental Planning Policy No 44 – Koala Habitat Protection, being land that in the opinion of the Environment Agency Head is core koala habitat*”. It is viewed as imperative that primary and secondary corridors be protected to avoid fragmentation and ensure long-term retention of corridors.

A further key concern is the amended biodiversity outcome of the Act “No Net Loss of Biodiversity in NSW” to the outcome contained in the superseded *Threatened Species Conservation Act 1995*. This amended outcome is considered restricted to the State and biodiversity scale and does not consider biodiversity losses and gains on a localised scale including impacts to local habitat corridors.

The provision of funding and provisions in the BC Act regarding the Priority Investment Strategy has been supported in principle. However, Council’s submission on this Strategy expressed opposition to the allocation of funding to the Greater Metropolitan Area being given a low priority as a result of the operation of an offsetting mechanism. The submission in this regard expressed the view that Strategy did not contain a sufficient strategic framework for the delivery of a program which achieves positive biodiversity outcomes on a localised scale.

Council Staff have not observed the adequacy of biocertification provisions within the BC Act in adequately protecting koala populations and their habitat. However, the Committee is requested to note in this regard that Council Staff understand that a biocertification approach is being pursued for the Wilton Priority Growth Area by DPIE. However, at the time of lodgement of this submission, there is no effect legal mechanism in place to protect the important koala corridors in this Growth Area and their linkage with other parts of the Wollondilly LGA. It is also noted that a biocertification approach will not apply to existing approved rezoning proposals in Wilton South East and West Wilton where key koala corridors have been identified.

**The Parliamentary Committee is requested to note that the above issues and shortcomings of the NSW Koala Strategy remain valid. The requested amendments contained in Council’s submission on the draft Biodiversity Conservation Act are consequently replicated below for consideration by the Committee as part of the Inquiry.**

- The Sensitive Value Map should have direct linkage to up to date koala habitat mapping undertaken by local government as well as applicable Comprehensive Koala Plans of Management.
- The finalised koala habitats be protected from development through updated provisions in regard to Serious and Irreversible Harm and/or Areas of Outstanding Value.
- The finalised guidelines in the revised SEPP 44 replacing specific Plans of Management be incorporated in the document package.

**Term of Reference 4: Identification of key areas of koala habitat on private and public land that should be protected, including areas currently at risk of logging or clearing, and the likely impacts of climate change on koalas and koala distribution.**



- (i) *Identification of key areas of koala habitat on private and public land that should be protected, including areas currently at risk of logging or clearing*

The Wollondilly Shire Council has only a small area of public land under its control that includes a small number of reserves containing bushland in excess of 1ha. There is however a significant amount Crown land (which includes recognised important koala habitat corridors such as Bargo Gorge).

The above ToR item is viewed as applying to areas at risk from vegetation clearance associated with any activity including development. In this regard, Council will be reviewing its Local Environment Plan (LEP) which at this stage is intended to will include an updating of the biodiversity mapping upon which it is based. Consideration is being made to place an E2 Zoning on identified koala habitat corridors (which will include both primary and secondary corridors. However, more studies and mapping is required to ensure adequate protection of important koala habitat through this mechanism. **It is requested that the Committee investigate appropriate mechanisms for protecting critical koala habitat and corridor areas from all forms of vegetation clearance in collaboration with all relevant stakeholders as part of the Inquiry.**

Logging is not a major local issue within the Wollondilly LGA and no comments regarding this matter are provided. However, illegal clearing is a major issue, not only because of the biodiversity loss but the fragmentation of movement corridors (very much part of the 'loss by a thousand cuts'. **The Committee is therefore requested to investigate koala habitat at risk from such clearing and identify measures to address this risk.**

- (ii) *The likely impacts of climate change on koalas and koala distribution*

Council has no in-house expertise on the potential impact of climate change on koalas and their distribution. However, it is suggested that the Committee investigate whether habitat trees currently utilised by koalas within Wollondilly will continue to exist in warmer climates predicted by modelling.

