



KOALA KOALITION
ECONETWORK PORT STEPHENS INC.

PO Box 97 Nelson Bay NSW 2315
koalakoalition@econetworkps.org

9th August, 2024
The Hon Penny Sharpe MLC
Minister for Climate Change, Energy, Environment and Heritage
Leader of the Government in the Legislative Council
office@sharpe.minister.nsw.gov.au

RE: Eagleton Quarry Project SSD 7332 Approved: IPCN 8 th July 2024 1

REQUEST FOR REFERRAL MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE EPBC Act

Dear Sir/ Madam,

KKEPS hereby supports the call by the Gloucester Environmental Group to require the proponents of the Eagleton Quarry Project to refer their project for assessment under the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). We understand that the proponent indicated to the Independent Planning Commissioners in May 2024 that a referral was imminent yet the project is yet to be listed on the EPBC Public Portal.

Of particular concern to KKEPS is the identified legal limitations of this submission (i.e. not needing to apply the Biodiversity Conservation Act 2016 meaning that the change in Koala status to Endangered is irrelevant, and equally of concern is the applicants statement that even if the new legislation and conservation status was applied it *'has not changed the recommendations of our ecologists'*. In our opinion, their initial assessment was deeply flawed (and thereby their recommendations inadequate), relying on the application of previous legislation and limited sightings in the immediate area.

As KKEPS has stated previously;

'It is rather shocking that the 2023 Amendment Report confidently states that the "Project Amendments result in no significant change in the environmental impact of the proposed development, compared to the original proposal described in the EIS and the RTS" and that "[A]ll other environmental issues had been previously resolved, and no significant adverse environmental, social or economic impacts have been identified" given that the EIS was published in January 2017 and the BDAR published in December 2016 using Fauna survey data undertaken across the study area on 14 - 18 January 2013 and on 4 February 2013. This means any approval to clear habitat in the study area will be based on data that is over TEN years old'.

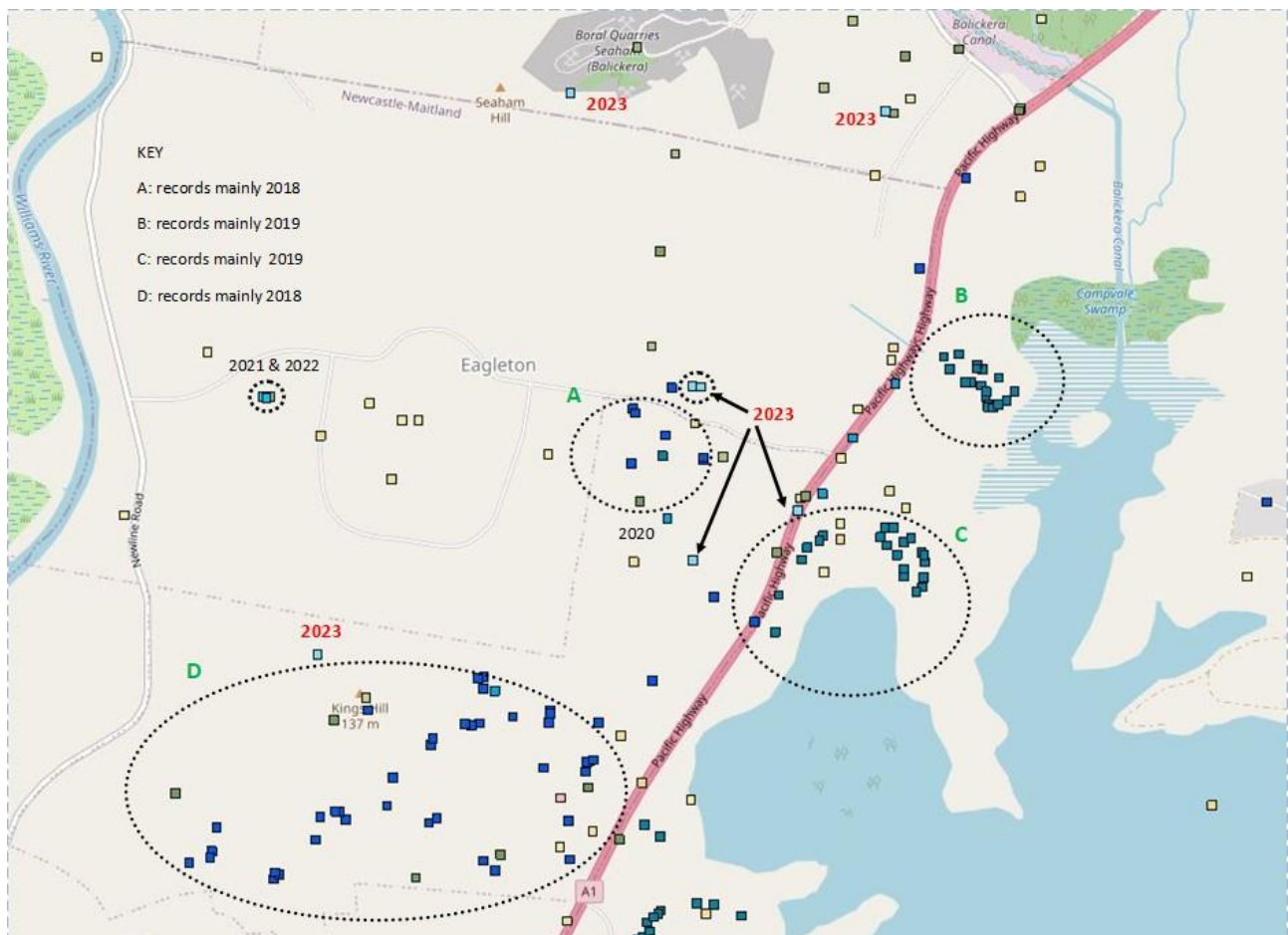
The current (2022) NSW Biodiversity Assessment Method Survey Guide for koalas provides information on the minimum survey types and survey window required by the Biodiversity Assessment Method (BAM) which underpins the Biodiversity Offsets Scheme (BOS) ¹; the same scheme which was subject to a 2021 Parliamentary Inquiry and found to be ineffective ². Until the BOS is reformed later this year, as per recent announcements ⁴, the minimum survey requirements are as follows:

