

**Submission
No 20**

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

Organisation: WWF-Australia
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Ms Cate Faehrmann, MLC
Chair, Portfolio Committee No. 7 – Planning and Environment
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

5 February 2021

Submission to the inquiry by NSW Legislative Council Portfolio Committee No. 7 – Planning and Environment into the Local Land Services Amendment (Miscellaneous) Bill 2020

Dear Ms Faehrmann,

Thank you for the opportunity to provide a submission to the Local Land Services Amendment (Miscellaneous) Bill 2020. The submission is attached.

WWF-Australia acknowledges the important work undertaken by the Planning and Environment Committee during its current and previous inquiries into koala populations and habitat.

WWF-Australia is part of the WWF International Network, the world's largest independent conservation organisation. WWF's global mission is to 'stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature'. WWF-Australia has approximately one million financial and non-financial supporters.

WWF-Australia as an organisation has a 40-year history of working on wildlife conservation in Australia with scientists, communities, farmers, business and government. We have provided advice and recommendations to federal and state governments regarding the conservation of koala populations and koala habitat.

Our submission addresses the Questions posed in the form provided by the Committee. A WWF conservation scientist is available to provide evidence during one of the hearings should that assist the Committee in its deliberations.

Yours sincerely

Rachel Lowry

Chief Conservation Officer

WWF-Australia submission the inquiry by NSW Legislative Council Portfolio Committee No. 7 – Planning and Environment into the Local Land Services Amendment (Miscellaneous) Bill 2020

Q2. What is your position on the Land Services Amendment (Miscellaneous) Bill 2020? Select one of these options:

- Support
- Neutral/Undecided
- Oppose

Q3. In relation to the previous question, please explain your position on the bill

WWF-Australia opposes the Land Services Amendment (Miscellaneous) Bill 2020 (the Bill).

In general, the Bill;

- would wind back koala habitat protections by expanding exemptions for landholders under the 2019 Koala Habitat Protection SEPP;
- is inconsistent with the stated aspiration of the responsible portfolio Minister and Deputy Premier to double koalas by 2050;¹
- reduces protection of koala habitat at a time when the koala population in NSW are estimated to have declined by between 29% and 66% in the past two decades;²
- would increase, not reduce, deforestation of koala habitat, which is inconsistent with the Commonwealth’s 2011 Advice for Koalas that led to listing koalas in NSW as a ‘vulnerable’ population;³
- ignores the impacts of the 2019-20 bushfires, which burnt approximately 5.5 million hectares across the state including bushland estimated to have supported nearly 8,000 koalas,⁴
- would hasten destruction of trees that provide refuge for koalas after the 2019-20 bushfires;

¹ Hannam, P, 26 July 2020, Matt Kean aims to double koala population by 2050. *Sydney Morning Herald*, available for viewing at <https://www.smh.com.au/environment/conservation/matt-kean-aims-to-double-koala-population-by-2050-20200725-p55fdc.html>. Viewed 4 February 2021.

² Lane, A., Wallis, K., and Phillips, S. 2020. *A review of the conservation status of New South Wales populations of the Koala (Phascolarctos cinereus) leading up to and including part of the 2019/20 fire event*. Report to International Fund for Animal Welfare (IFAW). Biolink Ecological Consultants, Uki NSW. Available for download at <https://www.ifaw.org/au/resources/koala-conservation-status-new-south-wales>. Viewed 3 February 2021.

³ Threatened Species Scientific Committee, 2011. *Advice to the Minister for Sustainability, Environment, Water, Population and Communities from the Threatened Species Scientific Committee (the Committee) on Amendment to the list of Threatened Species under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*. Available for download at <https://www.environment.gov.au/biodiversity/threatened/species/koala>.

