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Submission on changes to deter illegal tree and vegetation clearing

The Sydney Basin Koala Network is a project of Total Environment Centre and WIRES and works closely with environment groups across the Sydney Basin, who are deeply concerned about the impacts of urban sprawl and loss of connectivity on the urban fringes of Greater Sydney. Not only for koalas but all wildlife that share koala habitat, including other threatened species such as powerful owls, squirrel gliders, and gang gang cockatoos that rely on tree hollows to survive. We also note the human impacts of the loss of tree canopy in urban areas, with urban heat and pollution increasing with a decrease of tree cover. Furthermore, the illegal clearing of urban trees to improve water views may interfere with important ecosystem services trees provide in riparian and coastal areas.

We are writing to express our general support to the proposed changes to Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021, and give our strong support for forging ahead with proposed changes to the EP&A Act. However, while we support strengthening legislation, we do not believe the proposed changes to Chapter 2 of the Biodiversity SEPP go far enough, nor that the fines are high enough to tip the balance in favour of nature. The change from a 3k fine to a 6k fine is still so low that it can still be easily absorbed as a cost of doing business for a renovation by a landholder or a larger development by business.

Canopy connectivity is vital for many arboreal species, especially with threats of predation from cats and dogs so rife in urban areas. The loss of one large tree can create a wildlife sink in areas where wildlife rely on a strip of trees for movement. Wildlife rescuers know these locations well as they are easy pickings for cats and can also reroute wildlife movement in the direction of roads to create vehicle strike hotspots. Currently, connectivity is not referred to in the text. We recommend that canopy connectivity be explicitly referred to in the amendments to highlight its importance both to wildlife and urban cooling.

We also recommend that trees that are removed via the permit system be replaced by like-for-like mature trees that consider the biodiversity needs (i.e. ensuring foraging habitat is maintained for endemic species). In fact, requiring more than like-for-like, i.e. two trees instead of one, may work as a further deterrent. The installation of hollow boxes in new trees should also be delivered via a payment as part of the permit system. Hollows can take at least a hundred years to form, especially the large hollows needed for threatened species such as glossy black cockatoos. Therefore, replacement hollows for the removal of mature trees, whether hollows are present or not, will prevent a temporal gap in habitat and safeguard generations of wildlife.

In order to strengthen compliance and enforcement we endorse the following advice from the Environmental Defenders Office to:



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- Introduce a new offence for carrying out clearing without a permit (in addition to the existing offence of carrying out prohibited development), with appropriate penalties, to further deter illegal clearing.
- Introduce civil penalties (to overcome concerns about burden of proof for criminal penalties, although criminal penalties should remain as an option).
- Require councils and the Native Vegetation Panel to maintain a register of permits and approvals issued under Chapter 2 of the Biodiversity and Conservation SEPP. This would improve transparency and accountability.
- Insert provisions that provide for the lapsing of permits issued under Chapter 2 of the Biodiversity and Conservation SEPP after a specific time period if the permit has not been acted upon or unless otherwise stated in the permit itself. This would prevent clearing under historical approvals, in circumstances where the impacts of the clearing may be different from when originally assessed.

We also note the [well-documented](#) rise in unqualified arborists providing nefarious advice to enrich themselves, and urge the government to crack-down on this practice via rigorous licensing requirements..

We also note that the unscientific [Rural Boundary Clearing Code](#) is being exploited in peri-urban areas to clear trees and then to apply for land to be rezoned as urban. We strongly advise that the Rural Boundary Clearing Code be scrapped. We also encourage the government to swiftly implement reforms to address 'zombie DAs' (historical approvals of development applications) and inappropriate clearing of vegetation relying on historical development approval.

And lastly, the government must deliver on its commitment to stop excessive land clearing in rural areas.

If businesses and land holders are doing the right thing, there should be no need to object to stronger legislation to prevent illegal tree clearing and we would be deeply suspicious of the motivations for doing so. When the cost-benefit of development is so grossly out of step with the benefit of protecting nature, stronger regulation via civic and criminal penalties may be the only way to deter activity and truly protect our invaluable canopy.

Thank you for your time to consider our submission.

Kind Regards,
Stephanie Carrick and Jade Peace
[Sydney Basin Koala Network](#)