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BL
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Ms Danijela Karac
Director, Planning Frameworks
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Ms Karac

PROPOSED AMENDMENT OF SEPP 44 – KOALA HABITAT PROTECTION

Kempsey Shire Council welcomes the review of State Environmental Planning Policy 44 - Koala Habitat Protection and the opportunity to provide feedback on the Explanation of Intended Effect (November 2006).

Aim of the SEPP

Council supports the aim to continue to protect koala habitat to ensure a permanent free-living population over the present range and reverse the current trend of koala population decline in NSW. Updated guidelines that will support Councils to prepare comprehensive plans of management (CKPoM) is a positive step, as the landscape scale approach for koala habitat protection far outweighs the site scale approach when applying the SEPP.

Application of the SEPP

Council suggests that land to which SEPP 44 applies be amended to include land '1 hectare or greater' rather than 'greater than 1 hectare'. Many lots within R5 *Large lot residential* subdivisions have been designed to be exactly 1 hectare (the minimum lot size) in order to gain maximum lot yield. When applying the current provisions of SEPP 44, the definition of the land to which the SEPP applies (being land greater than 1 hectare) in some cases, results in the SEPP only applying to some of the lots within the same R5 subdivision (for example lots 1.1 hectares and greater). The definition of the land to which the SEPP applies should be amended to remove this inconsistency in the application of SEPP 44 and capture all lots within an R5 subdivision.

Definitions

Council supports the proposed amendments to the definitions of koala habitat, in particular the amendments to the definition of core koala habitat. The current SEPP 44 defines core habitat as a 'snap shot in time' occupancy of a site. However, many studies have indicated that large areas of habitat are required to sustain koala populations (in particular, habitat on the east coast of NSW) and many other factors (other than occupancy at the time of survey) need to be considered when defining if a site is core koala habitat or not. Furthermore, updating the current tree species list from 10 to 65 species will better reflect current scientific knowledge of preferred browse species.



The development assessment process

Council supports the proposed amendment of SEPP 44 in regards to requiring a development application to take into consideration a CKPoM (if one has been carried out for an area) and the application of the guidelines if a CKPoM does not apply to an area. This gives greater strength to existing CKPoMs (such as the Kempsey Shire CKPoM) in the development application process.

The Guidelines

Council recommends that the Guidelines suggest a minimum survey effort and technique such as regularized, grid-based spot assessment technique (RGB-SAT) methodology. That said, the Guidelines should not be limited to one prescribed methodology that may be outdated as new improvements to survey methodology arise. The survey effort in the Guidelines should also include consideration of generational persistence and habitat linkages to areas off site.

Local Planning Directions (under section 117 of the Act)

Council supports the protection of koala habitat through Local Planning Directions including the zoning of land. However, consideration needs to be given to the effectiveness of protecting koala habitat through the use of E zones. Some E zones do not restrict the use of the land for private native forestry and therefore negate protection of koala habitat.

Overall, Council supports the review of SEPP 44 and appreciates the opportunity to provide feedback on the *Explanation of Intended Effect*. Should you wish to discuss any of the above, please contact the undersigned on 6566 3200 or by email bill.larkin@kempsey.nsw.gov.au

Yours sincerely

Bill Larkin
Environmental Strategies Officer
SUSTAINABLE ENVIRONMENT