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NSW Farmers’ Association Background
The NSW Farmers’ Association (the Association) is Australia’s largest State farmer organisation representing the interests of its farmer members – ranging from broad acre, Livestock, wool and grain producers, to more specialised producers in the horticulture, dairy, egg, poultry, pork, oyster and goat industries.

Explanation of Intended Effect: State Environmental Planning Policy No 44 – Koala Habitat Protection.
Executive Summary

NSW Farmers appreciates the opportunity to comment on the Explanation of intended Effect, State Environmental Planning Policy No 44 – Koala Habitat Protection, November 2016.

NSW Farmers is Australia’s largest state farming body, representing the majority of commercial farm businesses in NSW, ranging from broad acre, meat, dairy, wool and grain producers, to more specialised producers in the horticulture, egg, pork, oyster and goat industries. Responsible management of our precious land and water resources is fundamental to the success of these farm businesses, and the families who own and operate them.

Our work on behalf of members in relation to planning and land use policy emphasizes the importance of considered and balanced utilization of resources which delivers triple bottom line outcomes to the community.
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1. **Amendments to biodiversity legislation**

On 17 November 2017, the NSW Parliament passed the Biodiversity Conservation Bill and Local Land Services Amendment Bill. The new scheme will commence on 1 July 2017. In the view of NSW Farmers, it is not clear how the revised SEPP is intended to operate in the context of a significantly revised biodiversity management scheme in NSW.

We understand that the *Biodiversity Conservation Act 2016* enables the Minister for the Environment to make wildlife management codes of practice and that additional codes will be developed with key stakeholders and exhibited in 2017. It would be helpful if further information regarding how the Koala SEPP will operate in conjunction with the Government’s new legislation was made available.

We suggest that the Department of Planning exhibit the actual amendments proposed, rather than the explanation in isolation. In our view, the explanation does not describe how landholders will be impacted by the proposed changes to listing species. It is also unclear what changes to definitions will be made.

2. **Classification of koala habitat**

NSW Farmers supports a transparent and evidence based approach to the classification of koala habitat. If it becomes apparent that koalas are living in areas not previously classified as koala habitat, this evidence should be made readily available to the public so as to provide justification for an increase in koala habitat listings. The evidence relied upon must be independent and robust. It is also our view that landholders should be made aware of any declaration or ruling in relation to koala habitat which compromises or impacts the potential use of their land, prior to any declaration or ruling being made, in order to provide landholders with the opportunity to provide comment.

We note that the proposed amendment of SEPP 44 will update the definitions of koala habitat. We understand that the existing definitions will be replaced with definitions that identify the characteristics of plant communities making up koala habitat and whether there is evidence that koalas are present. In our view, the definition of koala habitat requires further explanation, particularly in relation to the Codes of Practice for landholders under the NSW Government’s biodiversity review, as does the criteria for the identification of particular tree species as koala habitat.

Landholders need certainty about processes and only actual koala habitat should be protected. We have received reports from our membership that assessments have been undertaken by individual landholders at great expenses, where there is no evidence of koalas and yet the planning officials fail to interpret and apply the SEPP definition correctly. Landholders and the community require a more accurate and more reasonable system to work with. The impacts of an area being assessed as koala habitat on an area that is being used for the purposes of primary production should also be made abundantly clear.
clear, including in circumstances where an area is assessed as koala habitat but there are no koalas present.

Conclusion.

NSW Farmers supports a transparent and evidence based approach to the classification of koala habitat, which makes clear the reasons behind any assessment of koala habitat and provides opportunity for participation and challenge by landholders affected. Every effort should be made to ensure that triple bottom line outcomes are achieved through the implementation of this policy.