

Submission to the Explanation of Intended Effect: State Environmental Planning Policy No 44 – Koala Habitat Protection

February 2017

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general-purpose councils, associate members including special-purpose county councils, and the NSW Aboriginal Land Council. LGNSW facilitates the development of an effective community based system of local government in the State.

LGNSW welcomes the opportunity to provide input into the explanation of intended effect: State Environmental Planning Policy No. 44 – Koala Habitat Protection on exhibition until 16 December 2016.

While these comments are on behalf of NSW local government, the submission does not override or negate any submission made by an individual council. LGNSW has actively supported and encouraged councils to make individual submissions, or provide input to the LGNSW submission.

Background

LGNSW has reviewed the document on exhibition and also promoted the opportunity to comment on the proposed changes to koala habitat management to councils across NSW. The timeframe for input has been very short and councils have indicated difficulties in meeting this deadline during the busy end of year period.

There are also a number of NSW Government reforms currently underway where council input is sought. These include: coastal management, biosecurity and environmental future funding and have all required comments over the December / January period which is extremely challenging for councils, particularly for those requiring endorsement at a council meeting prior to submission. The last council meeting prior to the Christmas recess is generally the first week in December, making it difficult for councils to meet these timeframes.

LGNSW seeks the NSW Government's consideration of the volume and timing of future consultation processes with councils.

Explanation of Intended Effect: SEPP 44

General

The proposed amendment of State Environmental Planning Policy No. 44 to update planning controls to better protect koala habitat while ensuring consistent assessment of development applications, is widely supported.

However, the documents on exhibition provide limited detail on the changes to the SEPP and how these may impact on koala populations. Local government has an important role in managing koala habitat to prevent further decline of species populations and it also has responsibility for implementing the SEPP. In light of this important role, councils should be further consulted on the development of the SEPP and supporting guidelines.

The materials provided make no reference to the biodiversity reforms underway in NSW and any interaction between the new legislation and the approach to koala management suggested in the redrafted SEPP. This gap must be addressed in consultation with councils for clarity and to allow the SEPP to be implemented appropriately.

Aim and application of the SEPP

As stated, an aim of the SEPP is for the continuation of the protection of koala habitat over the 'present range', however councils are also actively seeking to extend habitat and support this as being included as a necessary goal in long term protection of the species.

The proposed amendment removes the need for the preparation of individual koala plans of management, while maintaining a focus on the development of comprehensive plans of management. Where comprehensive plans do not exist decisions are based on standardised requirements established in the guidelines. While the intent of standardised requirements is supported in principle, the detail of these requirements and/or draft guidelines need council input.

LGNSW supports updating the names of the councils listed in the SEPP to reflect council name changes and identify where the policy will apply. The proposed transfer of strategic planning outcomes to the Local Planning Directions under section 117 of the Act is appropriate, provided that councils have the opportunity to provide feedback on draft Local Planning Directions prior to finalisation.

Definitions

LGNSW supports the proposed changes to the definition of koala habitat which recognise koala habitat as any area where koalas are present regardless of the tree species. The creation of a broader tree species list is also supported, however councils have indicated species in their local areas which are missing from this list. A process of nomination and review, incorporated into the framework supporting the SEPP, would ensure the species list was updated regularly, reflects any new scientific knowledge, and ensure local accuracy.

The Guidelines

The implementation of the revised SEPP relies on a set of 'guidelines' to be produced by the Department which will advise on the preparation of comprehensive plans of management and the preparation and assessment of development applications. They intend to establish clear criteria for applicants to follow and consent authorities to put into effect, and provide standardised koala survey techniques, however there is no detail available on these guidelines. LGNSW seeks an opportunity for council input into the drafting of the guidelines given their expertise in development assessment and to ensure the criteria are appropriate and can be practically applied.

Issues raised by councils for consideration in the guidelines include the approach to surveying koala habitat recognising the dynamic seasonal nature of koala habitat and the fluctuation of natural occupancy rates at any given time. Surveying techniques should be designed to recognise these fluctuations and reflect the area of habitat needed to sustain a population.

The SEPP and guidelines should provide greater clarity in relation to when a comprehensive koala plan of management (KPoM) is triggered, including consideration of whether a KPoM is needed when no koala habitat is to be removed or if there is an increase in key threatening processes.

Development assessment

Some risk has been identified where development assessors apply the criteria determined in the guidelines to their decision making process. In the absence of a broader comprehensive koala plan of management, the risk of habitat fragmentation remains as a result of individual decisions. Opportunities to address this risk include adequate investment and support to councils to develop, implement and monitor comprehensive koala plans of management. A number of councils do have these plans, however support is needed to continue to implement

the actions and priorities in these plans. A long term landscape perspective is needed to ensure the protection and management of koala habitat and this should continue to be a priority for investment.

In the absence of a comprehensive plan of management, and without the detail of the criteria for assessment in the guidelines, councils have expressed concern in relation to the loss of individual plans of management. Further detail and opportunity to comment on the proposed standardised criteria may alleviate these concerns.

Conclusion

Local Government supports the protection and enhancement of koala habitat to ensure the viability of the species through good planning decisions and management. The approach to achieve more consistency in assessment decisions through a revised SEPP 44 is broadly supported, however councils have raised some issues of concern in operationalising this new approach.

The proposed guidelines are integral to the delivery of the SEPP, however there is no detail available for comment. The standard criteria for assessment, survey techniques and other essential elements of this new approach will be in these guidelines. As such, LGNSW seeks further local government consultation to ensure they achieve the outcomes sought on the ground. This could include trialling the proposed approach with key councils with expertise in this area.

LGNSW will continue to offer support to the NSW Government in the development of the revised SEPP and essential supporting material. We are also seeking a commitment from the NSW Government to assist councils to develop, implement and monitor comprehensive koala plans of management to ensure the protection of koala habitat and avoid further fragmentation to ensure a longer term management perspective for this iconic species.

For further information on this submission, please contact Kirsty McIntyre, Senior Policy Officer, on kirsty.mcintyre@lgnsw.org.au or 02 9242 4055.