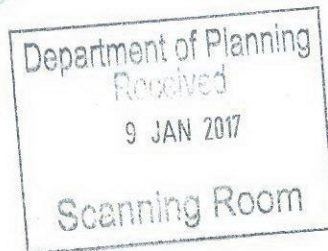
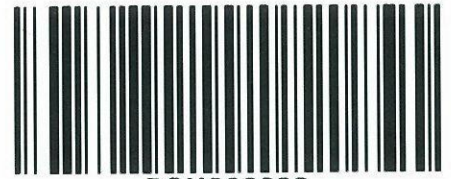


clarence
VALLEY COUNCIL

4 January 2017



Reference: ECM 1829438
Contact person: Scott Lenton



PCU068909

Director, Planning Frameworks
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Sir

SEPP 44 – Explanation of Intended Effects –Clarence Valley Council submission

Council appreciates the opportunity to provide this submission on the SEPP 44 Explanation of Intended Effects and the continuing role of the Policy in management of koala habitat in NSW into the future.

It is noted that this review of SEPP 44 is concurrent with the Government also seeking public comment via the Office of Environment and Heritage's website on the draft Saving our Species Iconic Koala Project as well as the preparation of a NSW Koala Strategy. In general terms, the SEPP is just one tool for sustainable management of koalas and their habitat in NSW, and it should be informed by and action relevant strategies contained in the Koala Strategy. Hence, it is respectfully suggested that the higher level strategic planning documents should be completed before a review of SEPP 44 can be finalised.

SEPP 44 itself signifies a clear intent by the NSW Government to recognise and retain this iconic threatened species through appropriate management of koala habitat. However, since the implementation of SEPP 44 some 20 years ago the science suggests that the SEPP in combination with other conservation tools has not been effective in reversing the decline of koala populations in NSW. It is suggested that the aim in the SEPP of protecting koala habitat, whilst admirable, cannot be achieved through implementation of the SEPP on its own. Koala habitat, like any other terrestrial habitat, is subject to a range of pressures and impacts many of which operate beyond and cannot be controlled through strategic planning and development assessment in order to 'protect' habitat. 'Protection' in the current world is a vision and rarely a reality. It is a common term used in a range of environmental legislation aims and objectives in NSW and time after time it is not achieved as the Government also wants and promotes growth. To make 'protection' operational there needs to be much stronger policy and leadership at the NSW Government level and across all relevant legislation, policies and strategies.

The Governments own Priority Action Statement (PAS) for the koala acknowledges that there are a range of pressures on koalas and habitat and most of these occur indirectly as a result of growth. Good planning plays a role in sustainable management of koala habitat and koalas, however it is a part of a suite of tools that are necessary to ensure this iconic species exists into the long term. In terms of the planning resource that is allocated to koalas there would appear to be strategic merit in applying that

resource across all species whether threatened, iconic or not. Diverse and quality habitat supports all species and planning to 'protect' a single species whilst seemingly beneficial to that individual species may not always be in the best interests of other species. However, this approach requires a wider approach and look at biodiversity value as a whole.

Council supports the intent to utilise local Koala Plans of Management (KPoM) through the SEPP in guiding better management of koala habitat and koalas. Clarence Valley Council has prepared a draft KPoM and submitted it for approval however such determination remains outstanding. To date, the Department of Planning and Environment (DPE) has had concerns with Council's mapping of core habitat. It is hoped that the DPE may be prepared to sign off on the existing plan based on the new criteria for habitat outlined in the EIE.

It is essential that KPoMs that are well progressed, such as Clarence Valley Council's, will still be considered for approval by the DPE through transitional arrangements included in the SEPP. Such an approach is consistent with similar provisions included in recent coastal management reforms and ensures that the good work and resource used in preparing such KPoMs is not disregarded by the Government. Indeed, consistent with the Governments intention to save this iconic species it would be in the Governments and the koalas' best interests to continue with the approval of current draft KPoMs to enable them to be implemented sooner rather than later.

The proposal to place strategic planning considerations for koala habitat into a Local Planning Direction is welcomed if it is comprehensive, however earlier comment regarding the value of a diversity of quality habitats for all species is relevant as opposed to preserving habitat primarily for koalas. The content of the guidelines and planning direction will be important components contributing to the viability of many populations of koalas. However, there remains a need to recognise that core or critical habitat continues to be removed and/or adversely impacted in the *death by a thousand cuts* process of subdivisions, development and growth-related pressures in general. In this light, Council reinforces the need for the Government to address loss of habitat and habitat quality arising from all impacts as part of the whole-of-Government approach to preserving koalas and reversing their decline.

Council strongly believes that new guidelines should cover survey techniques for koalas as well as clear guidance about what can/cannot happen to habitat where there are viable populations. It is suggested that criteria similar to those contained in section 4 of Councils adopted KPoM could be used. Schedule 1 to this submission contains details of Section 4.3.2.2 from Council's KPoM, relating to food trees and koala presence, and it is suggested similar text would be a critical part of the proposed guidelines to reduce the risk of the development assessment process continuing to enable ongoing clearing of koala habitat and ongoing decline in koalas and other threatened species.

