

9 April 2020

Department of Planning Industry and Environment

## **PORT STEPHENS KOALAS OBJECTION TO STOCKTON SAND QUARRY DREDGING STATE SIGNIFICANT DEVELOPMENT APPLICATION # SSD 9490**

### **Port Stephens Koalas Background**

1. The Hunter Koala Preservation Society was formed 1987 and was subsequently renamed Port Stephens Koalas (PSK) in 2016. The Society and subsequently PSK has worked consistently since their formation to provide the world best practice standards of care to sick, injured and orphaned koalas to give them the best opportunity to be returned to the wild, while supporting research and collaboration to preserve their habitat to ensure that future generations may continue to enjoy seeing wildlife in their natural setting.
2. The main impetus for our formation was the continual threat to koalas from impending development and the resultant loss of their habitat. The Society also maintains a comprehensive data base of sick and injured koalas' statistics going back to 1995 which assists in identifying accurately where this unique Australian marsupial lives.

### **Preamble and Context**

3. The 2020 Australia Day 6am news in the Guardian contained a lead article that stated:

*'A senior adviser to the federal government on threatened species has backed calls for the creation of a national scientific monitoring system after the bushfire crisis to help fix Australia's "very uneven" record in protecting endangered wildlife.*

*Helene Marsh, chair of the national threatened species scientific committee and an emeritus professor of environmental science at James Cook University, said the scale of the ecological tragedy had made Australians more aware of the risks facing the country's unique animals and plants and provided an opportunity to improve conservation.*

*With fires still burning, scientists warn it is too early to have a clear picture of the devastation, but preliminary government data suggests more than 100 threatened animal and plant species have lost at least half their habitat and more than 300 have lost more than 10%. The impact on most species not currently listed as threatened is yet to be assessed.*

*Marsh said the threatened species committee planned to review the decision-making process for officially listing species as vulnerable or worse within the constraints of existing national environment laws. She said the protection offered to species after they were listed should also be reconsidered as the existing model of recovery planning had not worked.'*

4. Herein lies the fundamental truth that has been evaded in local and state government approvals of developments such as this one that again incrementally encroaches on fast disappearing koala habitat and koalas. Each such DA is assessed in isolation on its own merits with the blandishments of developer paid-for environmental experts making assurances that the biodiversity damage of the proposals is not (in and of itself) critical - based on traditional technical biodiversity assessment mechanisms. This is despite the following unwelcome facts that:

- a. native fauna and flora are no longer operating in a 'business as usual' environment, which is now painfully obvious;
- b. there is never an assessment of the incremental aggregation of impacts, particularly on critical habitat;
- c. the validity of the assessment mechanisms used – which as Professor Helen Marsh contends, have proven inadequate; and
- d. the assessments are made by individuals whose commercial viability and interests lie in providing favourable responses to their client developers and have no long-term local experience in rescuing and caring for endangered and threatened species.

## **Koala Occurrence on the Proposed Site**

5. The BIONET SEED database has recorded koalas in the area of the sand mine, as shown on Figure 1. This fact is also further supported by the Koala Likelihood map at Figure 2. This is not denied by the proponent, but the presence of koalas is dismissed as unimportant:

*'The Koala and Squirrel Glider, whilst not recorded during the field survey, have been previously recorded surrounding the Study Area based on Bionet records.*