- Surveys to be conducted at optimal time for koala detection;

- Surveys only to be conducted outside the identified times when there is a documented justifiable reason;
- For impact assessment sites, the species may be assumed present;
- Two standard survey methods should be used; a scat detection method must be paired with a non-scat detection method: Spot Assessment Technique (SAT) or detection dogs together with spotlighting, passive acoustic, or drones. ³

As a not-for-profit organisation that regularly reviews development applications that include threatened species/ koala habitat in their study or project sites, KKEPS often sees minimal survey dates, minimal survey methods used and the resulting minimal survey data, yet with additional survey periods or survey types, a very different picture might be seen. Ordinarily we see proponents excluding data over 5 years old, yet in this application ALL of the data is over 5 years old.

In general there is much more current information available on Kings Hill as a result of a range of studies undertaken for Kings Hill Urban Release Area (KHURA) applications in NSW. During the consideration phase, additional surveys were undertaken using different survey methods and at different survey times. Although the initial survey provided limited evidence of koalas on site, combined with additional surveys (and survey techniques) the data indicated an actively breeding koala hub and provided an insight into genetic links across the site and the koalas' allelic richness. ⁴



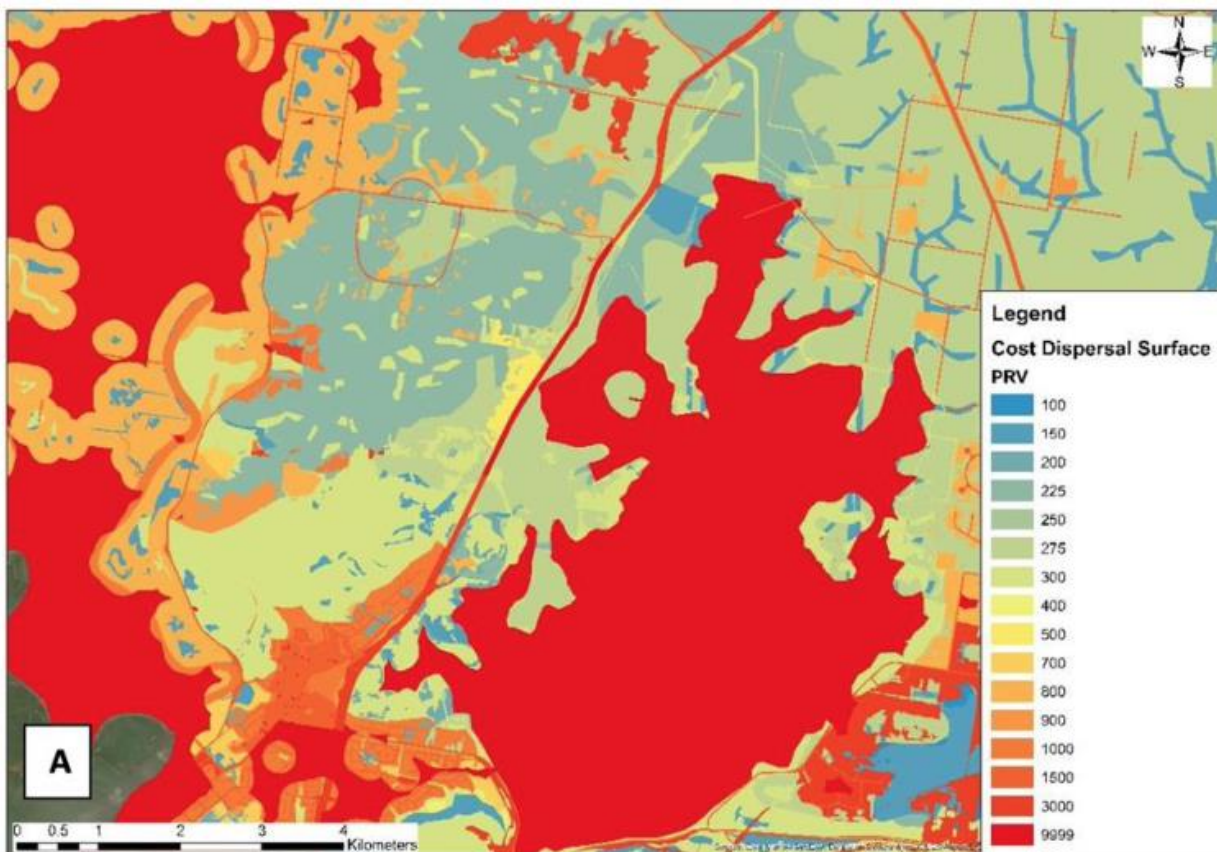
The figure above (annotated, from NSW SEED) shows known koala sightings in the Eagleton area.

The sightings within areas A and E (around Kings Hill) are mainly from 2018, and from 2019 for areas B, C and D. Area E is a prime example of how rural areas or private land may have few or no koala sightings until a range of surveys are undertaken and data sets are combined. Area E, Kings Hill, initially had a few sightings using more traditional survey techniques. After engaging the services of more diverse survey

techniques and over additional survey periods, such as scat sniffer dogs, the number of known koalas living and traversing in the area grew substantially.

This also shows the high value of the area to the survival of the Koala (and other endangered species). The applicants assessment completely disregards all of the sightings in the area, including at Kings Hill, and the fact that Koalas along with most fauna, have a range that they travel looking for a mate and for food, and young looking for territory.

