

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

**Organisation:** Animal Liberation

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# LOCAL LAND SERVICES AMENDMENT (MISCELLANEOUS) BILL 2020

NSW GOVERNMENT PORTFOLIO COMMITTEE NO. 7

AN ANIMAL LIBERATION SUBMISSION

We acknowledge the  
Traditional Owners of  
country throughout  
Australia and recognise  
their continuing  
connection to land, waters  
and culture.

We acknowledge that this  
document was written on  
land stolen from and  
never ceded by the  
Gadigal People.

We pay our respects to  
their Elders past, present  
and emerging.



*We don't have a duty to **speak** for the animals;  
we have an obligation to be **heard**  
for the animals.*

Matt Ball (2006)



## DOCUMENT DETAILS

Animal Liberation 2021. A submission by Animal Liberation in response to the NSW Government's Portfolio Committee No. 7 - Planning and Environment's Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020. Sydney: Animal Liberation.

## ABOUT ANIMAL LIBERATION

Animal Liberation has worked to permanently improve the lives of all animals for over four decades. We are proud to be Australia's longest serving animal rights organisation. During this time, we have accumulated considerable experience and knowledge relating to issues of animal welfare and animal protection in this country. We have witnessed the growing popular sentiment towards the welfare of animals, combined with a diminishing level of public confidence in current attempts, legislative or otherwise, to protect animals from egregious, undue, or unnecessary harm. Our mission is to permanently improve the lives of all animals through education, action, and outreach.

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## DISCLOSURE & CONSENT

Animal Liberation confirms its consent to the Committee to publish Animal Liberation's submission in full on the Committee's website including our name/s.





**WITHOUT MEANINGFUL AND CONSISTENT REFORMS AND  
LEGAL PROTECTIONS, KOALAS WILL NOT SURVIVE**

5 February 2021

NSW Legislative Council  
Portfolio Committee No. 7: Planning and Environment  
[portfoliocommittee7@parliament.nsw.gov.au](mailto:portfoliocommittee7@parliament.nsw.gov.au)



We present this submission on behalf of Animal Liberation.

Animal Liberation is pleased to lodge a submission to the NSW Government's Portfolio Committee No. 7 - Planning and Environment's Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020.

We request that it be noted from the outset that the following submission is not intended to provide an exhaustive commentary or assessment in response to the Local Land Services Amendment (Miscellaneous) Bill 2020.

Rather, our submission is intended to provide a general examination and responses to select areas of key concern. As such, the absence of discussion, consideration or analyses of any particular aspect or component must not be read as or considered to be indicative of consent or acceptance. For the purposes of this submission, Animal Liberation's focus covers aspects that we believe warrant critical attention and response.

Animal Liberation has no 'economic' or 'vested interest' pertinent to Inquiry, however, we care deeply about all nonhuman Animals, our shared Environment, and People including our 'Humanity' which extends to our unique and valued rural communities. We also support the democratic process of public exhibition and the right to have an opinion and voice that opinion, and we support and encourage a rigorous and robust review of the Local Land Services Amendment (Miscellaneous) Bill 2020 by the Portfolio Committee No. 7 - Planning and Environment.

We have reviewed the Local Land Services Amendment (Miscellaneous) Bill 2020, other related legislation and documents and our submission is as follows.

