

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

Organisation: South East Timber Association Inc. (SETA)
Date Received: 26 February 2021

Portfolio Committee 7 Planning and Environment Legislative Council NSW

Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020 (the Bill)

The South East Timber Association (SETA) is a strong advocate for land use policies which allow for active and adaptive management of environmental values on private land, SETA appreciates the belated opportunity to comment on the Local Land Services Amendment (Miscellaneous) Bill.

The Bill contains a number of important measures that stand in the way of rural landowners being able to manage their land to deliver optimum environmental, social and economic outcomes. The existing legislation has, more often than not delivered negative outcomes in all three key outputs.

The Explanatory Note states the objects of this Bill to be:

a) to remove the application of State Environmental Planning Policy (Koala Habitat Protection) 2019 to land to which Parts 5A and 5B of the Local Land Services Act 2013 (the Act) apply, while preserving the application of State Environmental Planning Policy No 44—Koala Habitat Protection to certain core koala habitats in the local government areas of Ballina, Coffs Harbour, Kempsey, Lismore and Port Stephens,

(b) to remove requirements imposed by other legislation, including the requirement for development consent under the Environmental Planning and Assessment Act 1979, in relation to carrying out private native forestry that is authorised by a private native forestry plan under Part 5B of the Act,

(c) to extend the maximum duration of private native forestry plans made under Part 5B of the Act to 30 years,

(d) to require the Minister for Agriculture and Western New South Wales to consult with the Minister administering Part 7A of the Fisheries Management Act 1994 and the Minister administering the Forestry Act 2012 before making a private native forestry code of practice,

(e) to allow native vegetation clearing in certain circumstances on land that is used for agricultural purposes without the need for authorisation under other legislation.

See Appendix 1 for details on the major policy development flaws associated with the development of the *State Environmental Planning Policy (Koala Habitat Protection) 2019* and why SETA members supported the withdrawal of this policy.



The Bill

Clause a

SETA Position: This clause is no longer necessary.

Comments

Clause a – this no longer has any value, as the *State Environmental Planning Policy (Koala Habitat Protection) 2019* has been repealed by the *State Environmental Planning Policy (Koala Habitat Protection) 2020*.

The Interpretation Act 1987 NSW already would cause any reference to *State Environmental Planning Policy no 44 – Koala Habitat Protection* in the Act) to be a reference to the latest Koala SEPP, and this being a reference now to the *State Environmental Planning Policy (Koala Habitat Protection) 2020*.

Relevant part of Schedule 1 of the Bill:

Schedule 1, clause 4 - Section 60I Category 2-regulated land mapping is not required.

Schedule 1, clause 5 Section 60I(4) is not also required.

Clause b

SETA Position: This amendment is supported.

Comments

Part 5B of the Local Land Services Act 2013 (LLS Act) and the Standard Instrument – Principal Local Environment Plan (2006 EPI 155A) (Standard Template) and its application to a local council's Local Environment Plan (LEP) will require dual consent to be obtained. The first will be obtained under Part 5B of the LLS Act and the second pursuant to a LEP where 'forestry operations' are proposed, will require a development application to be lodged with the Council.

The Bill removes the need for dual consent for private native forestry and the unnecessary involvement of Councils. This aligns with the approval for plantations, which are approved under a consistent state wide process. This allows for consistent policy application and recognised that councils generally have no expertise or specialist knowledge in forest science. Under the current arrangements, the process is far from satisfactory.

On the south coast and Monaro, councils have different zoning for native forests with similar ecological characteristics and different approaches to the treatment of private native forestry. For private landholders who are required to obtain development approval, the process is complicated by at times, conflicting requirements and duplication under state and local government processes. Removing the involvement of Councils will remove these inefficiencies and unnecessary costs, while ensuring the LLS regulatory framework provides consistent environmental protection.



Council consent is a duplication of process for the landowner and establishes a disincentive that negates the public policy of encouraging private native forestry operations. This public policy has operated for some time and across several governments of differing political character.

Policy considerations that are also present with dual consent is that a Council will not operate to any instrument that equates to the PNF Code established by the LLS Act. Each Council will have its own approach to consideration of the development application, even though this process has legislative requirements that must be met and are contained within the *Environment Planning and Assessment Act 1979*. This amounts to a dual consent system independent of each other.

In turn, this gives rise to a legal principle around any possible repugnancy between the two laws currently requiring dual consent. It is very arguable that the dual consent has one set of legislation working against the other. The issue of repugnancy will certainly be present if a Council should refuse consent to a development application of a PNF operation when the landowner has a LLS PNF Plan approval

A larger policy issue emanates from this outcome. In the event of litigation to challenge a Council refusal and subsequently a Court upholds the refusal of a development application for a PNF operation that has approval from the Local Land Service pursuant to Part 5B of the LLS Act, then what is established is an Environmental Planning Instrument (EPI) overturning an Act of Parliament.