⁴ van Eeden LM, Nimmo D, Mahony M, Herman K, Ehmke G, Driessen J, O’Connor J, Bino G, Taylor M, Dickman CR (2020) *Impacts of the unprecedented 2019-2020 bushfires on Australian animals*. Report prepared for WWF-Australia, Ultimo NSW. Available for download at <https://www.wwf.org.au/news/news/2020/wwf-60000-koalas-impacted-by-bushfire-crisis#gs.s0kcu8>. Viewed 3 February 2021.

- ignores the impacts of record-breaking droughts in the state in recent years which have significantly reduced koala metapopulations in inland areas, such as in the Pilliga;⁵
- establishes piecemeal regulation by weakening koala habitat protections on private land, where 67% of koala records are found,⁶ particularly in the absence of a strengthened *Local Land Services Act* to regulate land clearing across land tenures statewide;
- ignores conclusions contained in reports by the Audit Office of NSW⁷ and Natural Resources Commission⁸ that the Land Management and Biodiversity Conservation framework is failing to conserve native vegetation;
- does not reflect community attitudes towards preventing extinction of koalas in the wild;⁹
- disadvantages koalas in Council areas without a comprehensive koala plan of management by freezing gazettal of new plans of management;
- permits native forest logging of koala feed trees in core koala habitat;
- prevents Councils from protecting core koala habitat in Environment zones, including for private native forestry;
- locks in private native forestry plans for up to 30 years (compared to 15 years currently) thereby reducing forests' capacity to conserve biodiversity and store forest carbon;
- allows damaging activities on 'allowable activity land', such as clearing of native vegetation in Environment zones that is core koala habitat, in stark contrast to the objectives of Environment zones;
- overrides or freezes protections of koala habitat provided under other Acts, such as by severely limiting the application of designation of core koala habitat as Category 2 – Regulated Land mapping under the *Local Land Services Act*;
- is being considered at the same time that the NSW and Commonwealth Threatened Species Scientific Committees are assessing koalas in NSW for uplisting from 'vulnerable' to 'endangered';
- fails to strongly support, merely either noting or partly supporting, several relevant recommendations of the NSW Upper House Inquiry into *Koala populations and habitats*,¹⁰ notably recommendations 15, 25, 26, 27, 31, 33 and 34; and,
- would pre-empt the three-year review of the Land Management and Biodiversity Conservation framework, as well as the review of Private Native Forestry.

⁵ Lunney, D., *et al.*, 2017. The remaining koalas (*Phascolarctos cinereus*) of the Pilliga forests, north-west New South Wales: refugial persistence or a population on the road to extinction? *Pacific Conservation Biology*, 23, 277-294. Available for viewing at <https://www.publish.csiro.au/pc/pc17008>. Viewed 4 February 2021.

⁶ Paull, D., Pugh, D., Sweeney, O., Taylor, M., Woosnam, O. and Hawes, W. 2019. *Koala habitat conservation plan*. Report prepared for WWF-Australia and partner conservation organisations. Published by WWF-Australia, Sydney. See page 9.

⁷ Audit Office of New South Wales, 2019. *Managing native vegetation*. Report available for viewing at <https://www.audit.nsw.gov.au/our-work/reports/managing-native-vegetation>. Viewed 3 February 2021.

⁸ Natural Resources Commission, July 2019. *Land management and biodiversity conservation reforms, Final advice on a response to the policy review point July 2019*. Available for viewing at <https://www.nrc.nsw.gov.au/publications>. Viewed 4 February 2021.

⁹ See, for example, results of the *Backyard Barometer Summary Report: Australian Attitudes to Nature* (2018) in which 53% of Australians surveyed voted koalas to be their priority species for protection (see page 5). Available for download at <https://www.wwf.org.au/ArticleDocuments/353/pub-summary-backyard-barometer-australian-attitudes-to-nature-23may18.pdf.aspx?Embed=Y>

¹⁰ Koala populations and habitat in New South Wales / Portfolio Committee No. 7 – Planning and Environment [Sydney, N.S.W.] : the Committee, 2020. [xviii, 291 pages ; 30 cm. (Report no. 3 / Portfolio Committee No. 7 – Planning and Environment).