**Lisa J. Ryan**  
Regional campaigns co-ordinator

**Alex Vince**  
Campaign director

## **INTRODUCTION & PREFACE**

### **"Habitat" for koalas means homes, food and water sources, safety and survival...**

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- 1.1 Animal Liberation is concerned about the obvious change in the NSW Government's approach to public consultation. This is reflected in the approach of Committee to which this submission is faithfully made. This is a publicly funded Committee on a subject which has direct links and consequences to native flora and fauna, and notably, endangered koalas across the State. This is a subject on which the vast majority of NSW residents hold strong views. Such views are becoming increasingly concerned and should not be curtailed on the basis that an author or respondent is not an expert or representing an organisation. No "public" consultation process in a publicly funded inquiry or review should ever be limited to "invitation only".
- 1.2 The issues at hand strongly relate to the welfare of native species. Animal Liberation is the premier animal rights organisation in Australia and has been so for over 40 years. During this time, we have accumulated significant knowledge and experience about issues relating to animal welfare, justice and protection. It is indeed disappointing that Animal Liberation was not "invited" to lodge a submission as other selective organisations were.
- 1.3 Similarly, nor should it matter if a member of the public merely wishes to "have a say", per Government's catch cry, or to express their concern for koalas and their strong desire to see meaningful legal protections for them and their habitat. Such public views must always be allowed. Indeed, such additions should be supported by Government and this Committee through the submission making process. The public should not be curtailed and offered no option other than that of an online survey. Such an approach cannot be considered a democratic public consultation. Indeed, the purpose of meaningful public consultation is to engage with a broad and wide audience to better represent public views.
- 1.4 In complete contradiction to the "invitation only", we note the Legislative Council's own public guide (titled 'Making a Submission') states that "any person or organisation can make a submission". Further, the Legislative Council's guide (titled 'Upper House Committees') states that "Committees provide an important opportunity for individuals and groups to participate in the

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- 1.4 parliamentary process and put their views directly to members of Parliament”.
- 1.5 The subject of koalas and koala habitat has in essence been “done to death” with a number of successive NSW inquiries and reviews, many of which are closely inter-related. This has been further complicated by Federal Government inquiries and reviews covering the environment and native species. In this mix of inquiries and reviews a piecemeal approach, which from the public perspective is uncoordinated, inconsistent and flawed, has resulted in the issues becoming extremely obscured and confusing.
- 1.5.1 The NSW Government continues to hold ‘Have Your Say’ public consultations. When they feel inclined, they may conduct Inquiries. The results, however, continue to be the same or similar. That is, the prevailing approach taken by the Government ignores public interest and science in favour of economics and permitting ‘business as usual’ to continue unabated.
- 1.6 We are actually regressing at an alarming rate in the protection of koalas and their habitat. The reverting back to the innately inadequate and repealed State Environmental Planning Policy No. 44 – Koala Habitat Protection (hereafter, ‘SEPP 44’) to the Koala Habitat Guideline made under the 2019 SEPP from a relatively newly introduced State Environmental Planning Policy (Koala Habitat Protection) 2020 (hereafter, ‘Koala SEPP 2020’) is just one of many such regressions. We also note the Land Services Amendment (Miscellaneous) Bill 2020 was defeated in the NSW Legislative Council in November 2020.
- 1.7 The public are increasingly disillusioned by the lack of priority and the absence of actions implemented by the Government to halt the ongoing and rapid decline of NSW koala populations. Animal Liberation shares these public views. There is a rapidly eroding level of trust and confidence in elected legislators and decision-makers, particularly concerning their publicly declared proclamations to save and protect Australia’s iconic, precious and irreplaceable koalas. The Government’s stated intent to ‘protect and preserve’ has not translated into real or meaningful legal protections for NSW koalas or their habitat. Indeed, koala protections in NSW have regressed.