This has far wider implications for the operation of EPIs than just the PNF application. The removal of dual consent in the proposed bill removes this tension to ensures harmony between the legislation it has enacted. This provision in the LLS Bill is supported by SETA.

Relevant part of Schedule 1 of the Bill:

Schedule 1, clause 13 and clause 14 further clarifies and ensures that the LLS Act takes priority over the Environmental Planning and Assessment Act 1979 and any EPI issued under that Act. This should be supported.

Schedule 1, clause 17 is supported by SETA, as it is a measure that arises because of the provision in Schedule 1, Clause 14. It is sensible drafting from the Office of Parliamentary Counsel.

Background Information:

Private Native Forestry (PNF)

Part 5B of the Local land Services Act sets out provisions for the operations of a private land owner within NSW to engage in harvesting of native trees on their land.

Any PNF Plan must be conducted in accordance with:

- the principles of ecologically sustainable forest management.



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- the protection of biodiversity and water quality, and
- the objective to carry out the forestry operation in a sustainable manner, and
- assurance that differences between PNF and native forest operations in State forests are recognized, including in the application of protocols, codes, standards and other instruments.

These objects are provided through the PNF Code. The Code is made by the Minister for Forestry with the concurrence of the Minister(s) for administering the Biodiversity Conservation Act 2016 and the Fisheries Management Act 1994.

A PNF Plan is made on application by the land owner and approved by the Local Land Service applying the PNF Code.

The EPA has enforcement functions on compliance with the PNF Code by the landowner(s).

A PNF Plan does not give the right to 'land clearing'. It is actually selective harvesting and regeneration and ongoing maintenance of the forest for biodiversity and other outcomes.

Private Native Forest (PNF) operations have provided additional revenue for farmers, while ensuring access for fire mitigation and control works as well as introduced predator and invasive weed control. Wood products supplied from these operations are an increasingly important source of logs for peeling, sawing and use for low-cost heating in disadvantaged communities.

The ongoing reduction of hardwood supply from NSW native forests is transferring the impact of consumption of these products to offshore, to less protected forests, including tropical rainforests. SETA members consider the deliberate transfer of environmental impact to often defenceless offshore forests to be arrogant, selfish and immoral.



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Tropical Rainforest Growing on Peat Swamps. The Swamps are Drained, the Rainforest Clear-felled, the Debris Cleared and Plantations Established to Provide NSW Consumers with Future 'Sustainable' Palm Oil and Paper Products. Is this the Gift that the Portfolio Committee 7 Planning and Environment and Other Opponents to the Bill Wish to Pass to Our Northern Neighbours?

SETA members also understand the desire of government environment agencies to utilise private property native forests to make up for the underperformance of the state parks and reserves system, in the provision of ecosystem services. However, seeking to impose the terra nullius (lockup and neglect) management framework to an increasing area of private native forests suggests that opponents of the Bill have learnt nothing from past conservation reserve failures. An example of conservation reserve failure in multiple states is shown in the table below. The table can be found in the 2016 Threatened Species Scientific Committee report on the Southern Brown Bandicoot.

Available quantitative data are summarised in the table below.

Population	State	Decline
Ben Boyd National Park	NSW	44% (1999 to 2008)
Nadgee Nature Reserve	NSW	47% (1999 to 2008)
Port Campbell	Vic	>70% (past 10 years)
Pines Flora and Fauna Reserve	Vic	100% (extirpated around 2006)
Mt Lofty Ranges – northern metapopulation	SA	100% (extirpated around 2009)

In southern NSW areas of state forest were dedicated as national park in 1997, specifically to protect a population of the Endangered Long-footed Potoroos (LFP). A recovery plan was signed off in 2002. In 2015, the NSW Scientific Committee reviewed progress on the protection of the LFP, which was then listed as critically endangered. In 2016-17, over 25,000 camera nights failed to reveal the presence of any LFPs national park.



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In the second half of 2016, in private, thinned regrowth native forest in Victoria, LFP were regularly photographed and filmed on infrared cameras.



A Long-footed Potoroo in Private Native Forest Managed for Timber Production (Social and Economic) and Biodiversity Outcomes

In northern NSW, the Hastings River Mouse, in some instances, has relocated from scrubbed up public native forests to private property, where the seeds from various grass species are an important part of their diet.

