

**Submission
No 30**

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

Organisation: Nature Conservation Council of NSW

Date Received: 8 February 2021

08 February 2021

Portfolio Committee no. 7 – Planning and Environment
Legislative Council
NSW Parliament
Via email: PortfolioCommittee7@parliament.nsw.gov.au

Dear Committee Chair and Members,

**Submission to Portfolio Committee No. 7 – Planning and Environment regarding
Local Land Services Amendment (Miscellaneous) Bill 2020.**

NSW's failing system for regulating land clearing is pushing threatened ecosystems and species, such as the koala, closer to extinction. The Local Land Services Amendment (Miscellaneous) Bill (LLS Bill) would further weaken what little protections does exist. NCC with the support of Humane Society International (HSI) oppose the Bill.

The LLS Bill should be permanently withdrawn. The 2019 Koala State Environmental Planning Policy (SEPP) was a step in the right direction to protect koala habitat in NSW. Since this regulatory instrument became a political flashpoint in 2020, its loss and the 'political compromise' represented by the LLS Bill will ensure the trajectory of the koala identified by the 2020 Inquiry and accelerate its path to extinction.

The NSW Government needs to find a path forward. A meaningful plan to protect koalas and regulate land clearing can only be built on common goals, trust and collaboration between stakeholders at both a state level and within relevant landscapes.

To protect koalas, and other threatened species, NSW needs an evidence-based policy framework that will stop habitat being destroyed and respond to the challenges that habitat conservation presents to farmers and communities.

Further, no effort to protect koala populations can succeed without a financial investment from the government commensurate with the scale of the challenge.

This submission identifies the context in which the LLS Bill arose and the damage it would cause. We welcome the opportunity to discuss our submission further.



Nature Conservation Council
The voice for nature in NSW



HUMANE SOCIETY
INTERNATIONAL
AUSTRALIA

Yours sincerely,

Chris Gambian
Chief Executive
Nature Conservation Council

Nicola Beynon
Head of Campaigns
HSI Australia

1. Context for the Local Land Services Amendment (Miscellaneous) Bill 2020

Without decisive action, Koalas are headed for extinction by 2050.ⁱ We know that habitat loss and fragmentation are the biggest threats to koalas in NSW and that most koala habitat occurs on privately managed land.ⁱⁱ Only a tiny fraction of this area is adequately protected from destruction.

The 2019-20 bushfires devastated wildlife populations and ecosystems across the state. A quarter of koala habitat in NSW was burnt and at least 5000 koalas killed.ⁱⁱⁱ These events brought the accelerating impacts of climate change into stark relief.^{iv} The bushfire catastrophe has increased the urgency with which we must act to prevent species extinction.

In this context, the NSW Coalition Government introduced a Bill to parliament that proposed to further erode land clearing controls and protections for koalas on private land.

2. Evidence for the efficacy of existing habitat protections

The intention of the Local Land Services (LLS) Amendment Bill is to 'decouple' the *Local Land Service Act 2013* (LLS Act) from the planning system under the *Environmental Planning and Assessment Act 1979* (EPA Act). The administrative realignments in the Bill consolidate the regulation of native vegetation on rural land into the LLS framework, consistent with the intent of the 2016 Land Management and Biodiversity Conservation (LMBC) reforms.^v

Members of the NSW Coalition Government assert that with the 2016 LMBC reforms in place, any further regulation of vegetation management on rural land through the planning system would be duplicative and unnecessary. The claim is that "strong protections for threatened species and their habitat on agricultural land" are established in the LLS Act and *Biodiversity Conservation Act (2016)*.^{vi}

This is far from the truth. The LMBC reforms were and remain controversial and have only been in place for a few short years. Any suggestion that biodiversity is sufficiently protected under the current framework is premature and not supported by the available evidence. Government data shows that clearing has tripled since 2014-15.^{vii} Scathing reviews have highlighted serious regulatory failings in this new legal framework for biodiversity conservation and land management in NSW.

The Audit Office of NSW found that "the clearing of native vegetation on rural land is not effectively regulated and managed. The processes supporting the regulatory framework are weak and there is no evidence-based assurance that clearing of native vegetation is carried out in accordance with approvals."^{viii}

The Natural Resources Commission (NRC) identified that "available data suggests that there is a major risk from unexplained clearing. The long-term average of just under 60 percent of agricultural cleared land being unexplained. This, coupled with a significant increase in approvals to clear, poses a significant risk to biodiversity and the legitimacy of the reforms."^{ix} A Government review of the land management framework, promised for three years after implementation, is not yet completed. The outcomes of a review of Private Native Forestry are yet to be released. These evaluations will be crucial in shedding further light on how the LMBC reforms are operating in practice.

The LLS Bill is untimely and totally out of step with broad community expectations, and the NSW Government's own stated intention, to take necessary actions to protect koalas.

3. Specific concerns with the Local Land Services Amendment (Miscellaneous) Bill 2020

3.1 Stalls and stymies much needed reforms to protect koalas

The Bill removes protections on rural regulated land by instating a narrow and outdated definition of 'core koala habitat'. It also 'freezes' the area of land that can be identified as 'core koala habitat' through the Koala Plan of Management (KPoM) process, only recognising already approved KPoMs in certain local government areas.

These changes would enable destruction of koala habitat on private land across much of NSW. With the koala on a trajectory to extinction in the next 30 years, this represents a major public policy failure. In making these changes, the Bill undermines any progress made by the 2019 Koala SEPP.