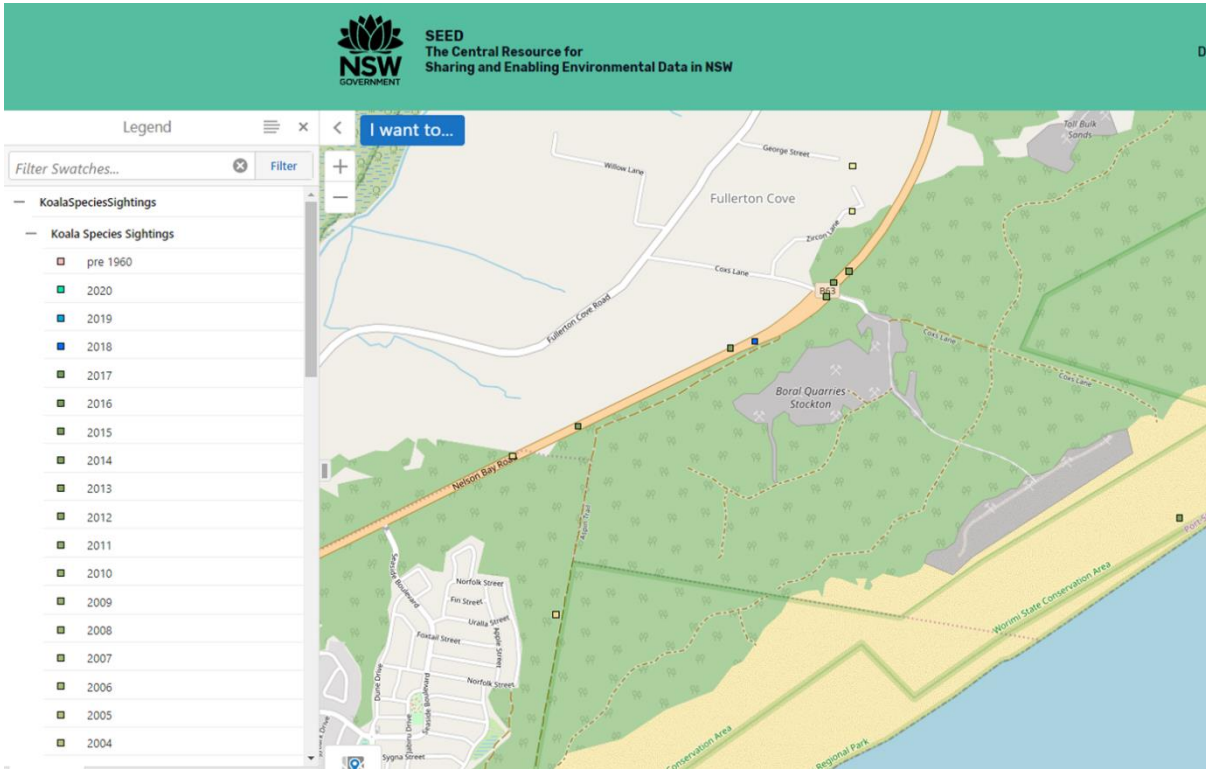


Figure 1

*Under the BAM, only those threatened fauna that are regarded as ‘species credit’ fauna, or significantly impacted under the Commonwealth EPBC Act, require offsetting. Of the species recorded, or have habitat within the Study Area, only one threatened fauna species – the Squirrel Glide...’<sup>1</sup>*

6. However, PSK would contend that in light of the now prevalent circumstances outlined in the Preamble to this objection, such technical loopholes are now out of date. Using BioNet records, published reports and information on the extent of 2019 fires, Biolink estimate that the NSW koala population has declined by at least 28.52% (and up to 65.95%). Biolink is therefore suggesting a review of the conservation status of koalas in NSW and states that koalas are eligible for a provisional listing as Endangered and given the immediate, ongoing and significant threat of extinction in the foreseeable future now meet the additional requirements of the Biodiversity Conservation Act 2016 (the Threatened Species Conservation (TSC) Act 1995 was repealed) and the Biodiversity Conservation Regulation 2017 for an emergency uplisting<sup>2</sup>.

