

**Submission
No 33**

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

Organisation: Lismore City Council

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Our ref: LW:CO21/948

Your ref:

Contact:

19 February 2021

The Director
NSW Legislative Council
Portfolio Committee No 7 – Planning and Environment
By email: PortfolioCommittee7@parliament.nsw.gov.au

Dear Sir/Madam

Submission on the Local Land Services Amendment (Miscellaneous) Bill 2020

Lismore City Council (LCC) welcomes the opportunity to provide a submission to the New South Wales Upper House Inquiry into the Local Land Services Amendment (Miscellaneous) Bill, 2020.

LCC has previously made submissions to the draft guidelines for the Koala Habitat Protection SEPP 2019, the Upper House Inquiry into Koala Populations and Habitat in New South Wales, the development of the NSW Koala Strategy, and the 2016 proposed amendments to SEPP 44. We refer the Committee to those submissions to further support and expand on the information provided here.

The attached document addresses the six issues specifically identified for submissions.

Should you require any further information, please do not hesitate to contact Environmental Strategies Coordinator, Leonie Walsh.

Yours faithfully

for Mr Tony Duffy
Manager, Liveable and Active Communities

Enclosed: >

Copy to: >

**LISMORE CITY COUNCIL
SUBMISSION ON THE LOCAL LAND SERVICES AMENDMENT (MISCELLANEOUS)
BILL 2020**

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

In summary, the objects of the Bill are to remove requirements for assessment and approval for certain activities, which may involve clearing of native vegetation, in certain areas. While object (a) preserves the application of SEPP 44 within the area covered by LCC's Comprehensive Koala Plan of Management (CKPoM), its removal in other parts of the LGA, and the wider region, would have a significant impact on the ability of Councils to protect important habitat and support koala populations that are currently in decline.

Overall the Bill reduces protection for Koala habitat (as well as other important native vegetation), by enabling clearing to occur without impact assessment or approval. This is at a time when koala populations are known to be at serious risk. The 2019 Upper House Inquiry gathered considerable scientific evidence and community representation, leading it to conclude that existing protections are not adequate and that the koala is seriously threatened. This situation has been further exacerbated by the impact of the widespread and severe bushfires of 2019/20. Survival and recovery of the species from its current extinction trajectory requires stronger, not weaker, protections.

The objects and effect of this Bill are in direct conflict with the recommendations of the 2019 Upper House Inquiry, and are likely to further threaten the survival of the koala.

Operation and effectiveness of the 1994, 2019 and any potential new draft Koala SEPPs in protecting koalas and their habitat

Continued habitat loss and fragmentation, and the ongoing decline of koala populations, indicate that the 1994 SEPP was not sufficiently effective in protecting koalas and their habitat. Specific limitations and inadequacies have been comprehensively identified in numerous reviews and submissions, including the 2019 Upper House Inquiry.

The initial 2019 SEPP included some improvements, particularly the stated aim of no habitat loss, the updated definition of core habitat, and criteria to guide the preparation and assessment of Development Applications.

However, a number of key issues identified in previous submissions were not addressed, including the 1 hectare limit, over-reliance on modelling, and lack of prohibition of clearing core habitat.

Subsequent changes further reduced the effectiveness of the current SEPP, including the more limited definition of core habitat and reduced rigour of habitat assessment. As identified in previous submissions, koalas occupy very marginal habitat in the Lismore area, because of the extent of historical habitat loss and fragmentation.

The changed requirements for KPoMs increase the cost of their preparation while making them less effective in protecting habitat. This will severely limit the capability of many Councils to prepare or review and update KPoMs. It is a requirement of the

Lismore CKPoM that habitat maps be updated regularly to show habitat lost as a result of clearing, and gained as a result of restoration and offsets. However, there is currently no mechanism to make these changes in the approved CKPoM maps or the Biodiversity Values Map, without preparing an entirely new CKPoM at very significant cost. This presents a key barrier to protecting new Koala habitat created to replace that lost during development, or in pro-active conservation programs. Effective habitat protection requires a mechanism to keep habitat maps live and current.