3.2 Overrides protections for designated Environmental Zones

By introducing the concept of 'allowable activity land', this Bill aims to override restrictions on vegetation clearing, and other damaging activities, in areas zoned 'environmental' or 'E-zones'. Allowable activities in e-zones proposed in the Bill would include 'timber-getting', clearing firebreaks and building roads.

E-zoning is designed to recognise areas of high environmental value, such as wetlands, and ensure actions affecting these areas are regulated accordingly. The integrity of this mechanism must be maintained.

3.3 Removes important oversight of logging operations on private land (Private Native Forestry)

Through changes to Part 5B of the LLS Act, the Bill prevents local councils from requiring development consent for Private Native Forestry (PNF). It also extends the duration of PNF plans from 15 to 30 years. This change would lock in logging approvals, without regard for how environmental information and circumstances may change over several decades. In an era of climate change, this is not appropriate.

Given most koala habitat occurs on private land and desirable trees for koalas and forestry are often the same, more oversight of logging operations on private land is needed, not less.

3.4 Disempowers local councils and communities

Overall, the Bill disempowers local councils, and the communities they represent, in aspects of land use decision making. In scrutinising the Bill, the parliamentary Legislation Review Committee noted that the amendments in the Bill "would remove local councils' ability to assess development applications, engage with relevant neighbour and community stakeholders, and make recommendations regarding the proposed development changes." "If enacted, the Bill would impact on the rights of these stakeholders to participate in local decision-making processes about issues that affect them."

As a peak body, NCC represents tens of thousands of engaged citizens who are invested in working to deliver public good outcomes for biodiversity and future generations. NCC is particularly concerned by the undemocratic nature of this proposed Bill.

We direct the Committee to submissions provided to this Inquiry by groups and individuals with on-the-ground experience in areas with koala habitat that would be impacted by these changes. Their local experience, views and ideas are extremely valuable. We are encouraged that the format of the consultation has been designed to elicit these insights.

To protect koalas, and other threatened species, NSW needs a policy framework that will stop habitat being destroyed. This must include working with farmers and communities to conserve habitat on private land. This Bill effectively blocks the present, and future governments from taking the necessary steps to achieve a balance between sustainable agricultural activities and koala conservation.

4. About the Nature Conservation Council of NSW and Humane Society International HSI

The NSW Nature Conservation Council (NCC) is the state's peak environment organisation. We represent over 160 environment groups across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

Humane Society International (HSI) is the largest and most effective international charity working for a more humane and sustainable world for animals. As one of the top animal

protection charities, we are leaders in saving endangered species and their habitats and reducing cruelty in farming, trade and other industries.

ⁱ Portfolio Committee No. 7 – Planning and Environment. (June 2020) Koala populations and habitat in New South Wales – Report 3. Legislative Council, NSW Parliament. Available at: <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2536#tab-reportsandgovernmentresponses>

ⁱⁱ Paull, D., Pugh, D., Sweeney, O., Taylor, M., Woosnam, O. and Hawes, W. (2019) Koala habitat conservation plan. An action plan for legislative change and the identification of priority koala habitat necessary to protect and enhance koala habitat and populations in New South Wales and Queensland. Report published WWF-Australia and partner conservation organisations. Available at: <https://www.wwf.org.au/knowledge-centre/resource-library/resources/the-koala-conservation-plan>

ⁱⁱⁱ Portfolio Committee No. 7 – Planning and Environment. (June 2020) Koala populations and habitat in New South Wales – Report 3. Legislative Council, NSW Parliament. Available at: <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2536#tab-reportsandgovernmentresponses>

^{iv} NSW Government Bushfire Inquiry (2020) Final Report of the NSW Bushfire Inquiry. Available at: <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/NSW-Bushfire-Inquiry-1630/Final-Report-of-the-NSW-Bushfire-Inquiry.pdf>

^v New South Wales Parliament, Parliamentary Debates, Legislative Assembly. (14 October 2020) Local Land Services Amendment (Miscellaneous) Bill 2020 – Second Reading Speech (A Marshall, Minister for Agriculture and Western NSW). Available at: <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3805>

^{vi} New South Wales Parliament, Parliamentary Debates, Legislative Assembly. (14 October 2020). Local Land Services Amendment (Miscellaneous) Bill 2020 – Second Reading Speech (A Marshall, Minister for Agriculture and Western NSW). Available at: <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3805>

^{vii} NSW Department Planning Industry and Environment. (2018). 2018 landcover change reporting. Available at: <https://www.environment.nsw.gov.au/topics/animals-and-plants/native-vegetation/landcover-monitoring-and-reporting/2018-landcover-change-reporting>

^{viii} NSW Audit Office. (2019). Managing Native Vegetation. Available at: <https://www.audit.nsw.gov.au/our-work/reports/managing-native-vegetation>

^{ix} NSW Natural Resources Commission. (2019). Final Advice on Land Management and Biodiversity Conservation Reforms. Available at: <https://www.nrc.nsw.gov.au/land-mngt>

^x New South Wales Parliament, Legislation Review Committee, Legislative Assembly. (2020). Legislation Review Digest NO. 22/57 – 20 October 2020. Available at: <https://www.parliament.nsw.gov.au/ladocs/digests/657/Legislation%20Review%20Digest%20No.%2022%20-%202020%20October%202020.pdf>