Q4. Do you agree that the operation of the 1994 and 2019 Koala SEPPs (State Environmental Planning Policy) have been adequate and effective in protecting koalas and their habitat?

Select one of these options:

- Strongly agree
- Agree
- Neutral/Undecided
- Strongly disagree
- Disagree

Q5. In your opinion, what are the current and potential incentives and challenges facing rural landholders who seek to protect koalas and their habitat on their land?

Landholders should be eligible to seek significantly more conservation financing to support conservation of koala habitat on their land than is currently available through the NSW Biodiversity Conservation Trust. Koala habitat conservation tenders have been oversubscribed due to lack of funding to enable Conservation Agreements to be struck with willing landholders.

WWF supports a significant increase in funding for landholders wishing to conserve koala habitat on their lands, such as to support farmers to enter into in perpetuity Conservation Agreements, plant trees, assist natural regeneration, eradicate weeds and undertake cultural burns in partnership with Indigenous traditional owners.

Landholders who willingly conserve koala habitat on their land can feel frustrated by weak and ineffective regulation of native vegetation clearing or logging on adjacent lands, which can significantly reduce habitat connectivity and koala occupancy at the landscape scale. Additional funds should also be made available to enable farmers to contract ecologists to undertake assessments of koala habitat and presence of koalas on their land.

Q6. Do you agree that current mechanisms to assess biodiversity values on private land when land use changes are adequate?

Select one of these options:

- Strongly agree
- Agree
- Neutral/Undecided
- Strongly disagree
- Disagree

Q7. In relation to previous question, please explain why you consider current biodiversity assessment mechanisms adequate/inadequate.

In general, the requirements for surveying for koalas on a property proposed for a change in land use, such as from rural to residential, are insufficient to ensure koala habitat is preserved and koala populations are not reduced.

Q8. In your opinion, what is the impact of current regulatory regimes on private landholders?

Koala habitat is – in general – very poorly protected from deforestation and degradation under the weak and ineffective regulatory regime established by Parts 5A and 5B of the *Local Land Services Act*, *Biodiversity Conservation Act*, Koala Habitat Protection SEPP (1994 and 2019) and Vegetation in Non-Rural Areas SEPP.

Notwithstanding this suite of laws and policies, core koala habitat can be bulldozed or logged wherever it occurs in the state except for conservation reserves.

The 2019 Koala SEPP represents a relatively minor improvement compared to the 1994 Koala SEPP. Neither policy is sufficient to protect koala habitat across the state in local government areas with koalas, particularly in the absence of significant additional funding to enable Councils to prepare detailed koala habitat maps and koala plans of management.

The absence of a broad consensus regarding the necessary mix of laws and funding need for koalas undermines both the species' survival and landholder's security.

Q9. In your opinion, how effective are local governments in managing koala populations and koala plans of management? Please explain your position

The capacity and intent of Councils to conserve koalas varies significantly across the state. Of the 83 local government areas with koala in the state, only eleven Councils have a finalised koala plan of management or have submitted a draft plan for approval by the NSW Department of Planning, Industry and Environment. For the six LGAs with final plans of management, some plans are based on dated koala habitat mapping or fail to cover all koala habitat.

Based on this assessment, the Koala SEPP has failed to conserve koalas across most of NSW.

For Councils, and particularly environment and planning staff committed to conserving koalas, a lack of funding prevents preparation of new koala habitat maps or plans of management.

Q10. Are there any other comments you would like to make?

The failures of the Koala SEPP would not be so egregious if the regulation of native vegetation clearing and private native forestry were effectively implemented across land tenures. However, in the absence of significant strengthening of the regulatory frameworks established by the *Local Land Services Act* and *Biodiversity Conservation Act*, the Koala SEPP and development assessment process provides a potentially important mechanism for protecting core koala habitat on private land.

Ends