Current private native forest land management practices, including harvesting and fuel reduction burning are delivering ecosystems services that are often superior to those found on nearby public land. Yet it appears that opponents of the LLS Bill seem resolved to apply the failed Terra Nullius management approach to millions of hectares of private native forest.



E1 Zone (National Park) Affected by High Intensity Wildfire



Adjoining Private Property Protected by Active Management, Low Volumes of Ground Fuel and Ready Access for Fuel Reduction Burning and Bushfire Fighting.

Environmental Planning Instrument

Part 3 'Planning Instruments' of the Environmental Planning and Assessment Act 1979 established the regime of an 'environmental planning instrument'. An example is an LEP that a local government council issues for the zoning of land within the local government area for which it is responsible. A State Environmental Planning Policy is another. Another example is the *State Environmental Planning Policy (Koala Habitat Protection) 2019* gazetted on 20 December 2019 and rescinded on 30 November 2020.

An EPI is created by various means depending on whether it is a SEPP or an LEP, but importantly the instrument never comes before Parliament or becomes a Parliamentary sanctioned instrument. Parliament delegated the creation of these instruments, removing itself from the approval. It is finally made law by the Governor in Executive Council, similar to a bill enacted by Parliament, which means the Minister has carriage of the instrument during the delegated process.

This potentially creates an interesting conflict between an Act of the Parliament and an instrument created under delegated authority of Parliament. This conflict will occur when there is an inconsistency between the two 'instruments'

The legal principle

Where there are two statutes from the same Parliament and the application of a provision of one statute is repugnant to the provisions of the other, then this tension needs to be resolved as the presumption is that the Parliament would have intended both pieces of legislation to work in harmony. Where repugnancy is found to exist then the usual remedy is that the latest instrument in time, prevails.

Where a PNF Plan approval has been granted pursuant to the provisions of the LLS Act and the provisions of an LEP as delegated legislation to the Environment Planning and Assessment Act 1979 (EPA Act) is inconsistent and repugnant to the LLS Act, then the LLS Act will prevail. It will prevail because it is the superior instrument, as the LEP is an instrument of delegation to an Act earlier in time.

The situation is further clouded where the delegated legislation produces an instrument that is the later in time. The matter can only be resolved with certainty of the legal principle that Parliament would have intended the two Acts to work in harmony. The EPI (and another delegated legislation as such as a regulation) might be later in time but it has not been legislated by the Parliament but under delegated authority. Such a situation leads back to the actions of the Parliament being in harmony, so the later legislation of Parliament must prevail to restore the 'harmony' in light of the repugnancy.

All of this is, of course, arguable, but it is difficult to see how an instrument made under delegation, and not Parliament, would be superior to an instrument enacted by Parliament later in time than the Act, giving rise to the delegated instrument.

However, no matter how contestable the issue might be, a government would not wish to see it being determined by a Court that would establish a precedent across many potential exercises of delegated authority. It would be prudent to deal with the one-off circumstance. It would appear that this is what the Executive decided to do and what the Government in Parliament elected to do. Those concerned about the administration of the environment in NSW and its direction might also consider these issues with care.

Clause c

SETA Position: This amendment is supported

Comments

Currently a PNF plan cannot exceed 15 years – section 60ZZ (1) LLS Act. The provision that extends the approval period of a PNF Plan from 15 to 30 years is another important measure. The additional time will provide landholders with the confidence they need to invest in their forests' future, potentially encourages them to seek forest certification and reduces the need to maximise timber revenue in single harvesting events. This measure will be enhancing the health of the forest and improving the environment.



Forestry operations are not a single generational matter but several generations due to timber growth cycles and reforestation programs. A 15 year period is not even half the period of a normal hardwood timber growth cycle.

Relevant part of Schedule 1 of the Bill:

Schedule 1 clause 18

Clause d

SETA Position: This amendment is supported

Comments

Wider consultation between Departments should lead to good public policy. Unfortunately, the experience of SETA members suggests that in relation to many native forest environmental issues, eco-political dogma prevails over policy that would deliver long-term ecologically sustainable management of the public and private native forests of NSW.

Extending the approval period to 30 years would be an acknowledgement by the NSW Government and bureaucracy that sustainable forest management for both environmental and forest product outcomes must have a long-term view.

The proposal should be supported.

Relevant part of Schedule 1 of the Bill:

Schedule 1, clause 15 and 16 extends the consultation between agencies for the preparation of a PNF Code and should be supported.

Clause e

SETA Position: This amendment is supported

Comments

This measure concerns 'allowables'.

