

**Submission
No 3**

**INQUIRY INTO LOCAL LAND SERVICES AMENDMENT
(MISCELLANEOUS) BILL 2020**

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RE: Submission to the *Local Land Services (Miscellaneous) Bill 2020*

Prepared by Dr Christine (Adams) Hosking

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Introduction

It is clear that koala populations are in rapid decline in NSW and the threats are well known. Historical and current land clearing, primarily from urbanisation and agriculture, continue unabated as does rapid climate change, another key threat to koalas and their food resources (Fig. 1). Furthermore, koala populations in NSW have been shown to be declining by 26%, with a mean population of 36,350 remaining for the entire state ([Use of expert knowledge to elicit population trends for the koala \(*Phascolarctos cinereus*\) - Adams-Hosking - 2016 - Diversity and Distributions - Wiley Online Library](#)).

The Local Land Services Amendment (Miscellaneous) Bill 2020 must address these threatening processes *as a priority* when considering further development.

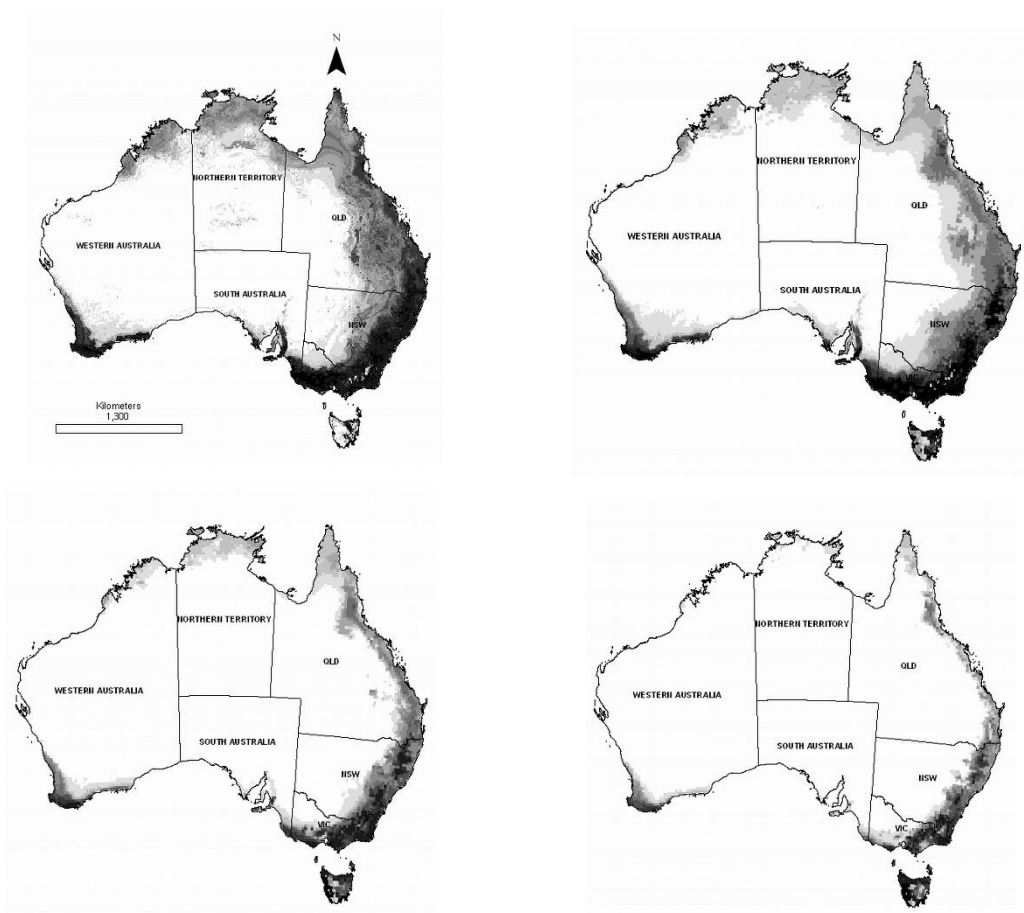


Figure 1. Top left map is current distribution of koalas in current baseline climate, top right by 2030, bottom left by 2050 and bottom right by 2070. The darkest shading indicates a higher probability of koalas occurring.

