



New South Wales

# **State Environmental Planning Policy (Koala Habitat Protection) Amendment (Miscellaneous) 2020**

under the

**Environmental Planning and Assessment Act 1979**

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ROBERT STOKES, MP  
Minister for Planning and Public Spaces

## **State Environmental Planning Policy (Koala Habitat Protection) Amendment (Miscellaneous) 2020**

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Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Koala Habitat Protection) Amendment (Miscellaneous) 2020*.

### **2 Commencement**

This Policy commences on the day on which it is published on the NSW legislation website.

### **3 Maps**

The maps adopted by *State Environmental Planning Policy (Koala Habitat Protection) 2019* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy.

### **4 Repeal of Policy**

This Policy is repealed on the day following the day on which this Policy commences.

## Schedule 1 Amendment of State Environmental Planning Policy (Koala Habitat Protection) 2019

### [1] Clause 4 Definitions

Omit the definition of *core koala habitat* from clause 4(1). Insert instead—

*core koala habitat* means—

- (a) an area of land which has been assessed by a suitably qualified and experienced person in accordance with the Guideline as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or
- (b) an area of land which has been assessed by a suitably qualified and experienced person in accordance with the Guideline as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.

### [2] Clause 4(1), definition of “Guideline”

Omit “and as in force from time to time”.

Insert instead “on the day on which *State Environmental Planning Policy (Koala Habitat Protection) Amendment (Miscellaneous) 2020* commences”.

### [3] Clause 4(1)

Omit the definitions of *Koala Development Application Map* and *Site Investigation Area for Koala Plans of Management Map*.

### [4] Clause 5 Land to which Policy applies

Insert at the end of clause 5(3)(b)—

, or

- (c) land on which biodiversity certification has been conferred, and is in force, under Part 8 of the *Biodiversity Conservation Act 2016*.

### [5] Clause 6A Exempt land

Omit “feed tree species” from clause 6A(1). Insert instead “koala use tree species”.

### [6] Clause 6A(2)(b)

Omit the paragraph.

### [7] Clause 7 Maps

Omit the note. Insert instead—

**Note.** The maps adopted by this Policy are to be deposited in the head office of the Department of Planning, Industry and Environment and made available for public access.

### [8] Clause 9 Development assessment process—no approved koala plan of management for land

Omit clause 9(1)(a).

### [9] Clause 9(2)–(6)

Omit clause 9(2). Insert instead—

- (2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess, in accordance

with the Guideline, whether the development is likely to have any impact on koalas or koala habitat.

- (3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.
- (4) If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.
- (5) However, despite subclauses (3) and (4), the council may grant development consent if the applicant provides to the council—
  - (a) information, prepared by a suitably qualified and experienced person in accordance with the Guideline, the council is satisfied demonstrates that the land subject of the development application—
    - (i) does not include any trees belonging to the koala use tree species listed in Schedule 2 for the relevant koala management area, or
    - (ii) is not core koala habitat, or
  - (b) information, prepared in accordance with the Guideline, the council is satisfied demonstrates that the land subject of the development application—
    - (i) does not include any trees with a diameter at breast height over bark of more than 10 centimetres, or
    - (ii) includes only horticultural or agricultural plantations.
- (6) In this clause—

***koala assessment report***, for development, means a report prepared by a suitably qualified and experienced person in accordance with the Guideline about the likely and potential impacts of the development on koalas or koala habitat and the proposed management of those impacts.

**[10] Clause 10 Development assessment process—other land**

Omit clause 10(a). Insert instead—

- (a) the land does not have an approved koala plan of management applying to the land, or

**[11] Clause 11 Preparation of koala plans of management**

Insert after clause 11(4)—

- (5) In this clause—

***Site Investigation Area for Koala Plans of Management Map*** means the State Environmental Planning Policy (Koala Habitat Protection) 2019—Site Investigation Area for Koala Plans of Management Map.

**[12] Clause 12 Consultation on koala plans of management**

Insert “the Chief Executive Officer of Local Land Services and” after “must consult”.

**[13] Clause 13 Public exhibition of draft koala plans of management**

Omit “28 days” from clause 13(a). Insert instead “90 days”.

**[14] Clause 14 Approval of koala plans of management**

Insert after clause 14(3)—

- (3A) Before approving a koala plan of management submitted for approval under this clause, the Planning Secretary may—
  - (a) request that amendments be made to the koala plan of management, and
  - (b) approve the koala plan of management conditional on the making of those amendments.
- (3B) To avoid doubt, a koala plan of management conditionally approved under subclause (3A)(b) is taken to be approved by the Planning Secretary on the making of those amendments.

**[15] Clause 14A**

Insert after clause 14—

**14A Subsequent koala plans of management**

- (1) An approved koala plan of management may be amended or replaced by a subsequent koala plan of management prepared and approved in accordance with this Part.
- (2) The subsequent koala plan of management must be exhibited in accordance with this Part if the council is directed to do so by the Planning Secretary.

**[16] Clause 17 Transitional provision**

Insert after clause 17(1)—

- (1A) Before approving a koala plan of management submitted for approval under this clause, the Planning Secretary may—
  - (a) request that amendments be made to the koala plan of management, and
  - (b) approve the koala plan of management conditional on the making of those amendments.
- (1B) To avoid doubt, a koala plan of management conditionally approved under subclause (1A)(b) is taken to be approved by the Planning Secretary on the making of those amendments.

**[17] Schedule 2, heading**

Omit “**Feed**”. Insert instead “**Koala use**”.