<sup>1</sup> EIS Appendix E, pii

<sup>2</sup> Ibid, p. 35

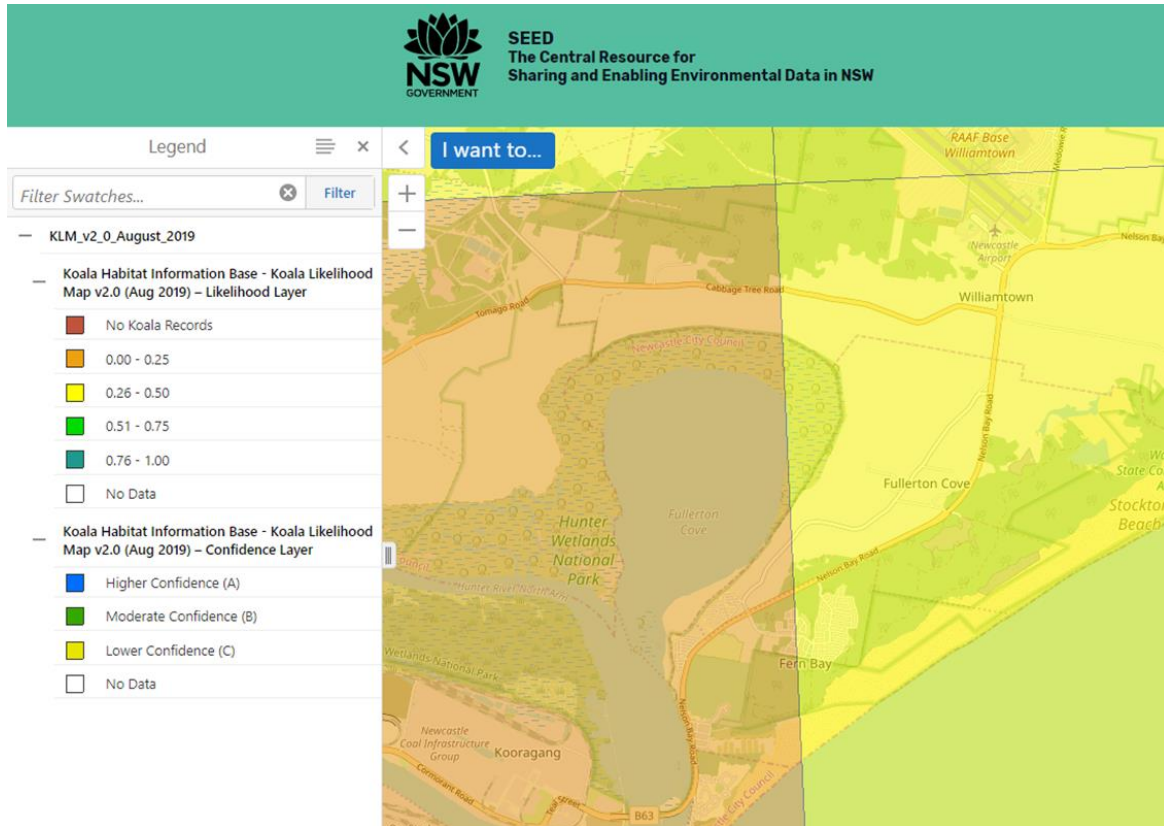


Figure 2

7. The Biolink report, therefore, makes a case for prudence when assessing this application against the current conservation status of koalas.

## Impact on Habitat

8. The EIS at Appendix E states:

### ***'SEPP 44. Koala habitat***

*Our assessment has concluded that the Study Area does not contain potential Koala habitat as defined under the current SEPP 44, given Schedule 2 tree species do not meet at least 15% of the total number of trees within the Study Area. The site therefore does not constitute 'Core Koala habitat' under the current SEPP 44. A discussion on SEPP 44 Koala habitat is provided in section 4.8.*

*It is noted that the current SEPP 44, is to be replaced with the SEPP 44 Koala Habitat Protection 2019, which has changes to the definition of Koala habitat. Whilst the new SEPP 44 is not yet in effect, it is noted that the Study Area contains Koala feed trees (mainly planted tubestock), however is unlikely to be regarded as 'Core' '*

9. The EIS states further<sup>3</sup>  
*“Under SEPP 44, potential Koala habitat includes: ‘areas 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’. The BDAR found that of the trees listed in Schedule 2, only Eucalyptus robusta was recorded in and near the quarry. The presence of Eucalyptus robusta does not meet at least 15% of the total number of trees within the project site, and, therefore, the habitat present is not potential Koala habitat under SEPP 44.”*
10. While this is technically correct, SEPP KHP of Sep 2019 has recognised what koala carers have known for many years; namely, that the preferred koala habitat is much broader than SEPP 44 allowed. The EIS admits that Smooth Barked Apple (*Angophorus bakeri*) and the Blackbutt (*E. pilularis*) are a predominant species in the mining zone to be cleared<sup>4</sup> and that species is listed under SEPP PKH as being of ‘documented significant koala use’ on the North Coast region (KMA1)<sup>5</sup>. This further confirmed by the SEPP KHP habitat protection mapping shown at Figure 3 and the SEED Koala Tree Index