Source: Adams-Hosking et al (2011) “Modelling climate-change-induced shifts in the distribution of the koala” [CSIRO PUBLISHING | Wildlife Research](#)

- **The objectives and impact of the Local Land Services Amendment (Miscellaneous) Bill 2020**

My key concerns:

1. The changes proposed by the Bill will negate vital koala habitat protection and is likely to facilitate excessive land clearing that will further harm koala populations. For example, to “allow native vegetation clearing in certain circumstances on land that is used for agricultural purposes without the need for authorisation under other legislation”.
2. The Government should hold off on amendments to the LLS Act until it completes and publicly releases the findings of the three-year review that it has committed to.
3. These significant changes should not be implemented until the outcomes of the PNF Review are finalised and also, they do not relate to the stated reason for the Bill – the interaction between the land clearing rules under LLS Act and the Koala SEPP. For example, “to extend the maximum duration of private native forestry plans made under Part 5B of the Act to 30 years” is extremely concerning and warrants further validation.

- **The operation and effectiveness of the 1994, 2019 and any potential new draft Koala SEPPs in protecting koalas and their habitat**

My key concerns:

1. Currently, it is a requirement for land identified as koala habitat in a Koala Plan of Management (PoM) made under State Environmental Planning Policy No 44—Koala Habitat Protection (SEPP 44) and the Bill proposes to remove this requirement. I do not support this change. It essentially means that land clearing on koala habitat (except that already identified) in rural areas will not be regulated, which is unacceptable.
2. The amendments to the Koala SEPP remove all references to the Koala Development Application Map, which was introduced following the review of SEPP 44, to address the problematic definition and application of the concept of ‘potential koala habitat’. The Koala Development Application Map identified areas where development applications would need to be assessed in accordance with cl. 9 of the Koala SEPP. The Government has now abandoned this new mechanism

- **Current and potential incentives and challenges facing rural landholders who seek to protect koalas and their habitat on their land**

My key concerns:

1. Proposed ‘allowable activity land’: E-zones are intended to provide protection to land that is suitably identified as warranting protection due to its environmental values. Clearing should not be allowed to go ahead in these zones unchecked.

2. The Guideline includes a ‘stop the clock’ mechanism that will allow landholders to request an additional 60 days to object to proposed core koala habitat on their land. Council must comply with the request. This is in addition to the 90-day consultation period provide by the Koala SEPP (recent amendments extended the original timeframe from 28 days to 90 days). Council must also conduct an on-ground survey at their own expense if requested by the landholder. This process would allow landholders to significantly delay finalisation of a PoM.
3. Development assessment process - clause 9: A new provision that explicitly states that “a council may grant development consent if information prepared in accordance with the Guideline demonstrates that the land subject to the application does not include any trees with a diameter at breast height over bark of more than 10cm or includes only horticultural or agricultural trees”. This suggests that these trees are not valued as koala habitat, which is certainly not always the case.

- **The mechanisms by which biodiversity values are assessed on private land when land use changes**

My key concerns:

1. Revised definition of ‘core koala habitat’: “an area of land which has been assessed by a suitably qualified and experienced person in accordance with the Guideline as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years”. What is the definition of “highly suitable”, given the complexity of what constitutes koala habitat (e.g., connectivity, secondary food and shelter trees, predation from wild dogs, etc.)?
2. There is no guidance on how a council is to determine if there is no or low impact on koalas.
3. The process for identifying that a development application is Tier 1 is weak. This is because site inspection is not mandatory and an aerial photography analysis without ground-truthing and expert opinion is not enough.

- **The impacts of current regulatory regimes on private landholders**

My key concern:

1. This amendment will allow the interests of landholders to disproportionality influence the development of koala plans of management, and lead to important areas of core koala habitat, that warrant adequate protection under the SEPP, being excluded from koala plans of management due to landholder concerns.

- **The impact on local government's ability to manage koala populations in their Local Government Area and koala plans of management.**

My key concerns:

1. The only map still in operation under the amended SEPP is the Site Investigation Area for Koala Plans of Management Map, which is intended to identify land that can be identified in a Koala PoM developed by a local council. While this map has less immediate relevance for individual landholders than the Koala Development Application Map, it is still an operational map and has been made available online prior to the recent SEPP amendments. There is no reason why this map should not continue to be made available online.
2. References to the Koala Development Application Map have been removed. The Guideline has had to be substantially revised due to the abandonment of the Koala Development Application Map.

Further reading is available upon request from the author of this submission