# WHAT HAPPENS TO THEM MATTERS TO THEM

REGAN 1983



# **STATUS & HISTORY**

- 2.1 NSW koalas are in serious trouble and cannot wait any longer for substantive legal reforms to protect them and their habitat. While secondary impacts to NSW koalas are also substantial, the most urgent and pressing threat is the destruction of koala habitat and the NSW Government's failure to act.
- 2.1.1 The ongoing failures of the NSW Government including, inadequate and inconsistent existing legislation and proposed laws and guidelines are glaring. These entrenched failures and inadequacies are further compounding the dire situation for koalas across NSW.
- 2.1.2 Government must undertake and implement urgent reforms to protect and save NSW koalas and the habitat they are intrinsically dependent on for long-term survival.
- 2.2 In NSW our iconic koalas are listed as a vulnerable threatened species with the real risk of extinction in the medium term. Individual NSW koala populations on the lower north coast, Northern Rivers and northern Sydney Pittwater local government areas are already listed as endangered populations (DPIE 2017; DPIE 2018). Without urgent and decisive actions, inaction will ultimately cement Australia's appalling world's worst mammal extinction record as representing more than merely a trend or series of calamitous errors (Short and Smith 1994; Woinarski et al. 2015). It will secure our infamy in history as refusing to act in the face of sound science.
- 2.3 NSW koala populations estimates vary. However, the rapid and ongoing steep decline in populations is not in dispute. In 2016, the NSW Chief Scientist conservatively estimated that approximately 36,000 NSW koalas remain in the State. This figure represents a 26% decline over the last three generations of koalas (between approximately 15-21 years) (O'Kane 2016). It is important to note that these estimates were made prior to the devastating 2019/2020 bushfires which affected over 3 million hectares of all moderate to very high suitability koala habitat in eastern NSW alone and killed over 6,000 individuals (DPIE 2020; WWF 2020).

**STATUS & HISTORY**

- 2.3.1 The status of NSW koala's as vulnerable, threatened and endangered has never been more pressing. This has been recognised by a range of organisations, including the World Wide Fund for Nature-Australia (WWF-Australia), the International Fund for Animal Welfare and Humane Society International, following the devastating 2019/2020 bushfires (WWF 2020).

**LAND CLEARING**

- 2.4 The Natural Resources Commission's report assessing the Land Conservation Reform Management and Biodiversity Conservation Reforms highlighted the devastating impacts resulting from the NSW Government's changes to land clearing laws in 2016 (NRC 2019). This report describes NSW land clearing as a "state-wide risk to biodiversity" and confirms the outrageous extent of environmental vandalism, some of which they can't even account for, and which has been enabled by the policies and policy direction of the NSW Government.
- 2.4.1 In 2018/19, over 37,000 hectares were approved to be cleared, almost 13 times the annual average rate of approval in the 10 years prior to 2016/17 of approximately 2,700 hectares;
- 2.4.2 Land clearing approvals almost doubled between Q4 2018 (25,247 hectares) and Q1 2019 (43,553 hectares);
- 2.4.3 Almost 60% - or 7,100 hectares - of clearing between August 2017 and January 2018 was 'unexplained';
- 2.4.4 Nine of eleven regions in NSW were assessed as a "high biodiversity risk" due to high levels of clearing and insufficient areas set aside for conservation; likely in contravention of the regulations.
- 2.5 In spite of this evidence strongly supporting the listing of koalas as vulnerable across NSW, including recognition that 'habitat' is the most vital component for koala survival and repeated and consistent testimony from koala experts, government legislators and decision-makers continue to ignore the urgent plight of NSW koalas in favour of other vested economic considerations and policy directions. Shamefully, this has been evidenced in numerous

**STATUS & HISTORY**

- 2.5 instances over recent decades by the behaviours, actions and policy directives adopted by the NSW State Government. This continues largely unabated in a profoundly apathetic, unethical and patently unaccountable manner.
- 2.5.1 Koala numbers have been in steep decline for the past 20 years, with koala numbers decimated under the totally inadequate protections provided by the former SEPP 44, the 'offsets' provisions, and the general winding back and repeal of vital environmental protection laws designed to protect native habitat and native species. NSW koalas are under extreme stress from an increasing number of key pressures and threats. These include land clearing for animal agriculture, mining, logging on private and public land, destruction associated with an widening urban sprawl to accomodate more roads and public infrastructure and the government's own failures to address and tackle the climate emergency.
- 2.6 Australia's environment and species protection laws and policies at Federal, State and local council level are palpably inadequate and continue to fail koalas and permit the razing or fragmentation of their limited habitat. Legislation and policy contradictions and inconsistencies add to these inadequacies and failures, along with government's core economic interests and priorities being afforded blatantly biased and preferential treatment.
- 2.6.1 Alarminglly, the same NSW Government who develops and implements state based environment and species protection regimes also interferes with the lawful enforcement and prosecution of serious breaches. This was amply demonstrated when the Berejiklian Government granted amnesty to hundreds of farmers who faced penalties for clearing land ahead of the introduction of looser controls, thereby breaking a promise made two years earlier (Hannam 2019).
- 2.6.2 Further, the State Government's response to the Inquiry into Koala Populations and Habitat in New South Wales Committee report and recommendations demonstrated a willingness to ignore its own convened Committee and Inquiry to serve its own political interests. This represents further testimony revealing the government's attitude and approach to scientific evidence, consultation, public interest and transparency.