**Terms of Reference 5: The environmental, social and economic impacts of establishing new protected areas to conserve koala habitat, including national parks.**

Council supports the expansion of National Parks in the region to include more koala habitats and corridors. In relation to this matter, Council passed the Council the following resolution at its meeting in February 2017 *"Expressing and confirming Council's support for the establishment of the Bargo Nepean River National Park"* (see attached Map). This Gorge has been identified as being an important koala habitat corridor and also has recognised highly significant aesthetic, natural and cultural values.

At its Ordinary meeting on 15 October 2018 Council further resolved in relation to this matter:

- *"That Council welcomes the announcement from the NSW Opposition of their policy pledge to establish a 'Koala National Park' in South Western Sydney in recognition of the importance of the Chlamydia free koala population found in the area; and*
- *"That the Council strongly advocate that any such park needs to also include koala habitat and movement corridors in the Appin and Wilton areas, including the Allens Creek corridor at Wilton".*



It is Council's general view that the State government needs to be more active in moving to acquire priority areas for conservation management and threat mitigation and less reliant on land owners offering land for sale.

Given that a significant area of the Wollondilly LGA includes restricted access water catchment land, the expansion of National Parks in the area would be welcome from both environmental and economic perspectives. Our closeness to metropolitan Sydney we see as being an economic advantage where economic benefits can be achieved, especially though natural environment pursuits such as bush walking. Koalas are an internationally known species we are sure the public would rather try and see in their natural environment.

It is considered beyond the scope of this submission to provide specific comments regarding the social and economic impacts of establishing National Parks which is viewed as largely applying to adjoining rural landholders. However, the prevention of mining of coal resources within the Wollondilly LGA as a consequence of National Park listing is considered a potential socio-economic impact of relevance to this ToR item.

#### **KEY RECOMMENDATIONS AND COUNCIL POSITION DETAILED IN THE SUBMISSION**

1. That the Review of SEPP 44 (Koala Habitat Protection) be completed and the full version of the updated document be placed on public exhibition as soon as possible.
2. A Comprehensive Greater Macarthur Regional Koala Plan of Management be completed prior to the approval of any development within Growth Areas that is potentially impacting recognised koala habitat.
3. The current offsetting mechanisms within the *Biodiversity Conservation Act 2016* be amended to enhance their adequacy in protecting koala habitat in a localised context.
4. Provisions within the current land management framework management be amended to enhance to ensure sufficient regulation of native vegetation clearance for the adequate protection of koala populations and associated habitat (including local and regional corridors).
5. More funds be allocated for the acquiring and management of suitable reserve lands for koala habitat (including habitat corridors both north/south and east-west linkages) by the State Government.
6. All recommendations of the *NSW Office of Chief Scientist and Engineer's Report on the Independent Review into the Decline of Koala Population in Key Areas of NSW* be implemented in full.
7. There be a detailed examination of all measures to avoid or mitigate impacts associated with proposed development on koala habitat prior to any consideration of offsetting under the biobanking framework.
8. More funding for scientific research especially in areas of likely large urban growth and with respect to the only Chlamydia disease free population as well as on-ground koala surveys and publicly accessible mapping.
9. Appreciation not just habitat but also that movement corridors be enhanced and expanded to provide resident habitat for future generations of koalas.