Allowables

'Allowables' is a term used in the LLS Act to refer to the clearance of native timber which is permissible without approval. Essentially, the policy concept is that land that is used by the private landowner requires some management of that land. The clearing of fence lines, the clearing around dwellings and the use of timber for construction on the land are examples of what is permitted.

The Bill

The issue set out in **clause "e"** again raises the matter of 'repugnant legislation'. In particular, an Act and an EPI that are incompatible. The LLS Act authorises clearing of vegetation known as 'allowables' - the terms of which are found in Schedule 5 of the LLS



Act. A SEPP may remove the right granted under Schedule 5 of the LLS Act either through direct removal or through a reference to a prohibited use or activities associated with land in an LEP 'Zone'. This has occurred in NSW with respect to 'allowables'.

It makes good legislative sense to clarify this issue across all applicable Zones of land in the Standard Template and LEPs.

This is what Schedule 1 Clause 2 does.

Relevant part of Schedule 1 of the Bill:

Schedule 1, clause 2 sets a range of lands that are identified in the Standard Template and LEP.

Schedule 1, Clause 2(2)(c) identifies lands as Zone E2 Environmental Conservation, Zone E3 Environmental management or Zone E4 Environmental Living. In respect to the terms of each of these Zones found in the Standard Template, the clearing of vegetation permitted by the LLS Act, is prohibited in these Zones. Clearly the LLS Act Schedule 5 is incompatible with the LEP. In respect to E-Zones this Bill removes this tension.

Essential Technical Background to Matters in the Bill

Private native forestry is not land clearing despite often being portrayed as such. Genuine land clearing results in land-use change. Private native forestry does not change the use of the land. Private native forestry results in partial and temporary canopy removal. After harvesting occurs, the forest regenerates, which is codified and enforceable.

Private native forestry operations are typically small-scale and low intensity, as demonstrated by the NSW Government's Department of Environment's own monitoring of the causes of forest canopy change. The monitoring differentiates between permanent clearing and temporary canopy changes [as a % of the NSW forest estate]:

Permanent clearing:

- Agriculture (grassland, cropping, horticulture, farm infrastructure) [0.07%],
- Infrastructure (residential, commercial, mining, public infrastructure) [0.03%]

Temporary canopy removal:

- Fire [0.13%]
- Forestry (native and plantation harvesting, establishment, thinning, forestry infrastructure:
 - public native forestry [0.06%]
 - private native forestry [0.02%]



The monitoring reveals that private native forestry annually removes just 3,690 hectares of forest canopy on average¹ or just 0.02% of the NSW's 20-million-hectare native forest estate² (Figure 1). The scale and intensity of private native forestry rule it out as a key threatening process for koalas.

Comprehensive environmental protection measures ensure the impacts of private native forestry on koalas and the environment are temporary and minor. Private native forestry is only allowed to occur in regrowth forests, harvesting is selective and there is no clear-felling. All private native forestry operations must be planned and abide by a Code of Practice. Under the Code, all sensitive and significant environmental features, including riparian zones, old growth, steep slopes, rainforest, rocky outcrops, wetlands and heath are protected.

Protection is also provided for individual trees and plants that are important for wildlife, such as hollow-bearing trees and feed trees. For plants and animals, such as koalas, which are classified as vulnerable or threatened, there are special prescriptions that ensure the protection of key habitat features. After harvesting is completed, the forests must be allowed to regenerate. Operating in accord with the Code ensures that private native forestry is a sustainable land-use.

¹ EES (2018) Results Woody Vegetation Change Statewide (SLATS) 2018. Website <https://www.environment.nsw.gov.au/topics/animals-and-plants/native-vegetation/landcover-monitoring-and-reporting>

² Department of Ag (2018) <https://www.agriculture.gov.au/abares/forestsaustralia/sofr/sofr-2018/criterion1>



NSW Native Forest Canopy Change 10 year annual average - (2009-2018)

