

**Submission
No 28**

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

Organisation: Byrrill Creek Landcare

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**The NSW Legislative Council's
Portfolio Committee No. 7**



**PO Box 3322 Uki
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**The objectives and impact of the Local Land Services Amendment Bill
2020**

To the Committee Members,

Q10 Your Comments

The regulations around logging our native forests have never been more crucial than at this time. The natural environment of NSW has suffered the worst bushfires and destruction of our forests on record and native fauna died in vast numbers: millions.

With so many habitat areas destroyed the value of forests on private land as a refuge have never been more important, especially for our diminishing koala population.

Forests also act as a carbon sink in reducing the impacts of climate change that we have seen intensifying each year

Byrrill Creek Landcare is a group that voluntarily works on riparian sites in the Byrrill Creek Catchment area in the southern area of Tweed Shire. This area is the highest value riparian conservation in the shire and we have planted over 2,500 plants & trees since 2012. Much of the land surrounding the valley floor is koala habitat, and also good quality regenerative rainforest, which adjoins Wollumbin & Mebbin National Park, and is privately owned.

Our Landcare members all have resident koalas on the ridge top areas of their properties, and we believe conservation of Koala habitat is extremely important. Our local koala population has diminished over the last 20 years, but not to the extent of the Tweed coast koalas, of which now are almost extinct- the last count was 30! The remaining western colonies of koalas within this Shire are reliant on a healthy unfragmented habitat and much of the land is privately owned.

Not all landholders are as environmentally aware as our landcare members. In our valley 2 instances have occurred of logging in core Koala habitat in the last 6 years, One case went through EPA and took many years to get an outcome in the court. The value of mature major koala food trees (Grey gums & Tallow woods) can never be replaced, and the land was never replanted.

This is one local example of what could happen on a state wide level if laws are unregulated, as proposed in this bill

The objectives and impact of the Local Land Services Amendment Bill 2020

The objectives and impact of the Bill are far reaching and will contribute to the extinction of the koala in NSW. This Bill reduces the protection for koala habitat throughout the state and applies an overly simplistic interpretation of rural land use.

There is ample evidence currently available to support the need for increased protection of koala habitat. Each object (a) to (e), contribute directly and specifically to a reduction in the protection of koalas and their habitats from an already compromised position.

The amendments are considered an over-reach as they introduce unnecessary risk to koalas and their habitat when further concessions for clearing are not required nor justifiable, especially when applied throughout all rural lands, much of which is not used for any form of agricultural production or pursuit. This is particularly concerning for the Tweed where most rural lands are lifestyle or hobby farms - not agricultural production and the pressure from urban expansion is great. Sweeping relaxation of clearing laws (such as this Bill proposes) would open opportunities for the clearing of koala habitat at alarming rates in order to 'pre-empt' urban development.

The 2019 NSW Parliamentary Inquiry provided an independent, multi-disciplinary assessment of the current status of koalas and their habitat. It was informed by submissions from more than 300 scientists, practitioners, agency and community representatives from throughout the state with the key findings that the existing legislation and policies are not adequate, that the loss of habitat poses the most serious threat to koala populations and that stronger action must be taken by government to protect and restore habitat.

The proposed amendments to the LLS Act are in conflict with this position and must therefore be considered as contributing to the predicted extinction of koalas in NSW.

4. Do you agree that the operation of the 1994 and 2019 Koala SEPPs have been adequate and effective in protecting koalas and their habitat?

The 1994 SEPP has been long overdue for review and its failings have been well documented in conference papers, submissions and meeting proceedings. The current extinction trajectory of koalas in NSW due to the key impacts habitat loss and fragmentation further evidence that the SEPP has not been effective in protecting koalas and their habitat.

The 2019 SEPP (and Guideline) as initially adopted included some improvements including in relation to an improved definition of core koala habitat, a stated aim to ensure no net loss of koala habitat and the inclusion of principles and criteria to guide the preparation and assessment of development applications.

However, several key issues remain outstanding, including retention of the 1ha limit, inadequate home range estimates for defining core koala habitat, over-reliance on modelled habitat mapping and the lack of a blanket prohibition on the clearing of core koala habitat.

The further changes made and proposed in 2020 to the SEPP and Guideline present a range of additional impacts including:

- increasing the cost burden on council to prepare KPoMs whilst simultaneously significantly reducing their value through the proposed exclusions and allowable activities for core koala habitat.
- reducing the rigour of the koala habitat assessment process.
- amendment of the definition of core koala habitat to be more akin to the 1994 SEPP which will result in the exclusion of areas where koalas are present from being able to be recognised as core koala habitat.
- Core koala habitat - identified in draft and future Koala Plans of Management (KPoMs) would **no longer be zoned as Sensitive Regulated Land**. This would mean that core koala habitat could be broadscale cleared in rural areas *even if it has been mapped in a local KPoM*. Currently LLS requires “Approval” from council for clearing Category 2 Regulated land.
- Logging of Core Koala Habitat under Private Native Forestry (PNF) will no longer be prohibited. Under this Bill PNF will not need consent under local environment plans. This would mean that core koala habitat could be cleared without consultation or approval. With no incentive to find out if koalas or koala habitat exists it could be cleared unintentionally. This amendment could also be used as a precursor to urban development. Tweed Shire Council considers this as particularly problematic as there are many urban developments planned for the region. PNF agreements are to be increased from 15 to 30 years – which only adds to the potential for destruction of koala habitat.
- On any land that has been given ‘environmental zoning protection’ this Bill will allow land clearing for certain activities *without assessment or authorisation*. Clearing in E-zones currently requires consent for activities like farm forestry, grazing, fencing, roads sheds, buffer zones and more. This Bill removes such requirements.

Q5 – What are the current and potential incentives and challenges facing rural landholders who seek to protect koalas and their habitat on their land?

Protection of koala habitat provides a significant opportunity to achieve integrated, landscape scale, multiple benefits including climate change adaptation and the protection and improvement of critical environmental values such as soil and water quality. It is also an essential element of ensuring viable agriculture, tourism and recreation sectors and the protection of scenic landscape values.

Support for private land conservation programs involving management support and voluntary statutory protection in areas of identified regional significance is a highly effective and efficient strategy for the protection of koala habitat. There remains a significant backlog in the processing of applications for voluntary conservation agreements in the northern rivers region due to resource constraints of the Biodiversity Conservation Trust.

Approx 2/3 of remaining koala habitat in NSW is on private lands. Byrrell Creek Landcare members and many other landholders in NSW display a strong interest in protecting koalas and their habitat on private land. In the Northern Rivers, the level of interest generally exceeds the support available. Significantly more koala habitat could be protected and

increased with greater investment in extension support and land management assistance programs.

There are no laws or incentives for landholders to protect koala habitat which has led to a disastrous rate of clearing in recent years. Strong penalties and regulations (that do not exist at present) are needed to incentivise landholders.

Q6 & Q7 Do you agree that the mechanisms to assess biodiversity values on private land when land use changes are adequate?

The amendments in this Bill actually erode the protection of biodiversity. The current extinction trajectory of koalas in NSW due to the key impacts of habitat loss and fragmentation demonstrates that the current mechanisms to protect koalas and their habitat are inadequate.

Critical coastal areas of koala habitat on private and public land are under threat from climate change impacts including sea level rise and hydrological changes. These areas should be protected through land use zones and legislative prohibitions on clearing, with the inclusion and prioritisation of locations that provide for landward migration of coastal habitats.

The proposed Bill further undermines these mechanisms by:

- preventing local environment plans from requiring development consent for Private Native Forestry (PNF)
- doubling of the duration for PNF plans (to 30 years)
- providing for the carrying out of ‘allowable activities’ on ‘rural regulated land’ and ‘allowable activity land’ (any land that has been rezoned from rural zoning to environmental zoning) without authorisation (currently clearing in these zones requires assessment and authorisation)

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

The NRC Report 2019 found a 13-fold increase in clearing rates in NSW under the 2016 law reforms.

There has been an increase in the cases of clearing under the guise of ‘allowable activities’, most often not for the legitimate purpose of establishing or maintaining rural infrastructure, rather as pre-emptive of development applications for rural dwellings.

Q9: In your opinion, how effective are local governments in managing koala populations and KPOMs. Pls explain your position.

Local government plays a significant role in the conservation and recovery of koalas and their habitat. This role is largely unacknowledged and sporadically supported through grant funding. Current funding opportunities are generally short term and with an overly onerous administrative burden. Local government should be recognised as highly competent and capable partners in koala conservation and recovery, with a collaborative approach to funding support to match.

It is recognised that there are varying capacities amongst councils to invest in managing koala populations and KPOMs. In the Northern Rivers, this issue is being effectively addressed through regional collaboration with councils and key community stakeholder organisations working together for many years on koala conservation and recovery projects. This includes major habitat restoration, research, communications and private land conservation projects, together with the development, adoption and implementation of koala conservation strategies and comprehensive koala plans of management.

Local government is ideally placed to concurrently perform the role of consent authority seeking to avoid further reductions in the amount and condition of koala habitat, whilst also developing and implementing effective conservation and recovery strategies. Local government can effectively achieve these roles on behalf of, and in partnership with other levels of government and community organisations. This can be effectively achieved with leadership and commitment from state government through stronger habitat protection laws and financial support for the implementation of recovery and conservation strategies.

It is of grave concern to us, that even though the NSW Legislative Council Inquiry into Koalas warned that a failure to act on its recommendations would result in their extinction by 2050, the NSW Government has ignored its findings. Instead this Bill and the new Koala SEPP will make the destruction of critical koala habitat much easier.

We hope you take into consideration our above points.

Yours Sincerely,

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