KKEPS repeatedly asks for cumulative impacts to be taken into account and for impacts to the area surrounding the proposed development footprint to be considered, as many species (including koalas) traverse the wider landscape. One of the many more detailed studies into the koalas present at Kings Hill resulted in the 2018 Biolink Koala Habitat Connectivity report in which Biolink identified dispersal costs to koalas within the Kings Hill area and surroundings.⁵



As explained in the report, “[H]igh cost (increasing from yellow to orange to red) represents a land-use type that is difficult to traverse, lower costs (blues) are easier to traverse. Note that the area is costed for a range of land uses including vegetation type (Preferred Koala Habitat categorisation), agriculture, urban and commercial development, industry, transportation infrastructure and hydrology. The gap-crossing layer is shown in the darkest red, representing areas which exceed 200 m from the nearest mapped vegetation. Parts of the M1 which are fenced with wildlife exclusion fencing are also considered impassable.”⁶

Dispersal cost studies could identify high dispersal cost and low dispersal cost land and could aid any land clearance decisions. The fact that detailed studies such as the Biolink report are not a requirement for assessment indicates how the wider picture is not taken into account before approving development applications in a piecemeal fashion. It also suggests that fragmented landscapes are not areas of concern.

More in depth studies on koala movement and koala genetics would also identify areas where fragmentation is resulting in a decline (or the risk of a potential decline) in allelic richness which could indicate a population that is less likely to adapt to climate change and other environmental stressors without help. The WWF/ OWAD Environmental report based on sniffer dog findings in various locations in Port Stephens also provided data on the presence of disease and enabled genetic profiling for 39 koalas. The genetic tests revealed that koalas at both *“the Tilligerry and Tomaree Peninsulas are now significantly different from those sampled further inland, suggesting that gene flow between peninsula and inland Koalas has been restricted over recent generations”*.⁷