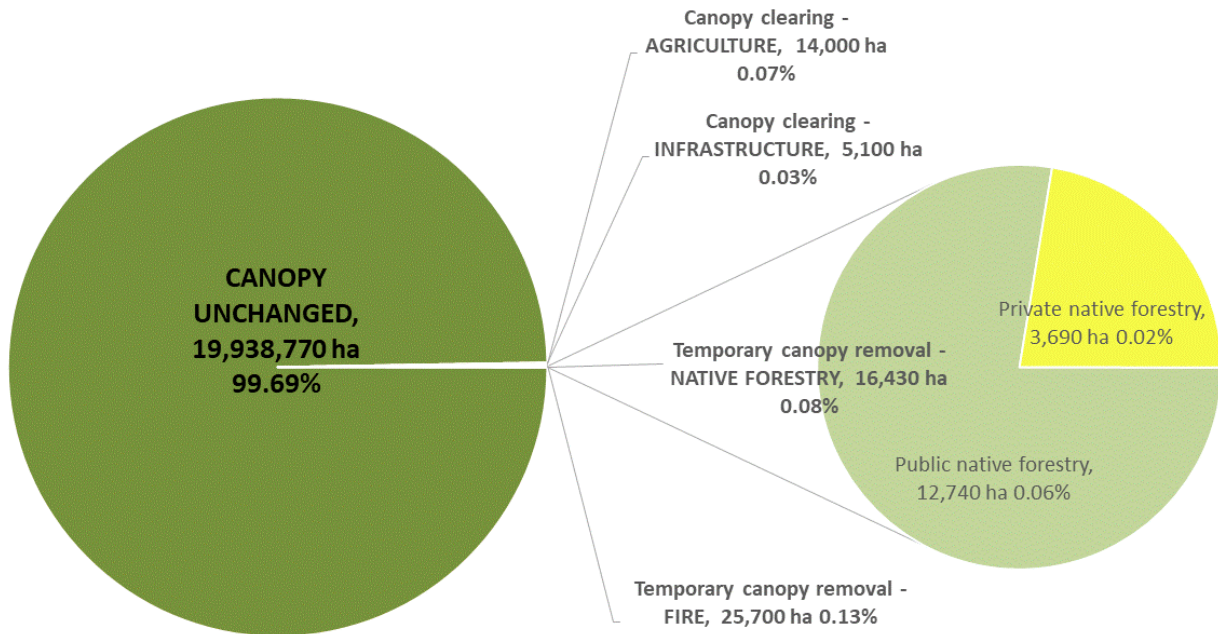


Figure 1 – Size and scale of land-use activities that result in temporary and permanent canopy change in NSW native forest (2009-2018 annual average) (data source: EES (2018) Results Woody Vegetation Change Statewide (SLATS) 2018.)

The Biodiversity Conservation Act and the LLS Act define clearing to mean:

"clearing" native vegetation means any one or more of the following--

- (a) cutting down, felling, uprooting, thinning or otherwise removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking or burning native vegetation.

The application of this definition to long-term management of land permanently vegetated with native forest can best be described as nonsense or perverse. See examples below.



Confused Lyre Bird and Long-nosed Bandicoot, Don't Know They are in Cleared Native Forest



Confused Redneck Wallaby and Wombat, Don't Know They are in Cleared Native Forest

Private native forestry is subject to independent regulatory oversight. All private native forestry plans must be approved by Local Land Services, and all private native forestry operations are regulated and policed by the Environment Protection Authority using a dedicated forestry compliance team.

Published research by Dr Brad Law (2017) is revealing that native forestry is not impacting on koala populations. After extensive survey across millions of hectares of north coast hinterland forests Dr Law found that there were high koala occupancy rates in State forests with a long history of moderate and heavy timber harvesting. The same research found similar occupancy levels between harvested State forests and National Park.

Three consecutive years of koala monitoring (prior to the 2020 bushfires) revealed occupancy rates to be stable. A current koala tracking project on State forest supports these findings. It shows that koalas are spending similar amounts of time in recently harvested forest as they are in forest reserves protected from harvesting disturbance. Similar trends are emerging for private native forestry which is less intensive.

The following table shows the results of koala surveys undertaken on the NSW south coast. State forests with a long history of harvesting, including integrated harvesting, were found to have two to three times the koala activity as adjoining parks and reserves. Ironically, one of the key determinants of the park boundaries was to include, what the experts of the day considered to be the best koala habitat. The koalas had a different view, with 70 percent of the activity in state forest concentrated in regrowth from harvest operations.

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Table 1. Number of sites assessed, active sites, occupancy rates by land tenure (2012–14 results in black text; 2007–09 results in blue text).

Tenure	No.sites ssessed		No.trees earched		No. sites with Koala faecal pellets		% of sites occupied	
Biamanga NP	233	128	6990	3840	14	9	6.01	7.03
Gulaga NP	1	8	30	240	0	0	0	0.00
Bermagui NR	30	38	900	1140	1	4	3.33	10.53
Mimosa Rocks NP	120	9	3600	270	13	0	10.83	0.00
Mumbulla SF	229	176	6870	5280	54	38	23.58	21.59
Murrah SF	170	55	5100	1650	12	8	7.06	14.55
Bermagui SF	23	89	690	2670	1	3	4.34	3.37
Tanja SF	28		840	0	2	0	7.14	0
Private Land	78	72	2340	2160	7	2	8.97	2.78
Other Aboriginal Land	6	14	180	420	1	2	16.67	14.29
All National Parks and Nature Reserves	384	183	11520	5490	28	13	7.29	7.10
All State Forest	450	320	13500	9600	69	49	15.33	15.31
Total All Sites	918	589	27540	17670	105	66	11.44	11.21

