



Australian Government
**Department of Agriculture,
Water and the Environment**

Senate Environment and Communications Legislation Committee

Inquiry into the Environment Protection and
Biodiversity Conservation Amendment (Save the
Koala) Bill 2021

Submission from the Department of Agriculture, Water and the
Environment

23 April 2021

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Environment Protection and Biodiversity Conservation Amendment (Save the Koala) Bill 2021

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) establishes a legal framework to protect and manage matters of national environmental significance, including listed threatened species such as the Koala.

The Australian Government is making a significant investment in the protection and conservation of Koalas.

Framework under the *Environment Protection and Biodiversity Conservation Act 1999* for the protection and conservation of Koalas

In May 2012, the combined populations of Koala in Queensland, New South Wales and the Australian Capital Territory were listed as vulnerable in the List of Threatened Species, established pursuant to section 178 of the EPBC Act. The inclusion of the Koala on the List of Threatened Species did not include Koala populations in Victoria or South Australia. At the time of the listing in 2012, those populations were considered to be stable or increasing.

The recovery of a listed threatened species is promoted through the use of conservation advices and recovery plans. Once a species (other than a species in the extinct or conservation dependent category) is included on the List of Threatened Species it is protected as a matter of national environmental significance under Part 3 of the EPBC Act. Actions that have, will have, or are likely to have, a significant impact on a matter of national environmental significance, such as the listed Koala, require assessment and approval under the EPBC Act.

Conservation advices

On 19 February 2007, the EPBC Act was amended to require the Minister to ensure there is an approved conservation advice for all listed threatened species and listed threatened ecological communities (see section 266B¹). The requirement for an approved conservation advice does not apply to a listed threatened species that is extinct, conservation dependent or for which a recovery plan was in place prior to the commencement of section 266B² (unless the Minister subsequently decides not to have a recovery plan for a species).

Conservation advices provide guidance on immediate actions that can be undertaken to ensure the conservation of listed threatened species. As of 22 April 2021, all of the listed entities (threatened species and ecological communities) that require one, have a conservation advice (1,502 entities) and/or a recovery plan (744 entities) in place to guide recovery actions.

On 30 April 2012, the Minister for the Environment approved the *Conservation Advice for Phascolarctos cinereus (combined populations of Queensland, New South Wales and the Australian Capital Territory)* (the approved conservation advice). The approved conservation advice sets out priority recovery and threat abatement actions to support the recovery of the listed Koala in Queensland, New South Wales and the Australian Capital Territory.

¹ Section 266B was inserted by Item 469 of Schedule 1 to the Environment and Heritage Legislation Amendment Act (No. 1) 2006

² See Item 15 of Schedule 2 to the Environment and Heritage Legislation Amendment Act (No. 1) 2006

Recovery Plans

Section 269AA of the EPBC Act requires the Minister to decide whether a recovery plan is required for a species included on the List of Threatened species (other than a species that is extinct or conservation dependent). If the Minister decides a recovery plan is required, the plan must be made and in force within 3 years from the date of that decision (this period can be extended for a further period of up to 3 years) (see section 273 of the EPBC Act).

In 2012, at the time of listing, taking into account advice from the Threatened Species Scientific Committee, the Minister determined that a recovery plan for the listed Koala was required. A recovery plan was due to be in force by 2 May 2018. A recovery plan for the listed Koala is in preparation and will set out the actions necessary to stop the decline, and support the recovery, of the Koala. The Australian Government is collaborating with Queensland, New South Wales and the Australian Capital Territory to update the draft recovery plan prepared in 2018 to ensure it aligns with state and territory strategies and responds to the impacts of the 2019/20 Black Summer bushfires. The alignment will ensure a coordinated and collaborative approach to Koala conservation. The final recovery plan is scheduled for completion in November 2021.

The recovery plan for the listed Koala, currently in draft, is designed to ensure complementary and coordinated action occurs at the national level. Recovery plans and conservation advices are implemented cooperatively by a range of stakeholders, including the Australian Government and state and territory governments.

Until the recovery plan is finalised, the conservation advice guides recovery actions for the listed Koala populations.

Environmental assessment and approval processes

A person who proposes to take an action that has, will have, or is likely to have, a significant impact on a matter of national environmental significance, including the listed Koala, must refer the action to the Minister for a decision on whether assessment and approval is required under the EPBC Act.

To help determine whether an action is likely to have a significant impact on a matter of national environmental significance, the Department has published *Matters of National Environmental Significance: Significant Impact Guidelines 1.1*. The criteria for a significant impact on a vulnerable threatened species include, among other things, where there is a real chance or possibility that an action will:

- lead to a long-term decrease in the size of an important population of a species
- reduce the area of occupancy of an important population, or
- fragment an existing important population into two or more populations.

The *EPBC Act referral guidelines for the vulnerable Koala* provide further information for proponents who are proposing to take actions within the distribution of the listed Koala to avoid significant impacts. The referral guidelines provide information on important requirements, particularly on information expectations, survey planning, standards for mitigating impacts and guidance on significant impact.

In deciding whether or not to approve the taking of an action that has, will have, or is likely to have, a significant impact on the listed Koala, the Minister must have regard to the approved conservation advice and must not act inconsistently with a recovery plan if one is in place.

During the assessment, of an action that has, or will have, a significant impact on the listed Koala, careful consideration is given to avoiding, mitigating and offsetting impacts to Koalas. The department seeks to first avoid impacts to Koalas and their habitat. Where avoidance is not possible, the department requires impacts to be mitigated, and then offset. Koala offsets under the EPBC Act ensure the protection of existing areas of high quality habitat, and drive the restoration of new habitat on sites that have been degraded or cleared. Avoidance, mitigation and offset measures are enforced through the imposition of conditions on EPBC Act approvals.