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- 2.7 The NSW State Government's own website (Department of Planning, Industry and Environment) states, under the heading of Status:
- 2.7.1 "The koala has suffered a dramatic decline in numbers and distribution since the arrival of Europeans. Surveys in NSW indicate that since 1949, populations of koalas have been lost from many localities. Most populations in NSW now survive in fragmented and isolated habitat and many of the areas in which koalas are most abundant are subject to intense and ongoing pressures."
- 2.7.2 "The koala is listed as 'vulnerable to extinction' under the Biodiversity Conservation Act 2016 because of declining numbers and the ongoing pressure of threats. Such listing gives the species more protection and attention, and means proposals for development that will affect koala habitat are rigorously assessed."
- 2.7.3 "In April 2012, koala populations in Queensland, NSW and ACT were listed as vulnerable to extinction under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999."
- 2.8 This same website lists the key threats to koalas as including:
- 2.8.1 Loss, modification and fragmentation of habitat;
- 2.8.2 Disease (principally chlamydia);
- 2.8.3 Fatal or devastating vehicular strikes;
- 2.8.4 Intense prescribed burns or wildfires that scorch or burn the tree canopy;
- 2.8.5 Predation by roaming or domestic dogs;
- 2.8.6 Heat stress through drought or heatwaves;
- 2.8.7 Human-induced climate change.



**STATUS & HISTORY**

- 2.9 Sadly, the listings in the Biodiversity Conservation Act 2016 now have little meaning and NSW legislation certainly can't claim with any accuracy or credibility to protect koalas or koala habitat.



# SUBMISSION

**Animal Liberation strongly opposes the Local Land Services Amendment (Miscellaneous) Bill 2020. The following section will provide a rationale for this response for the Committee's consideration.**

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- 3.1 This bill represents a major reversal and degradation of the Government's previous public support for meaningful koala protection in NSW. The proposed bill is a very disappointing regression for koala protection in NSW and is especially in light of the devastating drought and bush fire season of 2019/2020 which has already placed surviving koala populations under enormous stress and pressure. In short, this bill if approved, will likely condemn NSW koalas to imminent extinction.
- 3.2 It is Animal Liberation's informed view that this bill will:
- 3.2.1 Enable and facilitate further erosion and regression of hard fought for gains in NSW over recent decades for koala protection and conservation. Alarming, the proposed bill reneges on the Government's public commitment to map koala habitat. It will thus significantly limit the definition of "core koala habitat";
  - 3.2.2 Increase the clearing of koala food trees and other trees koalas depend on for safety and protection, including those used to seek shelter from adverse weather conditions and safety from potential predators;
  - 3.2.3 Greatly restrict local government ability to protect and preserve known or suspected koala habitat and significantly limit the ability to effectively monitor and enforce any breaches;
  - 3.2.4 Seriously restrict and compromise the amount of koala habitat that can be protected in Comprehensive Koala Plans of Management (hereafter, 'KPoM') resulting in over 99% of koala habitat on private land in NSW having no protection;

**SUBMISSION**

3.2.5 Permit more clearing to take place in environmental protection zones through “allowable activity on (rural) land” provisions, thereby seriously undermining the protections offered by E-zones through various developments without the need for the usual Development Application and assessment processes in instances of land clearing or development. As such, the bill is blatant in its design to protect the interests of developers and agri-business without meaningful or adequate consideration of native flora and fauna or critical habitat on public and private land;

3.2.6 Allow, with minimal restrictions, the ability for Private Native Forestry (hereafter, ‘PNF’) to have free rein and will extend the duration of PNF operations from 15 to 30 years. If the bill becomes law, even when a forest is identified as core koala habitat, it will remain unprotected from clearing for agriculture or logging.