In remote forest areas the single greatest threat to koalas (by far) is wildfire. In 2019-20, over 4 million hectares of native forest was burnt, much of which was koala habitat. It is estimated by koala conservationists that over 5,000 koalas were killed. The most severe impacts were caused by megafires which all originated in remote National Parks & Reserves. Unfortunately, the 2019-20 wildfires were not the first time that koalas have been heavily impacted. NSW wildfires have been killing koalas in large numbers for decades.

Over the past 20 years alone, wildfires have consumed over 5.7 million hectares of our National Parks and reserves (Figure 2). Together these fires have covered 86.5% of all the forest that is formally set aside in NSW to protect our native fauna (Figure 3). The NSW Government has been very slow to acknowledge this issue and is yet to act upon it. In 2018 In August 2019, the South East Timber Association Submission to the NSW Legislative Council Inquiry into Koala Populations and Habitat in NSW detailed the impact a wildfire had on a koala population in the Kybeyan area on the NSW southern tablelands.

After the fire, one SETA member commented *"It was no surprise to me or other SETA members who helped fight the fire and minimise the impact on the koalas, that not one of the "conservationists" who have campaigned and protested against our industry, put one minute into fighting the fire to protect the koalas."*

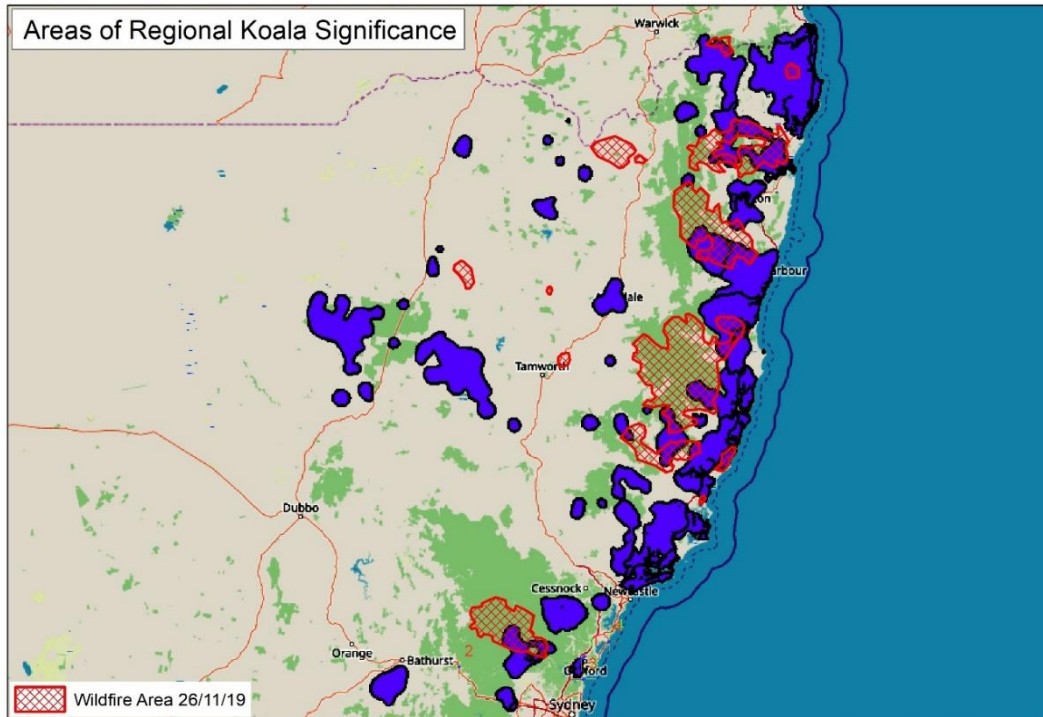
From a policy perspective, it seemed the authors of the Koala SEPP 2019 chose to ignore our advice on the need to mitigate the wildfire risk to koalas. Our advice was resoundingly ignored by the Departments of Planning and Environment in developing the SEPP. Provisions in the Guideline effectively locked megafire disasters into core koala habitat with the conditions placed fuel reduction burning in any koala habitat.



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The Department of Environment who developed the strategy for the Government chose to completely ignore advice from on-ground experts and there was a general failure to recognise wildfires as a key threat. By November 2019, wildfires on the NSW north coast were already beginning to impact in areas of koala significance.



