

**Submission
No 18**

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

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Deponent: Dr. Stephen Phillips, Principal Research Associate, Biolink Ecological Consultants

Preamble

I am a research scientist / specialist Koala ecologist with 45 years of demonstrable experience in koala conservation and management; I hold a Ph.D. in science (koala ecology), am a former member of NSW Koala Recovery Team and the Commonwealth Government's expert working group on koala distribution and abundance leading up to 2012 EPBC listing (CV can be supplied if required). My research / consultancy work has resulted in development of novel techniques for working with historical koala records, undertaking local and landscape-scaled field assessments, implementing long-term koala population monitoring programs, as well as koala habitat modelling standards. In NSW, this work has resulted in numerous peer-reviewed publications, informed and assisted in the preparation of many site-specific¹ and several² LGA-wide Comprehensive Koala Plans of Management.

During this time, I have become familiar with koala-themed planning policies and legislation that is supposedly intended to give effect to koala conservation; that they do not and/or have failed to do so (at all levels of Government) is not so much a reflection of the potential efficacy of these instruments, but more a reflection of apathy and ineptitude on the part of Government policy / decision makers (by obfuscating the assessment process and not approving such things as Comprehensive Koala Plans of Management).

The following submission is provided in response to the issues identified in the e-mail from the Committee of the 9th December, 2020. In preparing this submission and in the interests of brevity I have kept my response brief. Having said that, I would seek the Committee's indulgence and acknowledgement that each of the matters I have raised below can be both

¹ Includes the first SEPP approved Koala Plan of Management at Searanch (now Koala Beach) in the Tweed LGA, and the PIA award-winning Area 13 Koala Plan of Management at Port Macquarie.

² Tweed Coast, Byron Coast, Ballina, Cooma-Monaro, Kempsey, Gunnedah, Campbelltown, Lismore (part), Port Stephens, Clarence.

expanded upon and/or is supported by readily available plans, reports and other forms of readily available data and/or documentation. To this end I would be more than willing to engage further if so required.

Responses to Issues

1. The objectives and impact of the Local Land Services Amendment (Miscellaneous) Bill 2020

In my opinion, the *Local Land Services Amendment (Misc.) Bill 2020* (hereafter referred to as the Bill) is the culmination of the progressive dismemberment of the original SEPP 44 that has taken place over the preceding 2 – 3 years, as well as related aspects of the EP & A Act that require the impacts of some rural land use practices, and especially Private Native Forestry (PNF), to notionally be the subject of a more detailed ecological assessment.

The objectives of the Bill run counter to the need for more effective koala conservation practices, more so following the impacts of the 2019/20 bushfire season. Amongst other things, the Bill proposes restricting Core Koala Habitat to only those Council areas with already approved Comprehensive Koala Plans of Management (CKPoM) (specifically Ballina, Coffs Harbour, Kempsey (part), Lismore (part) and Port Stephens). While some of these approved plans are more than a decade old and could do with an update, this stated objective of the Bill potentially nullifies the results of more advanced koala planning work and associated draft CKPoM that have been prepared for other council areas (Gunnedah, Port Macquarie, Cooma Monaro, Campbelltown, Tweed Coast, and Byron Coast³), thus effecting a waste of important conservation resources while effectively rendering the associated and yet to be approved CKPoM sterile/ineffective.

Objectives of the Bill have a nearly singular focus on PNF. PNF is not a traditional agricultural practice, and contrary to statements on EPA and LLS (Government) websites, it is an unsustainable extractive industry that, in my opinion, should be governed by the same laws as extractive industries such as mining. Moreover, there is no attempt by regulators to minimise the extent of PNF across the forested landscape, and the duration of licences, once approved, greatly exceed known generation times for most threatened species such as the

³ The entire Tweed Coast and part of the Byron Coast Koala Populations are listed as an endangered population for purposes of the *Biodiversity Conservation Act 2016*.

koala, thus enabling cumulative ecological impacts to be enacted over successive harvesting events on the same properties to which the licences relate. The Bill proposes extending the duration of such licences to 30 years which further exacerbates the potential for negative impact.

In most areas along the north coast, tree species known to be preferred by koalas such as Grey Gum and Tallowwood, are targeted by PNF harvesting because of their higher value timber, thus negatively impacting on koala population in these areas. PNF is largely self-regulated with operations supposedly managed by a Code of Practice. This Code of Practice (current draft on public exhibition) has absolutely no basis in science, nor is there a comprehensive auditing system in place that contains checks and balances. The result is that there is no accountability.

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

The 1994 SEPP was soundly based around identifying areas of habitat that could sustain koalas (referred to as *Potential Koala Habitat* or PKH), and thereafter areas of PKH that were supporting resident koala populations (*Core Koala Habitat* or CKH). The efficacy of the SEPP was hindered in a small way by some ambiguous (but not unworkable) terminology, while Schedule 2 (Feed Tree Species) further hindered its application and utility in many LGAs because Koala Food Trees in such LGAs were not listed. Several attempts to revise the SEPP's tree list were attempted over the years but without success. There were some obvious solutions to resolving the Koala Food Tree dilemma (*i.e.*, referral of the SEPP to a state-wide list of preferred koala food trees that was listed in the NSW Koala Recovery Plan). Regardless, all these perceived obstacles / impediments could be overcome with a well-designed field survey, data analyses and informed reporting (*e.g.*, Gunnedah and Cooma-Monaro assessments refer).