3.3 Animal Liberation contends that the 1994 and 2019 Koala SEPPs have been woefully inadequate in their intent and design, and have failed to adequately or effectively protect NSW koalas and koala habitat.

3.3.1 There is no current law or policy which provides NSW landowners with any type of incentive to protect koalas and koala habitat. This serious failing and omission risks and impacts current NSW koala populations and their habitat, of which around two thirds are populated on private land. Further, the lack of NSW regulations and penalties relating to koala and koala habitat protection is compounding the issues and the further decline in healthy and sustainable NSW koala populations.

3.4 The NSW Environment Protection Authority (hereafter, ‘EPA’) has confirmed that less than 10% of NSW is conserved through national parks and reserves. Over 70% of the state is under private ownership or Crown lease (EPA 2017). Accordingly, private land conservation is a vital and critical consideration in protecting all NSW biodiversity. This considerable responsibility for adequate environmental management through private landholders has been largely ignored and now requires urgent and prioritised review. This is amplified by the fact that approximately 1,000 species of NSW flora and fauna are currently considered at risk (DPIE n.d.).

**SUBMISSION**

- 3.5 Any incentives, including subsidies made available to private landowners for the protection of koalas and koala habitat, must be available to all NSW landowners and must be financially and economically attractive insofar as they should compete effectively with any relevant incentives and/or revenue derived by private landowners from private native forestry agreements.
- 3.6 The current NSW mechanisms to assess biodiversity values on private land are poorly designed and inadequately maintained. The Land Services Amendment (Miscellaneous) Bill 2020 will similarly neglect to protect biodiversity.
- 3.6.1 The previous Local Land Services Amendment Bill 2016 repealed the Native Vegetation Act 2003. The latter contained important and meaningful legislative protection provisions because it required landholders to “improve or maintain biodiversity values”. This critical inclusion remains absent from both the LLS Bill 2016 and the Local Land Services (Miscellaneous) Bill 2020.
- 3.6.2 Consideration and review regarding the impacts to private landholders from the current NSW regulatory regimes include Development, Offsets and Land Clearing.
- 3.7 The current regulatory regime has been largely ineffective in preventing the ongoing destruction on koala habitat or the enforcement of the protection of koalas and koala habitat. As a result, the clearing of koala habitat for agricultural activities, mining, residential development or private forestry can be undertaken with minimal barriers or restrictions. NSW Councils’ face ongoing pressure and demands from wealthy and powerful developers and from the NSW State Government itself to clear koala habitat for commercial activities of these kinds.
- 3.7.1 The provision of supposed protection measures, including offsetting schemes, have failed to protect koalas and koala habitat. Offsetting for the clearing of koala habitat should be prohibited with no exceptions, exemptions or application of offsets.
- 3.7.2 The prolonged delay in the planting and maturation of offset trees completely fails to protect existing NSW koala populations where the habitat and wildlife



# SUBMISSION

3.7.2 corridors on which they depend for survival is decimated, fragmented or otherwise removed. Offsetting also increases the reliance on translocation, ignoring evidence which confirms that vast majority of koalas do not survive translocation.

3.8 Our response to matters involving Land Clearing are covered earlier the Status and History section of this submission, including our reference to the Natural Resources Commission's 'Land Conservation Reform Management and Biodiversity Conservation Reforms' report.

3.9 In response to the effectiveness of NSW Councils' management of koala populations and KPoMs, Animal Liberation contends that the NSW Government must prioritise and support the fast tracking of state wide KPoMs that comprehensively identify koala habitat and assist with mapping within a strictly monitored three-year implementation time frame. Further, reference to all NSW Council KPoMs should be incorporated into all Council Development Control Plans and Local Environment Plans.