Not until the aftermath of the 2019-20 wildfires in February 2020 did the Departmental architects of the Strategy meet to discuss the issue. In their subsequent 2019-20 annual report they sheepishly acknowledge that *there is a need to better prepare for future bushfires and climate change to improve outcomes for koala populations*. With such a poor track record it is now critical that the NSW government intervene in the way public forests are being managed. This must begin with a major overhaul of the Department of Environment's forest fire management policies.



Photo J. Waalkens



NSW now has that ignominious record for the largest fire, ever to have burnt from a single ignition point. The Gospers Mountain fire started in a remote area of the Wollemi National Park, in forests with heavy fuel loads and ultimately burnt 512,626 hectares, of predominantly national park. There are a number examples across eastern NSW, from the Queensland to the Victorian borders, where fires started in remote areas have also heavily impacted farms, rural communities and the fringes of regional centres and cities and had a massive impact on biodiversity across more than 4 million hectares of NSW native forests.

Twenty years ago, [UNESCO inscribed](#) the greater Blue Mountains area on the World Heritage List for having “outstanding universal value”. In December 2020, after fires had ripped through 71 percent of the Greater Blue Mountains area, the International Union for Conservation of Nature (IUCN) — the official advisor to UNESCO — rated the site as being of “significant concern”, which is the second-lowest category.

When might Portfolio Committee 7 spend some time looking at the underlying management problems that are degrading the NSW National Parks and reserves system?

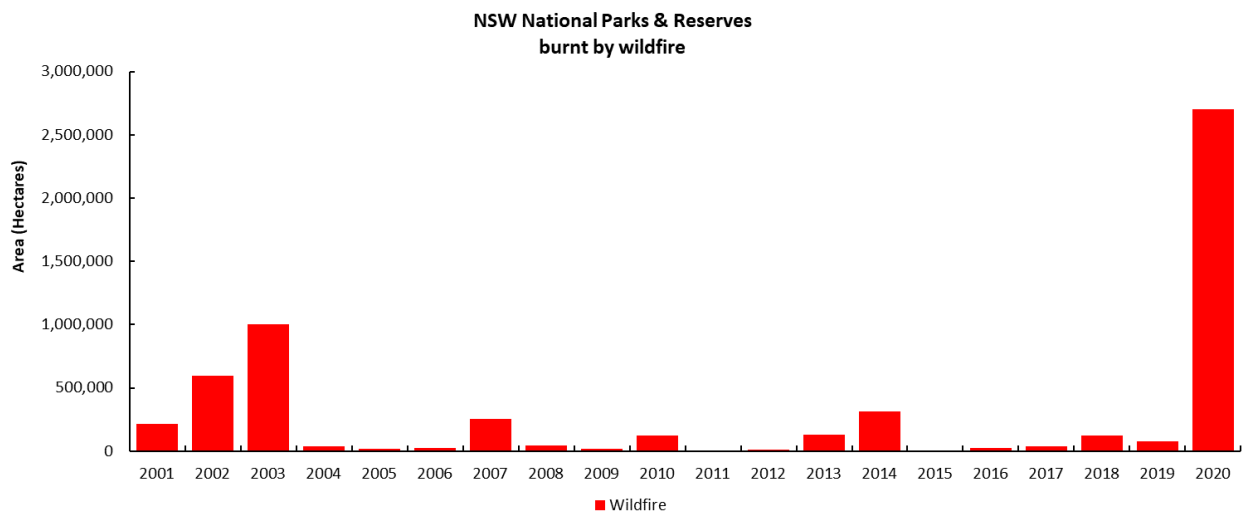


Figure 2 – Annual area of NSW National Parks and Reserves burnt by wildfire over the last 20 years

