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Why is there a new State Environmental Planning Policy (SEPP) for koalas?

The Department reviewed State Environmental Planning Policy No 44 – Koala Habitat Protection (1995) and found the policy could be updated to better protect koala habitat by using the latest science. We have introduced significant improvements in the new SEPP, which will replace the old SEPP 44.

What are the key changes between SEPP 44 and the new SEPP?

1. Updated definition of core koala habitat
2. Two new SEPP maps
3. Expanded list of tree species
4. New SEPP Guidelines (to be published before 1 March 2020)
5. Streamlined development assessment process
6. New consultation and referral requirements for Koala Plans of Management
7. Plan-making provisions transferred to a Ministerial Direction

Each of these is explored further below.

How is koala habitat defined in the new SEPP?

In response to stakeholder feedback, the definition of core koala habitat has been updated to make it easier for areas which are highly suitable for koalas and where koalas are present or have been recorded in the past to be identified as core koala habitat.

The introduction of two new maps means councils and landholders are no longer required to identify potential koala habitat and this definition has been removed.

See the table below detailing what has changed.

SEPP 44 Definition	Koala SEPP Definition (new)	Reason for change
Potential koala habitat means an area of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.	N/A	Development application proponents no longer need to commission a survey for potential koala habitat, so the definition is no longer needed. Tree species will still be used by councils and DA proponents wishing to conduct a survey rather than use the map provided part of the SEPP.

SEPP 44 Definition	Koala SEPP Definition (new)	Reason for change
Core koala habitat means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.	<p>Core koala habitat means—</p> <p>(a) an area of land where koalas are present, or</p> <p>(b) an area of land—</p> <p>(i) which has been assessed by a suitably qualified and experienced person</p> <p>in accordance with the Guideline as being highly suitable koala habitat,</p> <p>and</p> <p>(ii) where koalas have been recorded as being present in the previous 18 years.</p>	The definition has been updated to allow areas with demonstrated koala presence in highly suitable habitat to be recognised, without the requirements of the previous definition which were difficult to be met.

The definition of core koala habitat will be used in two situations:

1. Where development application proponents' land has been identified on the Koala Development Application Map, but the proponent seeks to demonstrate their land is not koala habitat (through conducting a survey for koala feed trees and presence in accordance with the Guideline).
2. Where councils wish to identify core koala habitat in a Koala Plan of Management, within areas identified on the Site Investigation Area for Koala Plans of Management Map.

How are the two new maps used, and what data are they based on?

Two new maps have been introduced and are available in a [spatial viewer](#), as well as on the NSW Legislation Website with the SEPP.

The Koala Development Application Map is informed by the NSW Government's [Koala Habitat Information Base](#) which was used to identify areas that have highly suitable koala habitat and that are likely to be occupied by koalas. See Appendix A for further information about how the map was created.

On land where there is no approved Koala Plan of Management, the map will be used to identify land where the council will need to consider the development application requirements in the Guideline.

The Site Investigation Area for Koala Plans of Management Map is informed by the NSW Government's [Koala Habitat Information Base](#) and identifies the land councils are to focus their survey efforts on, particularly when identifying core koala habitat.

How was the tree species list expanded and what are Koala Management Areas?

The list of 10 koala feed trees in SEPP 44 was based on science from the 1990s, specifically in the North Coast region of NSW. In *A review of koala tree use across New South Wales*, the former Office of Environment and Heritage (now the Environment, Energy and Science division of the Department) identified there were 137 tree species used by koalas. In 2019, consultation with koala experts led to the list being refined to 123 species.

These 123 species were categorised into 9 distinct regions (Koala Management Areas), according to what trees koalas prefer to use in various areas. The number of species used regionally by koalas ranges from 9 in the Riverina region to 65 in the Central Coast region. This represents the most contemporary science and has been incorporated into the new koala SEPP.

What has changed with the Guideline?

SEPP 44 was supported by Circular B35, which provided detail about the SEPP and how certain processes are undertaken (such as developing plans of management). Now that a new koala SEPP has been introduced, a new Guideline is being developed.

The new Guideline will provide detailed information about the process and content of Koala Plans of Management, streamlined criteria for development applications on land with no approved Koala Plan of Management, and a standard, scientifically-robust surveying methodology. The Guideline will be published before the new Koala SEPP commences on 1 March 2010.

What is the 'streamlined' development application process?

Under SEPP 44, development application proponents had to commission a suitably qualified person to conduct an initial flora survey and then a koala survey if potential koala habitat had been established. If the land was found to also be core koala habitat, the proponent had to prepare an Individual Plan of Management to manage any impacts on the resident koala population. Each Plan of Management then required approval from the Secretary of the Department which added further time delays to a council determination of the development.

The above process was lengthy and expensive, and resulted in an inconsistent approach across NSW. With the new Koala Development Application Map, there is no longer a need to conduct any surveys. Instead of preparing an Individual Plan of Management, proponents will be required to prepare their development application in accordance with the criteria in the new Guideline, for council to consider when assessing the application. This will save applicants time and money and achieve a consistent approach across the state.

What are the new consultation and referral requirements?

The new koala SEPP introduces a set of consultation and referral requirements to ensure the community and stakeholders have their say when councils create Koala Plans of Management.

- Councils must:
 - Consult with EES when preparing the Plan
 - Exhibit the draft plan for at least 28 days for public comment
 - Notify all landholders in proposed core koala habitat ahead of the exhibition of the Draft Plan of Management (via email or post)
 - Provide a copy of the submissions report, details of survey methodology and any other documents relevant to the plan, when submitting the draft plan for approval to the Department
- Before approving the plan, the Secretary must:
 - Forward a copy of the documents listed above, along with the draft plan to the heads of EES and LLS

What does the new Ministerial Direction do?

SEPP 44 encouraged councils to zone land, that met the definition of potential or core koala habitat in their LGAs for environmental protection or apply development provisions or amend Development Control Plans. These plan making provisions have been transferred to a new Ministerial Direction where they are more appropriately located.

The Ministerial Direction requires councils preparing planning proposals to identify areas of core koala habitat and zone the land Environmental Protection or include provisions that control the development of the land to consider impact on koalas and their habitat.

Appendix A – Information underpinning the map

Koala Development Application Map

The map applies to the local government areas currently listed in schedule 1 of the SEPP (i.e. it captures the local government areas where SEPP 44 applied). As the SEPP explicitly excludes national parks and state forests, these areas were excluded from the map.

The map includes:

areas of the Koala Habitat Information Base's Koala Habitat Suitability Model that meet the following criteria:

1. highest quality koala habitat (class 1)
2. highly suitable habitat (class 2) that is likely to be occupied by koalas
3. provides critical connectivity between class 1 and class 2 habitat in fragmented landscapes (this was applied in regions other than the North Coast). In this regard, it identifies the most preferred vegetation that a koala would use to move between highly suitable patches of habitat

excludes:

4. all areas of class 2 habitat where the data shows koalas are not likely to occur
5. the LGAs where SEPP 44 does not apply (consistent with Appendix 1 of the proposed SEPP)
6. land dedicated or reserved under the *National Parks and Wildlife Act 1974* (as set in clause 5 of the proposed SEPP)
7. land dedicated under the *Forestry Act 1916* as a State forest or flora reserve (as set in clause 5 of the proposed SEPP)
8. cleared areas using the NSW Native Vegetation extent map (2018 version) – the NSW Native Vegetation extent map provides a high precision (5m) surface that differentiates native tree cover from native grasslands, non-native areas, forestry plantation and water bodies

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