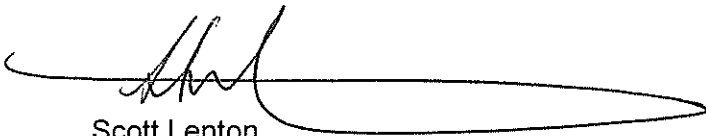
To ensure a partnership approach to preserving koala habitat it is essential that habitat and vegetation data held by public authorities such as NP&WS and Local Land Services is freely made available to local Councils, especially when local studies and mapping of habitats and flora occurrences have not been completed to an equivalent or better standard than the data held by the State. In many cases it is unlikely Councils will be able to invest the level of resource to the task of preparing detailed local studies, especially for the direct benefit of a single species, making this assistance from the

Government a critical part of the management of koala habitat, is considered to be in the public interest and inconsistent with principles of data sharing between different levels of government.

The concept of using environmental protection, or 'E', zones to assist in the improved management of koalas is supported in general, however again such zones should be utilised to achieve benefits to the full range of species in both the current and future circumstances (including under future climate conditions). Further, such zones should be informed at a whole-of-LGA level and not applied in an adhoc fashion where practical. This is one opportunity that enabling well-progressed KPOMs to progress further could capitalise on and also where sharing of the Governments available habitat and biodiversity data could provide broad benefit for koalas and other species across NSW. Without this level of planning outcome the continued decline of koalas would be a reasonable expectation.

The intention to expand the koala feed tree species list is supported and provided local koala plans of management (KPOM) can specify additional locally important feed tree species then this expanded list should be useful is enabling identification of a wider area of koala habitat in NSW and hence, providing an opportunity for such habitat to be better managed.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Scott Lenton', followed by a long, horizontal, slightly wavy line that extends to the right.

Scott Lenton
Acting Manager Strategic and Economic Planning

Schedule 1 attached over

Schedule 1 - Extract from Clarence Valley draft Koala Plan of Management

4.3.2.2 Provisions

A. Retention of Koala Habitat

Where development includes impacts to koala habitat, development consent may only be granted where the Consent Authority is satisfied that:

- i. There is no loss of 'Primary' or 'Secondary (A)' habitat which have trees with evidence of recent koala activity or previously recorded koala activity; and
- ii. Through compensation works, there is no net loss of 'Primary' or 'Secondary (A)' habitat within the locality to which the development is proposed (i.e. either the Woombah or Ashby locality) as mapped in Appendix D; and
- iii. The application demonstrates that retention of koala habitat has been maximised; and
- iv. All feasible options to negotiate alternatives to avoid clearing, minimise clearing when clearing is unavoidable, and mitigate the adverse impacts of clearing have been exhausted; and
- v. The proposed compensation works will lead to an improvement in the environmental values of koala habitat. In cases where compensation works are not feasible or there is a high risk that the works may fail, application of this framework is not appropriate and should not be considered; and
- vi. Application of compensation works has been conducted in accordance with the principles outlined in the Habitat Compensation Policy (Appendix B); and
- vii. The Habitat Compensation Plan identified in the Koala Habitat Assessment Report (Appendix C) complies with the above policy.

Koala habitat is generally identified by the mapping at Appendix D (see Biolink Ecological Consultants 2012) or as otherwise confirmed by the undertaking of a Koala Habitat Assessment Report as set out in Appendix C. Council will advise if a Koala Habitat Assessment Report is required based on its assessment of the existing level of information available to assess impacts on the subject site.

A. Retention of Preferred Koala Food Trees

Where development includes impacts to individual koala food trees (i.e. trees which do not form part of Koala Habitat covered in Provision (i) above), development consent may only be granted where the Consent Authority is satisfied that:

- i. There is no loss of trees that have evidence of recent koala activity or previously recorded koala activity within the tree or a 20m radius;
- ii. The development application demonstrates that retention of preferred koala food trees has been maximised; and
- iii. Approval is to be conditional upon the following measures being documented in an Environmental Management Plan where the removal of preferred koala trees is otherwise unavoidable:
 - a. Any preferred koala food trees removed are to be replaced at a ratio of 1:10 (removed : replaced). The replacement trees must be planted on the subject site, and should be planted in a suitable location – preferably in groups to form habitat linkages and/or adjacent to larger areas of bushland;

- b. *Replacement preferred koala food trees must be of the same species as those removed, and must be sourced from local seed stock;*
- c. *Preferred koala food trees planted as replacement trees must be a minimum 600mm tall at the time of planting, and be nurtured for a minimum period of 24 months. Any plants that die within this period must be replaced; and*
- d. *Demonstrate how ongoing maintenance and protection of preferred koala food tree seedlings is to be undertaken – for example exclusion of stock, program for weed suppression and removal, watering regime etc.*
- e. *Provide for the mechanism for implementation of the actions – for example by a Conservation Vegetation Management Plan attached to the title of the land.*

Impact on individual koala food trees are to be determined through review of previous studies undertaken in the locality (for example Mapping at Appendix D), or through undertaking of a Koala Habitat Assessment Report as may be required by the Consent Authority to enable assessment of the development application.

END