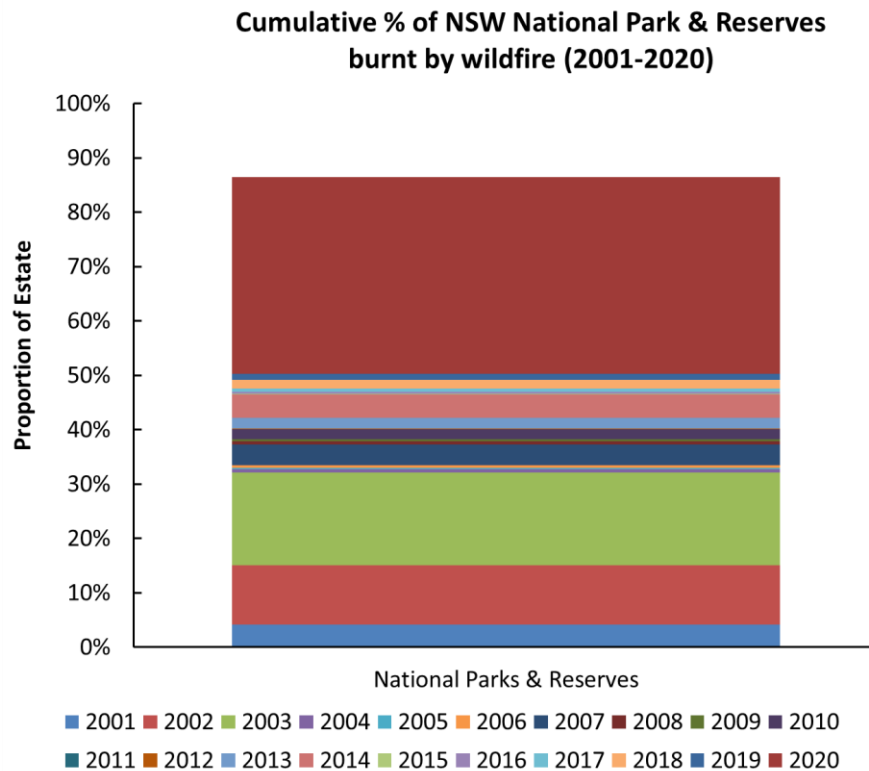


Figure 3 – Cumulative proportion of NSW National Parks and Reserves burnt by wildfire over the last 20 years.

Submission made on behalf of South East Timber Association members:

Peter Rutherford BSc (Forestry), MIFA

SETA Secretary

26 February 2021



APPENDIX 1

DID THE NSW KOALA STATE ENVIRONMENT PLANNING POLICY 2019 MEET ACCEPTABLE POLICY DEVELOPMENT BENCHMARKS?

In November 2016, NSW Planning & Environment released the Explanation of Intended Effect: State Environmental Planning Policy No.44 – Koala Habitat Protection.

In February 2017 Environment & Planning jointly held 7 community consultation sessions, with a total of 191 attendees, which covered the work on the Koala Strategy and an explanation of intended effect for the Koala SEPP. 27 local councils registered to attend 9 consultation sessions.

SETA has requested a copy of the presentation (a single document used on multiple occasions) to see what was covered. The response to the second request stated: "In order to search and locate the information requested, can you please lodge an access application under the Government Information (Public Access) Act. Whilst the Department does try to respond to requests for information informally, there are times when a formal application is required, including where substantial time and resources may be used to locate information."

Why would locating a single document use substantial time and resources? SETA believes that a lead author of the SEPP working in the Environment Department could find the document in 5 minutes, unless it has been deleted, destroyed or otherwise buried.

After almost 2 years of silence, the Koala SEPP was signed sometime on Friday 20th December 2019, two business days before Christmas, in the middle of the largest ever wildfire emergency in NSW history. The SEPP signing was announced via a Department of Planning press release. No Environment or Planning Minister endorsement of this leading-edge environmental policy.

After engagement in early 2017, affected stakeholders and their representatives were not consulted again until Timber NSW and NSW Farmers began to raise concerns of the impact the new Koala SEPP would have on thousands of farming operations and businesses reliant on timber supplies from private property.

Most of the impact of the SEPP sits in the Guideline. The 'draft' Guideline was released to a small stakeholder group for public consultation at 4.39pm on 27 February 2020, with the SEPP due to take effect on 1 March 2020.

A one hour consultation meeting was held on Friday 28 February. Consultation on the Final Guideline was hurriedly announced on 3 March, three days after the SEPP and Guideline came into force.

The sequential rollout of the SEPP and then the Guideline, meant the full impacts of the combined documents could not be fully understood by Ministers, other politicians and most affected stakeholders until months after the Koala SEPP was signed.

It is the view of SETA that the development and rollout of the Koala SEPP and Guideline is a case book example of less than professional policy development. The policy process gave no



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consideration to alternative policy options, including an active and adaptive approach to biodiversity management.

Less than 200 community members and up to 27 councils were consulted. Truly affected stakeholders potentially impacted by increased bushfire risk, loss of income and loss of freedom to manage millions of hectares of private land, would number in the tens of thousands.

No socioeconomic study was undertaken to document the other negative impacts of the SEPP.

SETA members have a strong view that Koala SEPP 2019 and Guidelines failed to meet reasonable policy standards. The process would seem to driven by an eco-political agenda, rather than following a process that would be used by profession policy development staff.

