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RE: Native Vegetation Regulation Review

Koala populations in Queensland, New South Wales and the Australian Capital Territory have recently been listed as vulnerable under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

To be still arguing about the Koala, an iconic Australian mammal that is apparently admired much more overseas than it is here, disturbs me greatly. I don't find it acceptable that we are slaughtering them and their habitat at a rate that could see them extinct in my lifetime. I'm embarrassed to be part of a generation that could be remembered that way.

Thankfully the *EBPC* listing came into effect on May 2, 2012 - not a day too soon as far as I'm concerned.

In essence, my submission is about an absurd situation arising from the NSW State Private Native Forest Division of OEH not recognising the *Coffs Harbour Koala Plan of Management (KPoM)*. That is despite the *KPoM* having been prepared according to NSW Government guidelines "*Procedures for Preparing Comprehensive Koala Plans of Management under State Environmental Policy 1995 (SEPP) No-44 Koala Habitat Protection*".

In May 2000, over ten years ago, the Koala Plan was given conditional approval by the then Director General of the NSW Dept. of Planning and was incorporated into the *Coffs Harbour City Council Local Environment Plan 2000 (CHCC LEP 2000)*.

<http://www.coffsharbour.nsw.gov.au/our-environment/animals/Pages/Managingkoala.aspx>

The principle aim of our Koala Plan is to provide a framework for the conservation and management of Koala Habitat and the management of threats to Koalas. That mapping forms the basis for the identification of areas meriting protection through the planning provisions of the *CHCC LEP 2000*.

The Koala Plan identifies Koala Habitat – Primary, Secondary and Tertiary – on private land in the LGA, and Coffs Harbour City Council is the consent authority. However, almost half the land in the LGA is State Forests or National Parks and is not under council's jurisdiction.

NSW vegetation management is further complicated because urban lands come under the control of Local Government while rural lands are in the domain of state Catchment Management Authorities.

In 2007, the *Private Native Forestry (PNF) Code of Practice* was introduced. After only two years of operation, in December 2009, Coffs Harbour City Council (CHCC) raised concerns with DECCW when the impact of PNF was observed. DECCW ignored Council.

When questioned about this, the then Director of Landscapes and Ecosystem Management, commented in our local newspaper (Advocate 29 Dec. 2010) that *"the Coffs Harbour (Koala) Plan of Management did not fall under the NSW environmental planning policy but rather the council had its own detailed plan and had written themselves out of the state plan."*

What an absurd situation. Here we have a local community expressing its wish to protect a species that is highly valued by all levels of government, yet a government department completely ignores it.

The legal opinion of an eminent QC, found, after interpreting the PNF code of practice and how it relates to SEPP 44 (from which the Coffs Harbour Koala Plan of Management was derived):

- *that it's not in the environmental interests of the State to permit logging operations in core Koala Habitat and,*
- *that forest populations are prohibited [from logging] without exception in core koala habitat.*

Coffs Harbour Koala Plan of Management Part B

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3.6 Discussion

Koala habitat was identified by two independent methods, namely community-based survey and field-based survey. Both were analysed independently with the vegetation of the LGA, and both were based on the identification of koala presence to produce maps, which when combined, resulted in a final map of core koala habitat. The procedure also enabled the core habitat to be separated and ranked to reflect koala density. Both the community survey and the field survey produced similar patterns of ranked categories of koala habitat. A similar finding has been obtained in Port Stephens LGA (Lunney et al. 1998), showing that the limitations associated with each survey technique can be addressed by the strengths of the other.

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Many areas of koala habitat are situated within or adjacent to developed areas. Other koala habitat occurs in areas identified for development which are either presently zoned for such purpose, or have been earmarked in the Coffs Harbour Urban Strategy Five Year Plan 1996-2001, as requiring future urban investigation and rezoning. The findings and recommendations of this plan with regard to the conservation and restoration of koala habitat and management of threatening processes on koalas will need to be taken into account as part of any investigation for urbanisation of these areas.

The fragmented nature of the remaining koala habitat in the LGA has already been identified and discussed above. The present tenuous links of habitat which exist in many areas as either small broken remnants or scattered trees form regionally important movement corridors which are fundamental to maintaining viable koala populations. The protection and, in some cases, restoration of these links, together with management of threats which may impede the free movement of koalas is considered an essential strategic planning objective and is discussed further in Part A.