3.9.1 Across NSW, fewer than a dozen local Councils have developed a KPoM. In these rare instances, the KPoM normally only incorporate selected sections of the Local Government Area (LGA). Alarmingly, the NSW State Government has only endorsed a handful of these Council-prepared KPoMs.

3.10 Animal Liberation believes Development Applications should be mandatory for all clearing or logging of likely/potential koala habitat on the Koala Development Application Map. This should remain mandatory until all NSW councils have developed and implemented a KPoM.

3.10.1 NSW Councils are restricted by inadequate and ineffective statutory instruments and this bill only further increases the cost burden in preparing KPoM. It will also reduce the effectiveness of KPoMs and Councils' ability to protect koalas and their habitat, notably on private land with the "allowable activities" inclusion.

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- 3.11 The NSW Legislative Council's Inquiry into Koala Populations highlighted the urgent plight of NSW koalas. The Committee's bipartisan report confirmed that a failure to take urgent actions would result in NSW koalas becoming extinct before 2050. Animal Liberation believes this is a conservative prediction and that the extinction of NSW koalas will be prior to 2050 without urgent actions being taken and the necessary reforms being implemented.
- 3.12 Animal Liberation was very extremely disappointed and alarmed by the NSW State Government's response to the Committee's sound but conservative recommendations which ignored its own Committee as well as key environmental and animal welfare/rights organisations.







**SUMMARY & CONCLUSION**

- 4.1 Environmental and native species protection laws in NSW are fractured and are failing to meet their intended and stated purpose. These laws continue to fail the environment, koalas, and their habitat. Rampant land clearing, logging of burnt and un-burnt forests and private land, and the diversion of billions of litres of water from our rivers are placing our forests, woodlands and grasslands and the biodiversity they support in a perilous and unsustainable position. Inadequate assessment of harmful developments with outrageous 'offsets' is further contributing to the rapid decline of healthy and sustainable NSW koala populations.
- 4.2 Despite the government's rhetoric, it is indeed the government's own failings made manifest in deliberate and wilful policy directions that pose the greatest threats to NSW koalas, their habitat and their very survival. Koala populations will continue to rapidly decline while government functions in and promotes a 'business as usual' approach while ignoring urgent warnings and evidence.
- 4.3 Contradictory policy settings included in NSW laws mean that legislation aimed at conserving biodiversity and maintaining the diversity and quality of ecosystems are undermined by other legislation that facilitate forestry, agricultural activities and developments.
- 4.3.1 Development, logging and land clearing are decimating koala habitat. To protect koalas, koala habitat must be protected from destruction. Until our laws are strengthened to truly limit or prohibit the destruction of koala habitat, koala populations and their habitat will continue to be at risk and koala numbers will continue to decline in NSW, possibly to the point of local extinction.
- 4.4 Vulnerable, threatened and endangered koalas in NSW simply cannot wait any longer. NSW's koala populations have declined by half during the past 20 years and a third of the survivors were lost during the 2019/2020 bushfires. Government's lack of immediate, decisive and meaningful action has placed koalas on a trajectory where they will likely not survive.

**SUMMARY & CONCLUSION**

- 4.5 To protect koalas in NSW, the laws must be substantially strengthened. It's a simple logic - to protect koalas, we must protect their habitat with vigilance and no compromise or exceptions. The NSW planning system (development), private and public forestry and land management/clearing laws, and Government's vested self-interests are all failing dismally to protect NSW koalas and habitat.
- 4.6 Animal Liberation urges the Committee to strongly and conclusively reject the Local Land Services Amendment (Miscellaneous) Bill 2020 to ensure the survival and protection of all koalas in NSW.