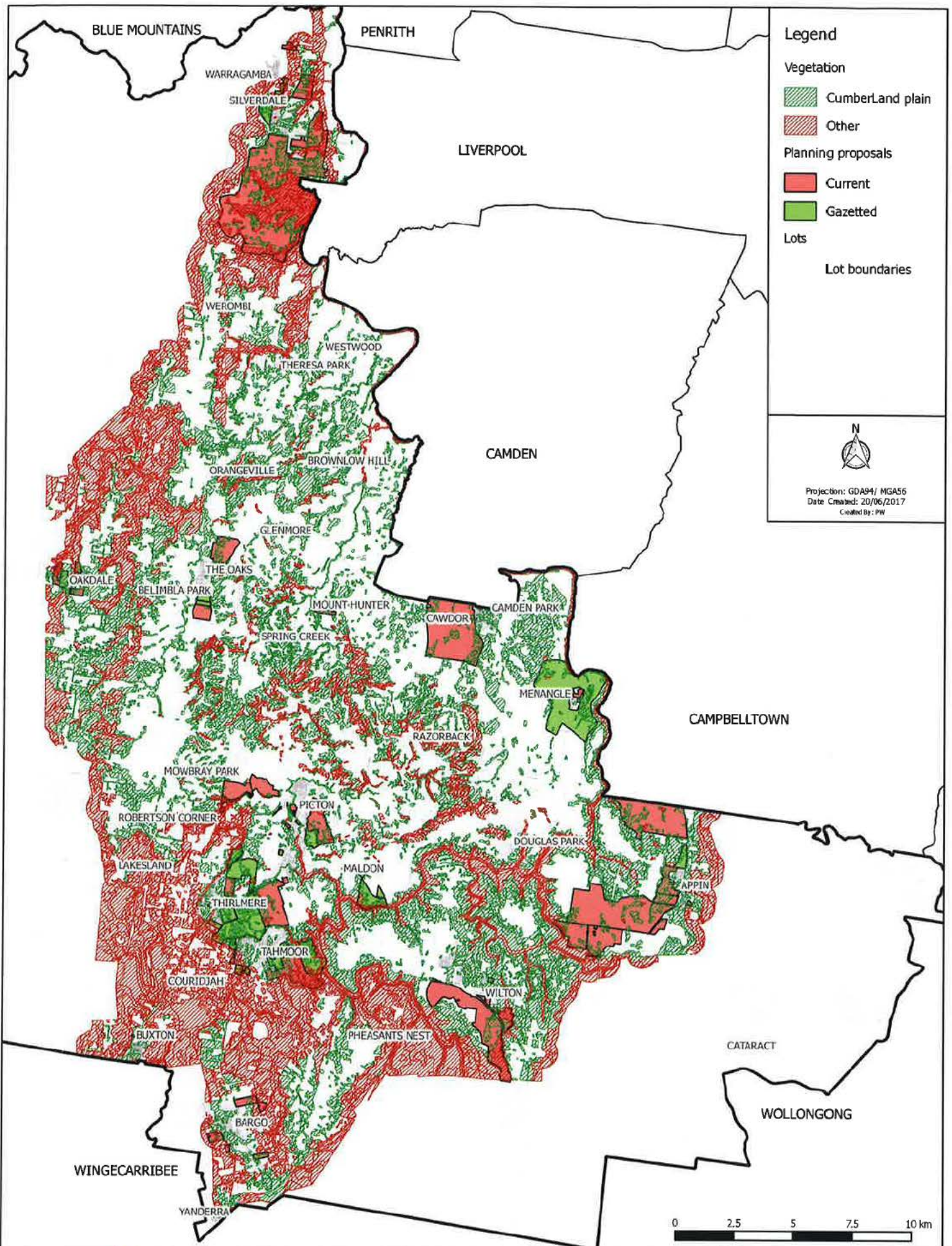
#### **CONCLUSION STATEMENT**

The Wollondilly Local Government Area contains significant recognised important koala habitat (including corridors) and the disease free. The holding of the Parliamentary Inquiry into Koala Populations and Habitats in NSW is welcomed as a means of identifying mechanisms to address observed current shortcomings in the applicable legislative/policy

framework and address critical issues affecting this population. There is however disappointment that the Terms of Reference does not explicitly refer to the significant pressures on koala populations and their habitat from current and projected growth within Wollondilly and the broader Greater Macarthur Area.

This submission provides background information over koala populations and threats to these populations within the Wollondilly LGA for consideration by the Committee. Key recommendations of the submission are for the Committee to investigate mechanisms for the updated State Environmental Planning Policy and amendments to the current offsetting mechanisms within the *Biodiversity Conservation Act 2016* that would enhance their adequacy in protecting koala habitat.