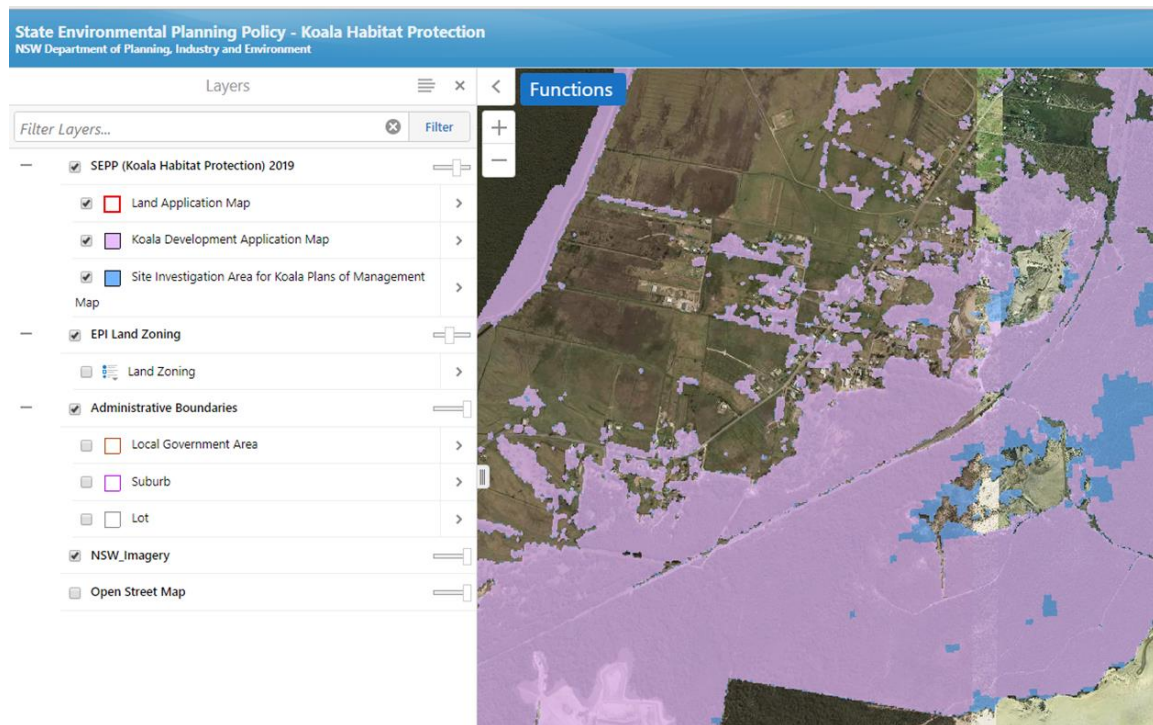


Figure 3

<sup>3</sup> EIS 6.6.1, p107  
<sup>4</sup> EIS 9.2.1, p131.  
<sup>5</sup> S4, Table 3



Map at Figure 4, which also shows the area of clearance proposed. that shows large areas of the proposed mine site as being covered for koala habitat protection.