NSW development assessment statistics for 2022 to 2023 show a 97% pass rate for local DAs and 99% for State Significant Developments.⁸ KKEPS is of the opinion that some otherwise favourable Statement of Environmental Effects (SEE) or Biodiversity Assessment Reports (BDARs) combined with details of economic benefits could/ should be subject to more scrutiny before being approved and resulting in yet more habitat clearance and fragmentation. We hope that the State’s announced BOS reforms, and the Hon Penny Sharpe MLC quoted as saying *“We cannot ignore the truth: biodiversity in NSW is in crisis”, will see a tighter and more transparent approval process.*⁹

KKEPS is also aware that there is an application under public display to have koalas recognised as an SAI (Serious and Irreversible Impact) species. If approved, the koala will be listed as an SAI species which means that under section 7.16 of the Biodiversity Conservation Act 2016 consent cannot be granted to development with impacts on biodiversity values that are ‘serious and irreversible’ as defined in the Act. It would be disappointing to see applications that could impact koalas approved while the SAI nomination is being assessed.

KKEPS is of the opinion that the lack of current information should play a part in any EPBC referral. Given the actively breeding koala hub based in Kings Hill, the koala sightings in the area from 2018 onwards, the movement of koalas across the site and the cost dispersal study which include Eagleton, it should be clear that the proponent’s application is far from comprehensive.

The cost-dispersal study by Biolink for Campbelltown states *“[t]he key to long-term sustainable management of free-ranging koala populations is knowledge. Building on available knowledge indicating and ongoing recovery trend, there is merit in knowing how best to build resilience into the population so that the potential for longer-term population viability can be maximised such that the population is better placed to withstand the impacts of stochastic impacts from catastrophic fire events which have likely played a significant historical role in terms of influencing population distribution and conservation status, the threat now elevated given the future uncertainties associated with climate change. The best way to achieve such resilience will be to have viable population cells widely distributed and occupying habitat outliers that are effectively insulated from large-scale fire events, enabling recolonization to occur. In order to do this, linkages need to be secured across the landscape.”*¹⁰

1. NSW DPE (2022) Koala (*Phascolarctos cinereus*) Biodiversity Assessment Method Survey Guide.

<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Threatened-species/koala-phascolarctos-cinereus-biodiversity-assessment-method-survey-guide-220249.pdf>

2. Cox, L. (2022) NSW environmental offsets scheme risks ‘trading away’ threatened species ‘for cash’, inquiry finds, The Guardian, 24th November 2022. Accessed via: <https://www.theguardian.com/australia-news/2022/nov/24/nsw-environmental-offsets-scheme-risks-trading-away-threatened-species-for-cash-inquiry-finds>

3. NSW DPE (2022) Koala (*Phascolarctos cinereus*) Biodiversity Assessment Method Survey Guide. Accessed via: <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and->

[plants/Threatened-species/koala-phascolarctos-cinereus-biodiversity-assessment-method-survey-guide-220249.pdf](#)

4. OWAD Environment (2019) Raymond Terrace Koala Survey Report prepared PM No1 Pty Ltd c/o RPS Group.
5. Biolink. (2022). Koala Habitat Connectivity: Kings Hill, Post Stephens, NSW. Report to Kings Hill Developments by Biolink Ecological Consultants, Pottsville, NSW) P. 6.
6. Ibid
7. OWAD Environment/ WildDNA/ Federation University (2021) 2020 Port Stephens Koala Population Study Report. Accessed via: <https://assets.wwf.org.au/image/upload/v1674690996/website-media/resources/pub-study-port-stephens-koala-population-18Jan21.pdf> p.1
8. NSW Planning (2023) Development assessment pathways: Quarterly Insights Monitor Q4 (April to June 2023) Accessed via: <https://www.planning.nsw.gov.au/policy-and-legislation/housing/housing-supply-insights/quarterly-insights-monitor-q4/development-assessment-pathways>
9. Cox, L. (2024) NSW government says state's biodiversity 'in crisis' as it pledges first steps to reverse decline, The Guardian, 16th July 2024. Accessed via: <https://www.theguardian.com/australia-news/article/2024/jul/17/nsw-government-says-states-biodiversity-in-crisis-as-it-pledges-first-steps-to-reverse-decline>
10. Biolink (2018) Identifying Least Cost Dispersal Pathways for Koalas within the Campbelltown City Council Local Government Area. Biolink Ecological Consultants, Uki, NSW. Accessed via: (<https://www.parliament.nsw.gov.au/lcdocs/other/13216/AQON%20-%20Dr%20Stephen%20Phillips%20-%2020March%202020%20-%20202.pdf>)