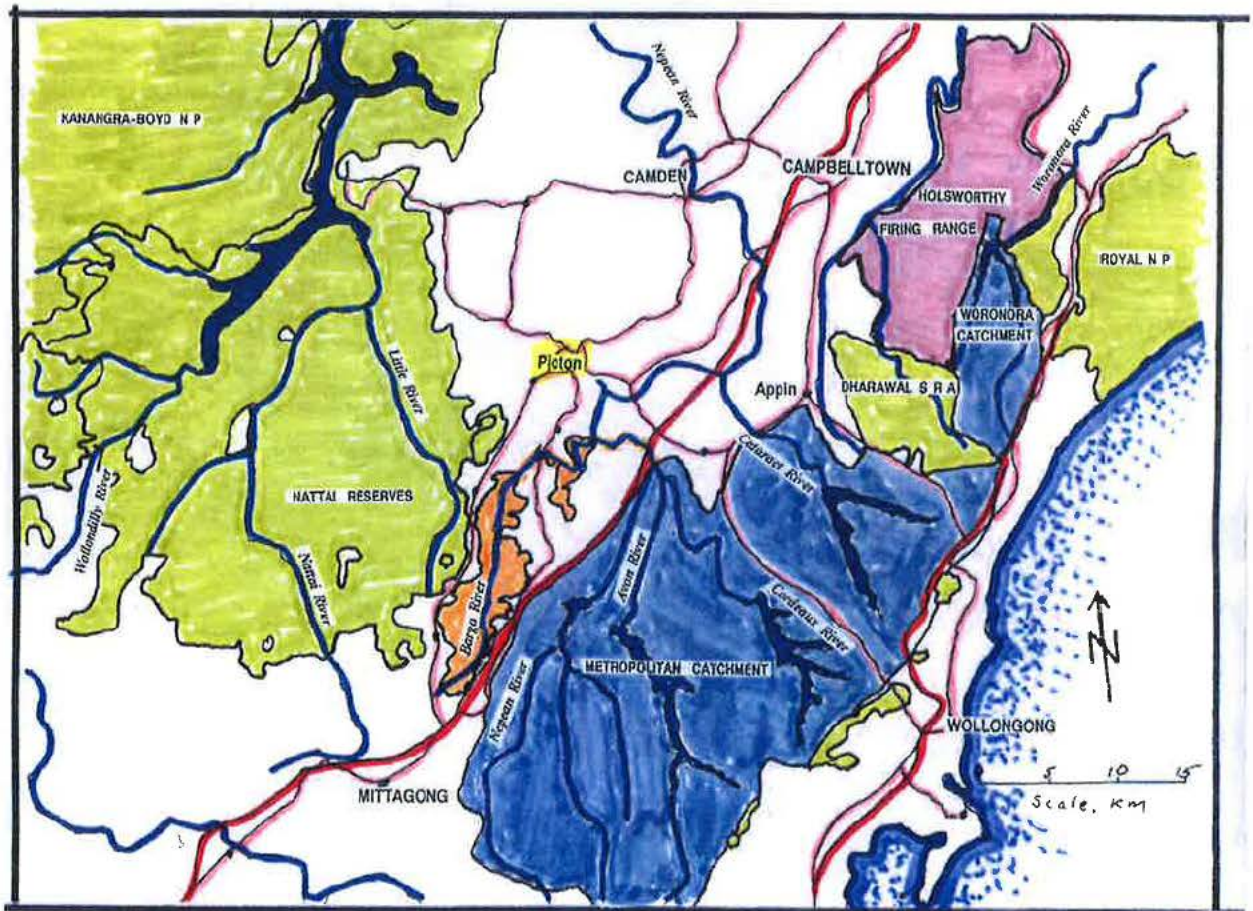






# RESERVES South West of Sydney

Showing How  
**PROPOSED BARGO RIVER NATIONAL PARK**  
could connect Major Reserves



- National Parks and S R A
- Catchment Special Areas
- Military Reserves
- Proposed Bargo River N P

- Freeway
- Main Roads
- Rivers etc.



