

**Submission
No 34**

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

Organisation: Better Planning Network Inc. (BPN)

Date Received: 19 February 2021



18 February 2021

To the Legislative Council's Environment and Planning Committee,

**Re. Submission to the Inquiry into the Local Land Services
Amendment (Miscellaneous) Bill 2020**

The Better Planning Network (BPN) is a statewide, not-for-profit, volunteer-based organisation. Founded in 2012, BPN acts as an umbrella organisation for a wide network of member and affiliated groups from across NSW.

The aim of the BPN is to foster the development of a robust and visionary planning system for NSW - one that promotes best practice environmental, heritage, social sustainability and design outcomes.

Importantly, BPN believes that best practice planning is achieved through authentic community engagement. As a consequence, this submission has been informed by the research and advocacy being done by the EDO, local grassroots community organisations and peak body environmental organisations, all of which are alarmed about the continuing environmental degradation of our state and lack of political will to impose stronger protections.

This submission will recommend that the Local Land Services Amendment (Miscellaneous) Bill 2020 be abandoned in favour of a carefully crafted, well informed new Bill that aims to increase, instead of erode, environmental protections for our koalas and other native wildlife.

The Bill does not incorporate the principles of ecological sustainable development. In fact, as the EDO points out in its excellent submission, it removes crucial protections for koala habitat and will likely accelerate an already unacceptably high level of land clearing, especially on the urban fringes of Western Sydney where the local councils' Koala Plans of Management will either be suspended or severely hindered in their development and implementation.

If you have any questions or require further information, please email secretary@betterplanningnetwork.org.au.

Sincerely,

Lyn Kilby

Secretary, [Better Planning Network Inc](#)

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Submission to the Inquiry into the Local Land Services Amendment (Miscellaneous) Bill

Introduction

This Bill is unfortunately just the latest example of how the public interest and vital environmental protections are being sacrificed to accelerate short-term economic growth and maximise the private profits of vested interests.

Alarming, but perhaps not surprisingly, the EDO's submission highlights that that the policy settings underpinning the Bill are inconsistent with recommendations made by the NSW Audit Office, the Natural Resources Commission and the NSW Upper House Inquiry into koala populations and habitat in NSW. They also contradict the original recommendations of the Independent Biodiversity Review Panel and preempt the outcomes of other government reviews currently in progress.

Main Objections

The Bill further weakens koala protections without foundation.

Last year, the Independent Planning Commission [assessed](#) the development application for the expansion of the Port Stephens' Brandy Hill Quarry onto land defined as koala habitat. Its [Statement of Reasons for the Decision](#) criticised the Government for not updating its policy settings in response to the disastrous Black Summer bushfires, which [wiped out](#) millions of hectares of koala habitat in NSW and killed over 5,000 of the state's koalas.

Unfortunately, in response to this criticism and widespread community outrage about the plight of our koalas and other wildlife, the Government has chosen to introduce a Bill that will accelerate the koalas' decline and all but ensure that they will be functionally extinct in the wild well before 2050.

We thank the EDO for their detailed criticisms of both this Bill and previous amendments to the Koala SEPP. We would like to voice our support for their objections including but not limited to the following:

Koala SEPP

- The removal of all references to the Koala Development Application Map makes no sense and must be reversed. As the EDO highlights, "The Koala

Development Application Map was introduced following the review of SEPP 44, to address the problematic definition and application of the concept of 'potential koala habitat'. The Koala Development Application Map identified areas where development applications would need to be assessed in accordance with cl. 9 of the Koala SEPP. The Government has now abandoned this new mechanism. Consequential amendments throughout the SEPP have been made to put this into effect."

- Allowing landholders to request an additional 60 days to object to proposed core koala habitat on their land, in addition to the 90 day consultation period provided by the Koala SEPP (recent amendments extended the original time frame from 28 days to 90 days), is just another example of how the law is being changed to serve the developers instead of the public interest. It will lead to needless challenges and unacceptable delays in the formation of Koala Plans of Management by local councils.
- The freezing of the inclusion of newly identified koala habitat in category 2 regulated land mapping undermines both the effectiveness of the Koala SEPP and a local council's Koala Plan of Management (PoM) made under State Environmental Policy No 44 - Koala Habitat Protection (SEPP 44).