In 2019, the NSW Government undertook a review of tree use by koalas in NSW. While no disrespect to the resulting report's author is intended, this review was primarily informed by pseudo-science in the form of anecdote, qualitative data, and opinion, rather than available scientific knowledge. The resulting list of tree species consequently considered to be of

importance to koalas was substantive and included many species the importance of which (to koalas) could be contradicted by readily available data sets. In my opinion, the report's rejection of the notion of preferred food tree selection by koalas in favour of a broad and unsubstantiated tree list effectively set koala management back to pre-SEPP years and the earlier notion (based on Victorian studies) '*... that the tree you see a koala in is a food tree.*' which has been proven to be incorrect. To *defacto* turn a specialist arboreal folivore such as the koala into an opportunistic generalist folivore (which the tree review does) perpetrates a gross disservice to koala ecology, while effectively impeding effective on-ground conservation and management. More unfortunately perhaps, this data then became the basis for koala habitat maps intended to inform a revised SEPP that in turn was drafted by individuals who had little or no knowledge of koala ecology.

The new 2019 SEPP adopted a broader safety net for koalas by its inclusiveness whereby virtually all remaining areas of woodland / forest in NSW within the range of the koala became koala habitat regardless of whether preferred koala food trees were present or not. The guidelines by which provisions of the new SEPP were to be implemented were also poorly informed and again demonstrated a disregard for existing knowledge and sound conservation biology principles such as koala generation time.

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

Our work in locations such as Gunnedah in central western NSW, the MidCoast LGA on the mid north coast, and Lismore LGA on the far north coast, has repeatedly demonstrated that koalas can and do survive, and in many instances even flourish, on rural lands with fragmented habitat / scattered paddock trees. This knowledge clearly makes effective koala conservation compatible with many rural land use practices. However, incentives to manage rural lands in such a way are few and far between, if they exist at all. In my experience, such things are often talked about and promoted by Government but are rarely enacted.

I consider that the biggest challenges faced by rural landholders is getting meaningful advice and information that they can rely upon; instead, they are informed by well meaning bureaucrats and field officers that are pedalling generalised concepts of land (koala habitat)

management and misinformation (the need for wild dog control in the name of koala conservation is one such example). Given these considerations, it does not surprise me that levels of distrust between rural landholders and some government agencies are high; it should not and does not have to be that way.

4. The mechanisms by which biodiversity values are assessed on private land when land use changes.

Most of my experience has been in dealing with major and minor development applications / issues and their impacts on koalas, and their habitat. It is my experience that many development applications are poorly informed at the assessment stage. This is a reflection of a general lack of expertise, assessment standards and/or poorly informed guidelines; I can offer numerous examples where threatened flora and fauna including such things as the on-site presence of resident koala populations, have been missed by routine ecological assessments. This unfortunate and widespread circumstance can only be rectified by targeting the consultancy sector with mentoring and accreditation requirements which will improve the quality of ecological assessments.

5. The impacts of current regulatory regimes on private landholders.

Most private landholders are not directly impacted by regulatory regimes; it is only when substantive material changes in landuse are being considered / proposed (*e.g.*, rezoning for developments purposes, PNF, broadscale clearing / removal of native vegetation), that regulatory mechanisms rightfully have application. These things affect a small minority of landholders, but much noise is sometimes made by few about the impacts of such impositions.

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

In order for Local Government to effectively manage koala populations they firstly need to know where the koala habitat is located and what defines it, and thereafter where the resident koala populations may be located, and how big the constituent populations are. The tools to achieve these answers are already available and demonstrable by the assessments already undertaken under the umbrella of the 1994 SEPP. It is noteworthy that these

assessments, which can be quite detailed and informing, can be cost effectively undertaken at the LGA-wide scale for as little as \$0.50 – \$2.00 ha (scale-dependant, these costs are based on habitat / population assessment project work we have undertaken over the last 20 years). Such data then informs preparation of Plans of Management and, along with an accompanying and well-designed monitoring program, enables Local Government (as the primary steward) to ensure appropriate management practices are followed.

In most LGAs, the problems besetting koalas can be narrowed to attacks by domestic dogs, vehicle-strike, and loss of habitat through ill-advised tree clearing / habitat removal. Of these, dog attack is a matter of education and effective planning controls being in place (*e.g.*, Koala Beach in the Tweed LGA), while the technology and measures required to minimise vehicle-strike are also well known (all they require to be deployed is funding). Habitat modification / clearing can also be better managed through the provision of data such as I have already alluded to above, including provisions that function to maximise the retention of Preferred Koala Food Trees and areas of occupied koala habitat. Unfortunately, and even when required measures are costed over time, there is little or no follow-up support from State or Federal Government to ensure that required works / measures are implemented, and that performance benchmarks are being addressed.

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