PNF CODE

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Listed Species ecological prescriptions

*"These prescriptions must be applied within the forest operations area where there is a **known record** or **site evidence** of a threatened species. A known record is a sighting or record of the species in the NSW Wildlife Atlas available at www.wildlifeatlas.nationalparks.nsw.gov.au. Site evidence is a sign a species has visited or regularly uses a site, and includes observations of, for example, faecal pellets or scats, chewed seed cones or a nest, or evidence that the site has been used as a latrine."*

Prescription

(a) *Forest operations are not permitted within any area identified as 'core koala habitat' within the meaning of State Environmental Planning Policy No. 44 – Koala Habitat Protection.*

(b) *Any tree containing a koala, or any tree beneath which 20 or more koala faecal pellets (scats) are found (or one or more koala faecal pellets in Koala Management Area 5) must be retained, and an exclusion zone of 20 metres (50 metres in Koala Management Area 5) must be implemented around each retained tree.*

(c) *Where there is a record of a koala within an area of forest operations or within 500 metres of an area of forest operations or a koala faecal pellet (scat) is found beneath the canopy of any primary or secondary koala food tree (see Table 1 below), the following must apply:*

(i) *A minimum of 10 primary koala food trees and 5 secondary koala food trees must be retained per hectare of net harvesting area (not including other exclusion or buffer zones), where available.*

(ii) *These trees should preferably be spread evenly across the net harvesting area, have leafy, broad crowns and be in a range of size classes with a minimum of 30 centimetres diameter at breast height over bark.*

(iii) *Damage to retained trees must be minimised by directional felling techniques.*

(iv) *Post-harvest burns must minimise damage to the trunks and foliage of retained trees.*

Logging approvals for PNF logging operations contravene Clause 12 of the *CHCC LEP 2000*, which requires the consent authority (council) shall not grant consent to any development on lands mapped as Primary, Secondary or Tertiary Koala Habitat or on lands adjoining Primary Koala Habitat unless the development is in accordance with the *KPoM*.

Clearly, logging Koala habitat is not in accordance with the *KPoM*, but as council is in no way involved in the PNF decision-making, it is unable to halt the process.

The PNF Code is fraught with problems, because it's largely based on property owners doing the right thing. With 2000 species of threatened flora and 162 threatened species of fauna in the Coffs LGA alone, and with no requirement to hire expert help, holders of a PNF licence have little incentive to do the right thing. Once a licence is issued, the Department has no involvement in producing the owner's required Forest Operations Plan or harvesting operations, other than a possible follow-up audit. Follow-up audits obviously haven't helped the Koalas at all.

The actions of the government and the *PNF Code* have undermined the integrity of the *Koala Plan*, with developers now applying additional pressure to council to allow development.

I ask that the following amendments to the Code of Native Vegetation Act regulations be considered:

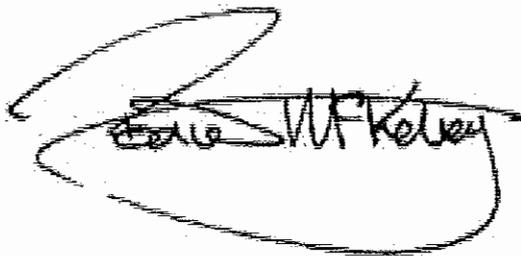
- that logging be prohibited in any core Koala habitat areas identified in any Comprehensive Plan of Management prepared in accordance with *SEPP44*
- that logging be prohibited in all areas identified to be supporting important *Koala* populations for the purposes of the *EPBC Act*
- that core Koala habitat be clearly identified as native vegetation of high conservation value, and the *Draft Native Vegetation Act Regulations 2012* include core Koala habitat and significant Koala populations as defined by *SEPP 44* and the *EPBC Act* in the definition of critical environmental area.

Koala habitat mapping has been completed or is underway in many North Coast LGAs, including Tweed, Byron, Lismore, Coffs Harbour, Kempsey, Port Macquarie, and Port Stephens. Mapping is predominantly standardised across the area and is sound and repeatable.

Communities here value their *Koala* populations and habitat, and they wish to preserve them. We hear a lot about a new model "Whole of Government Approach". I only wish it were true when it comes to the long-term protection of *Koalas* and their habitat and halts the uninterrupted decline in our *Koala* population, which in some areas could already have passed critical levels that may prevent their recovery.

I support the resilience approach to sustainability which should fundamentally be about the environment and community coping with unexpected changes and shocks. We must now recognise that we have pushed the *Koala* beyond its level of resilience and make the necessary changes to management.

Regards

A handwritten signature in black ink, appearing to read "Rod W McKelvey", enclosed within a large, hand-drawn oval shape.

Rod W McKelvey