It seems to be designed to severely restrict the amount of koala habitat that can be protected by:

- Retaining the requirement for land to be designated as category 2 regulated land only if it is:
 - (i) identified as core koala habitat within the meaning of the repealed Koala Habitat SEPP
 - (ii) subject to a PoM approved on or before 6 October 2020 under the repealed Koala Habitat SEPP and in force on 6 October 2020, and
 - (iii) located in the local government areas of Ballina, Coffs Harbour, Kempsey, Lismore or Port Stephens
- As noted above, one of the main reasons why the new Koala SEPP was introduced was to remove the restrictive definition of koala habitat that was undermining, not advancing, its protection. Recently, for example, property developer Lendlease used the old Koala SEPP 44 definition of core koala habitat to [challenge the amount of habitat](#) that should be protected at its Mount Gilead property near Campbelltown. It argued that the proposed optimal width of the koala habitat corridors on its property should be reduced because it didn't correspond with smaller home ranges for the area's female koalas.

The new Koala SEPP was designed to address this problematic and very restrictive definition of “core” habitat by no longer tying it to the requirement for land under assessment to be home to a female breeding koala and her offspring.

Private Native Forest (PNF) framework

- The weakening of the PNF framework seems to be designed to shore up the profits of private logging companies, which have seen their revenue decline from state forest loss caused by the Black Summer bushfires. We support the EDO’s following criticism of the changes:

As outlined above, the Bill proposes changes to the PNF framework, including: - preventing local environment plans from requiring development consent for PNF (see Bill, Sch. 1 [14]);

and - doubling the duration allowed for PNF plans from 15 years to 30 years (see Bill, Sch. 1 [18]). These are significant changes and should not be implemented until the outcomes of the PNF Review are finalised.

As the disastrous Black Summer bushfires demonstrated, our environmental laws need to be both strong and agile so they can more quickly respond to changing circumstances. Locking in long contracts for logging on private land and no longer requiring landholders to seek development consent provides certainty for loggers/landholders at the cost of much needed environmental protections.

Approximately 65% of koala habitat is on private land and only 1% of it is protected under current land clearing laws, and the relaxation of the PNF framework will only make a bad situation worse.

- The EDO notes that with respect to land clearing and its impact on koalas, the Bill ignores the recommendations of the NSW Parliamentary Upper House Inquiry into koala populations and habitat in NSW, which made a number of recommendations for strengthening the land management framework under the Local Land Services Act 2013 (LLS Act). Namely:
 - *Recommendation 33: That the NSW Government amend the Local Land Services Act 2013 to reinstate legal thresholds so that its application improves or maintains environmental outcomes and protects native vegetation of high conservation value.*
 - *Recommendation 34: That the NSW Government review the impact on*

koala habitat of the application of regulated land and self-assessment frameworks under the Local Land Services Act 2013.

- *Recommendation 35: That the NSW Government adopt all of the recommendations made by the Natural Resources Commission in its 2019 Report on Land Management.*

All of the above sound like very sensible and not very onerous recommendations. Yet the Bill seems intent on further weakening protections by:

- Introducing the concept of “Allowable Activities” on ‘E’ zoned land. Environmentalists believe that ‘E’ zoned land needs to be protected for conservation purposes only.
- No longer requiring land identified under the new Koala SEPP to be designated category 2 regulated land. This change essentially freezes in time the identification of koala habitat for the purposes of designating category 2 - regulated land.

Conclusion

Most of the proposed amendments in the Bill seem to have been made at the behest of property industry lobbying groups, which are particularly keen to remove the application of the Koala SEPP on developable land.

Umbrella organisations like Urban Taskforce and the Urban Development Institute of Australia, for example, never fail to highlight what they see as inaccuracies in koala mapping by government agencies. They use these perceived faults to either advocate for expensive and impracticable ground-truthing or to argue that the maps promote unwarranted protections that unnecessarily “constrain the supply of housing.”

We encourage Committee Members to look closely at their submissions to the draft Cumberland Plain Conservation Plan. We believe that many of the proposed changes in this Bill and previous amendments to the new Koala SEPP were informed by their unfounded criticisms of these essential environmental protections.