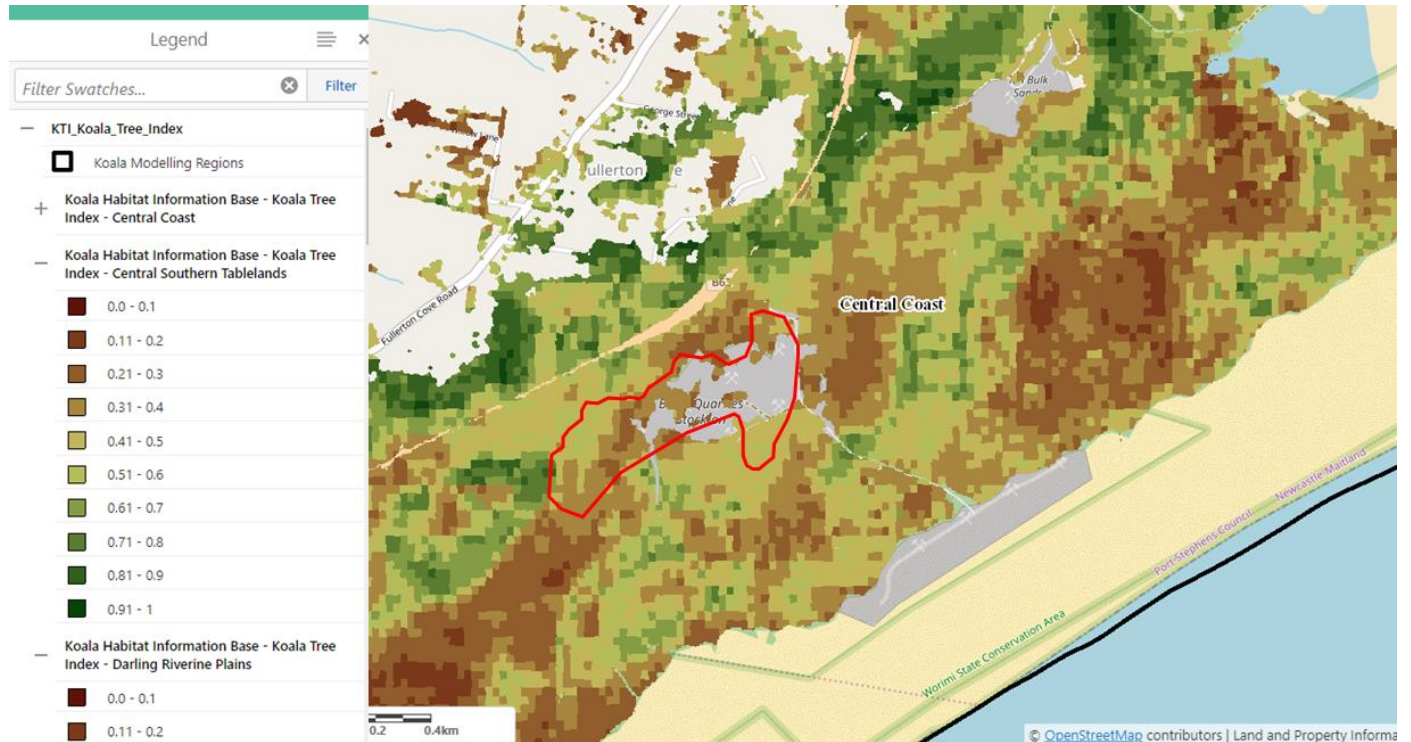


Figure 4

11. While the proponent argues *‘that a development application made prior to the commencement of the instrument is to be determined as though the policy had not commenced’*<sup>6</sup>, PSK would argue that the changed circumstances referred to in the Preamble would demand a more solicitous decision on the removal of greatly diminished koala habitat in the State.

12. The rehabilitation to date of the former extraction area that comprises the project site (extraction ceased in 2008), notes that *‘with the older rehabilitated areas of the former inland extraction area having well established tree cover, while more recent rehabilitated areas of the inland extraction area have smaller trees and shrubs.’* (22.1.2) Photograph 1 in Appendix A of Appendix O (Rehabilitation Strategy) to the EIS clearly shows that the areas include sizeable trees.

13. The EIS admits that there will be *‘partial loss of two native vegetation communities and threatened species habitat in the project site’* and that *‘A residual risk of indirect impacts to biodiversity remains.’* (Table 6.3)

14. The EIS asserts that *‘Despite the unavoidable loss of native vegetation communities and threatened fauna habitat, compensatory measures would be*

<sup>6</sup> EIS 6.6.1, p107

*implemented in the form of a biodiversity offset strategy, with long term biodiversity impacts likely to be minimised via the implementation of a successful rehabilitation strategy for the project site. (6.3.2)*

15. The EIS states that under the Port Stephens Comprehensive Koala Plan of Management (PSCKPOM) *'The project site is mapped as 'Supplementary' Koala habitat ... important to the long-term conservation of Koalas in Port Stephens'* (6.7.4) It appears that all of this habitat on the site will be cleared leaving a freshwater pond in perpetuity (22.2). While the EIS asserts that the project *'will avoid decreasing the width of a wildlife corridor along Nelson Bay Road'*, it is difficult to see how the loss of the adjacent supplementary habitat on the currently rehabilitated inland (previous) extraction area will not have precisely that effect.

16. PSK contends that the project is not consistent with Direction 14 of the Hunter Regional Plan HRP which identifies the need to protect biodiversity and connect natural areas, despite the attempted re-assurance in the EIS (6.8.1)

## **Bio-banking offsets**

17. The EIS suggests that Boral may buy bio-banking offset credits to offset unavoidable environmental losses (discussed above), although other options are mentioned, but no specific proposal is made (9.6)

18. PSK has fundamental concerns about the entire bio-banking and offset policy as currently implemented in NSW. While not disputing that Boral can take advantage of this policy, the concept that environmental damage can be paid for and swapped for some biodiversity protection elsewhere is unreal and fails to protect biodiversity assets relevant to a particular ecosystem in a specific location. This is particularly pertinent to koalas which cannot be readily relocated. These statements also assume that such replanting is enforced, which is more often not the case.

19. As already noted above, the permanent lake to be left after the cessation of the quarry mine would significantly decrease in the width of the current wildlife corridor.

## **Conclusions**

20. PSK contends that the proponent for this development has significantly undersold the impact on fauna, particularly a threatened koala population, by the proposed mining activities.

21. The EIS, understandably, uses technicalities in outdated regulations to excuse Boral's planned habitat clearance. However, PSK would argue that in 2020, after the experience of mega-fires in the State and the loss of millions of native fauna, the State needs to take a more realistic and practical stand on the protection of native fauna. Koalas, in the Port Stephens area have become increasingly threatened by development

and existing regulations and legislation will continue to allow this to happen and will likely not catch up with the reality of the losses until it is too late. .

## Recommendation

22. Port Stephens Koalas therefore strongly recommends that the proposed mining application not be allowed, in preference to preserving rapidly diminishing koala habitat.



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