Regional Forest Agreements

The requirement for an approval for actions that may have, will have, or are likely to have a significant impact on a matter of national environmental significance does not apply to a forestry operation undertaken in accordance with a Regional Forest Agreement (RFA) (see section 38 of the EPBC Act). There are 10 RFAs across four states (New South Wales, Victoria, Tasmania and Western Australia).

The exemption of RFA operations from Part 3 of the EPBC Act recognises that in each RFA region a comprehensive regional assessment has been undertaken to address the environmental, economic and social objectives of the EPBC Act. The exemption also recognises that RFA's have established Comprehensive, Adequate and Representative (CAR) reserve systems and that forestry operations must adhere to the principles of Ecologically Sustainable Forest Management (ESFM). ESFM includes the application of forest management strategies, usually through prescriptions, and adaptive management to protect rare and threatened species, and ecological communities.

State governments have made commitments under the renewed RFA's to maintain forest management systems that provide for the protection of matters of national environmental significance, including listed threatened species and communities, taking into account conservation advices and recovery plans.

RFA's do not exempt forestry operations from obligations in state-based legislation for the protection of species.

Impact of the bushfires on the protection and conservation of Koalas

Some Koala populations in southern Queensland, New South Wales, Victoria and South Australia have been impacted by the 2019/20 Black Summer bushfires.

The Threatened Species Scientific Committee is currently undertaking a re-assessment of the threat status of the listed Koala and is considering the impacts of those fires on the species, together with other threats.

Since the 2019/20 Black Summer bushfires, the assessment of proposed actions that may have, or are likely to have, a significant impact on matters of national environmental significance, including the listed Koala, have taken into account the impacts of those fires. This has included consideration of:

- Areas directly impacted by bushfire and whether that area may recover
- Unburnt areas within or adjacent to recently burnt ground that may provide refuge for impacted matters of national environmental significance
- Areas not impacted by bushfires, where species and communities that have been in the pathway of the bushfires are located, and/or potential habitat has been identified.

In undertaking these assessments, the department can, and has, requested proponents to undertake additional bushfire analysis to determine whether the area of development is now habitat more critical to the survival of Koalas. The impacts of the bushfires can be addressed through conditions, including conditioning for any residual uncertainty for fire affected species, including Koalas. The department continues to apply a precautionary approach when assessing bushfire impacts, and ensures the principles of ecological sustainable development are applied.

Forest management under RFA's is adaptable to new information and changing circumstances, including bushfires. For example:

- In New South Wales, the Forestry Corporation have completed a recalculation of the long-term sustainable yield of hardwood forests due to the impacts of the 2019-20 bushfires. Post-bushfire research is being undertaken by a range of agencies and research partners to better understand the impact of the 2019-20 bushfires including impacts on threatened species populations, habitat and subsequent recovery.
- In Victoria, the Australian and Victorian Governments are undertaking a Major Event Review to assess the impacts of the 2019-20 bushfires on the Victorian RFAs.

Investment in Koala conservation

Australian Government funding

Actions in recovery plans and conservation advices inform Australian Government investment through programs such as the Regional Land Partnerships program, the Environment Restoration Fund and the \$200 million bushfire response package for native wildlife and habitat recovery. The Australian Government is investing \$24.3 million over four years, from 2019-20 to 2022-23, in Koala conservation.

\$18 million Koala conservation package

An \$18 million Koala conservation package was announced by the Minister for the Environment in November 2020. The Koala conservation package comprises:

- \$14 million for habitat restoration and threat mitigation in bushfire-affected regions of New South Wales and southeast Queensland, as well as non-fire affected areas of New South Wales and central/western Queensland.
- \$2 million for the establishment of a National Koala Monitoring Program to establish a national-level data and monitoring framework to identify population trends and distribution across Australia.
- \$2 million for coordination and delivery of Koala health research and assistance for Koala veterinary activities.

The package will be delivered in partnership with states, territories, researchers and the wider community.

Other Australian Government investments

There are a number of other Australian Government investments which are directly targeting the Koala, including:

- In 2019, Australia Zoo, Currumbin Wildlife Hospital and Queensland RSPCA were each allocated \$1 million over 4 years to continue their native animal rescue and rehabilitation activities and to create an important network of services to support Koala populations. In addition, \$3 million is being invested in Koala habitat restoration projects in southeast Queensland and northern NSW.
- In partnership with the NSW Government, the Australian Government announced more than \$1 million of Commonwealth and NSW government combined funding, to build a first of its kind genome sequencing program for Koalas at the University of Sydney. The Australian Government's contribution is \$348,450.

Further, under the Australian Government's \$200 million fund for bushfire recovery for native wildlife and their habitat, there are around 20 projects which support multi-species recovery, including for Koalas, but funding and benefits cannot be calculated for Koalas alone. Example projects include:

- \$1 million provided to the Taronga Conservation Society Australia to aid in emergency rescue and veterinary treatment of bushfire-affected wildlife, enhancement of the capacity of Taronga wildlife hospitals and establishing an e-learning veterinary module for wildlife rescue and rehabilitation.
- \$1 million provided to Zoological Parks and Gardens Board (Zoos Vic) to support emergency rescue and veterinary treatment of bushfire-affected animals and providing training and support to native wildlife rehabilitators.

Role of the states and territories

State and territory governments are also investing in on-ground action and research to support Koalas. The Australian Government and state governments work together to ensure efforts are complementary. For example, when co-designing Koala habitat restoration projects with states, territories and other project partners, the department specifies that project designs, where possible leverage off previous Koala conservation investments and are consistent with and informed by relevant Koala and other strategic conservation documents and plans at the local, state and national levels.