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

Under its Biodiversity Management Strategy, LCC runs a Rural Landholder Initiative which includes an extension program and small grants to private landholders for habitat restoration projects, including koala habitat. The program has operated for over four years, during which time it has become increasingly popular and is consistently oversubscribed. In addition, the quality of project planning has increased, and the biodiversity value of projects being put forward is very high. This indicates that there is both strong interest and growing capability among rural landholders in the Lismore LGA to restore and conserve valuable habitat on private land.

Given the extent of habitat loss and fragmentation, protection and restoration of koala habitat on private land is critical to survival of the species. It also carries a wide range of other benefits for biodiversity, catchment health and climate change adaptation. LCC's experience is that the level of interest exceeds the support currently available, presenting a significant opportunity. Programs that enable strategic planning at a regional scale, and provide management support and voluntary statutory protection for identified priorities, are likely to be highly effective in conserving habitat on private land.

The Biodiversity Conservation Trust is potentially well-placed to facilitate habitat conservation on private land but appears to be severely curtailed by its current level of resourcing. There is a significant backlog in processing applications for voluntary conservation agreements in the Northern Rivers Region. Some landholders can also be deterred by the complexity and administrative burden of the process. A strong and reliable level of on-ground resources and support is required, and would be well-justified by the potential conservation outcomes.

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

The current mechanisms by which biodiversity values are assessed on private land when land use changes depend on what the particular changes are and whether they fall under the Environmental Planning and Assessment Act or the Local Land Services Act. The continued decline of koala populations, habitat loss and fragmentation suggest that these mechanisms have not been sufficiently effective.

Existing pressures on the koala and its habitat (as well as other species and habitats) are likely to be further exacerbated by the impacts of climate change. There is a critical need to allow for the consideration of habitat connectivity across the landscape, including habitat that may not be currently occupied by koalas.

The proposed Bill is inconsistent with the recommendations of the 2019 Upper House Inquiry, and undermines the ability of Councils to protect koalas and their habitat. It expands the circumstances in which clearing can occur without assessment or approval, thereby enabling further removal and fragmentation of habitat. It also considerably increases the potential for pre-emptive clearing for future development under the guise of agricultural activities. There are currently inadequate resources available for investigation and prosecution of these types of breaches.

The impacts of current regulatory regimes on private landholders

The existing regulatory regimes can be complex and difficult for landholders to navigate. This is exacerbated by frequent changes.

This complexity also increases the potential for inappropriate clearing to occur, either as a result of confusion, or exploitation of perceived loopholes.

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

Local Councils play a key role in biodiversity conservation and particularly in the management of koala populations and koala habitat. LCC has a Comprehensive Koala Plan of Management (CKPoM) for south-east Lismore, approved in 2013 under SEPP44. The CKPoM aims to protect the Koala population found in the south-east of the Local Government Area (LGA), which is considered to be one of the most significant on the NSW North Coast. A copy of the CKPoM can be found [on our website](#):

LCC also makes a very significant financial investment from the Biodiversity Management Strategy Special Rate Variation to management actions identified in the CKPoM. These focus on improving outcomes for Koalas by undertaking habitat restoration in various locations across the LGA and mitigating threats such as roadstrike. LCC has a strong commitment to Koala recovery, and continues to work collaborate with landholders, community and industry groups, wildlife care groups, neighbouring Councils and NSW State agencies. This regional collaboration has been highly effective in achieving significant habitat restoration, research, threat management and education.

As both a consent authority, and active driver of conservation and recovery strategies, local councils are uniquely placed to deliver key outcomes to support koala populations and habitat. This role needs to be facilitated by a clear and strong legislative framework, and by a consistent funding framework that aligns with identified regional priorities.

Koala Plans of Management (KPoMs) can be effective tools for strategically integrating development assessment and conditions with pro-active conservation actions. However, the proposed Bill presents significant additional barriers to the preparation of CKPoMs and, in LCC's case, to the updating of existing CKPoMs. It also undermines the ability of local councils to manage koala populations and habitat by expanding the circumstances in which clearing can occur without assessment or consent.

Conclusion

Lismore City Council is committed to the conservation of the koala and its habitat, and makes significant investment in habitat restoration and protection, and other conservation measures. The proposed Local Land Services Amendment (Miscellaneous) Bill conflicts with the recommendations of the 2019 Upper House Inquiry and is likely to lead to further loss and fragmentation of habitat, and population decline. It undermines the ability of local councils to protect koala populations and their habitat and is not supported.