## SOURCES AND REFERENCE MATERIAL

### LEGISLATION

Environmental Planning and Assessment Act 1979

Local Government Act 1993

Environment Protection and Biodiversity Conservation Act 1999

Environmental Planning and Assessment Regulation 2000

Biodiversity Conservation Act 2016

Local Land Services Amendment (Miscellaneous) Bill 2020

### STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)

State Environmental Planning Policy (Koala Habitat Protection) 2020 (Koala SEPP 2020)

### OTHER

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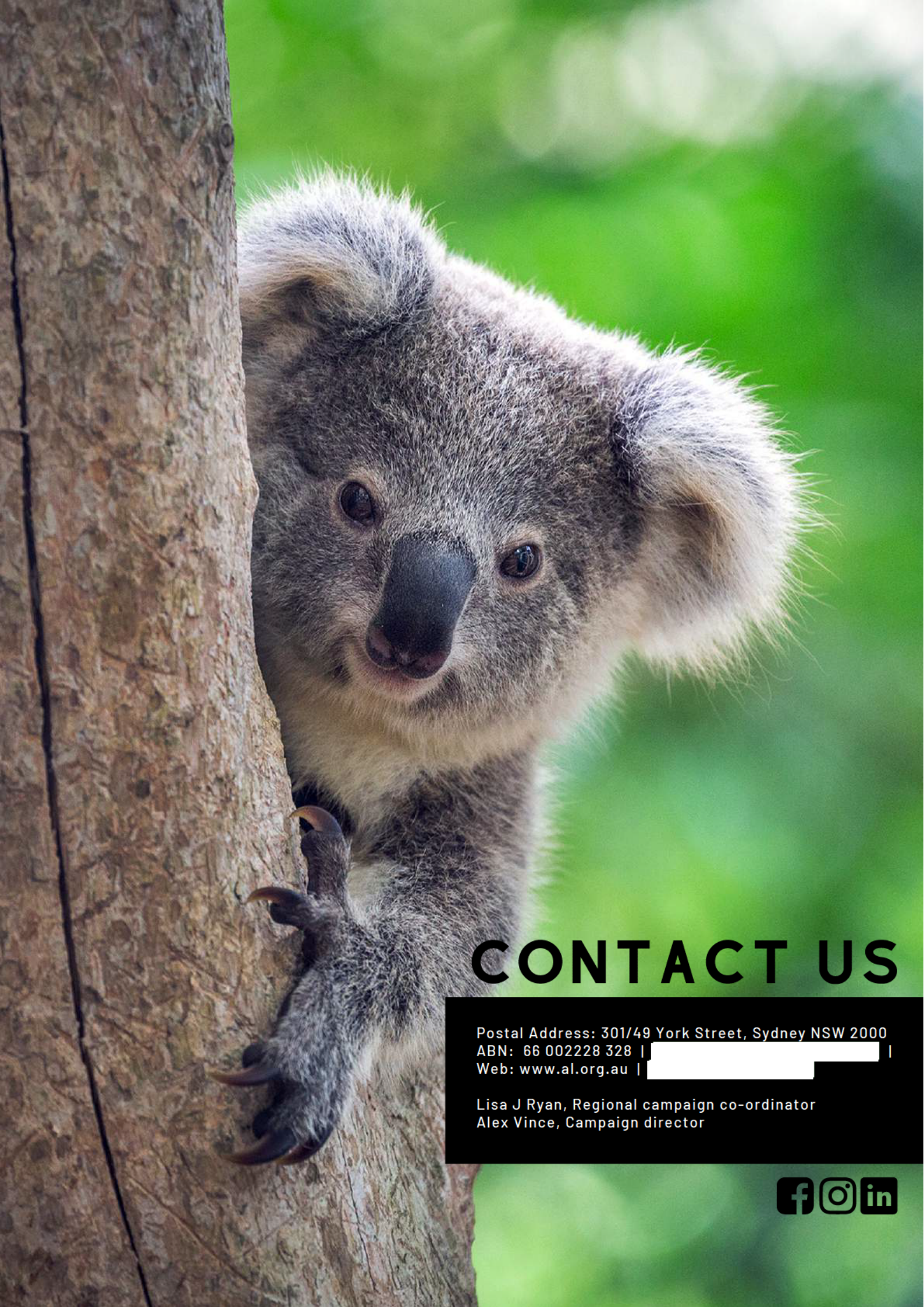
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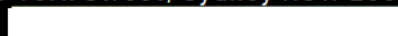

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