

NSW DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT

PROPOSED CHANGES TO THE BIODIVERSITY OFFSETS SCHEME

AN ANIMAL LIBERATION SUBMISSION



AL.ORG.AU



We acknowledge the
Traditional Owners of
country throughout
Australia and recognise
their continuing
connection to land, waters
and culture.

We acknowledge that this
document was written on
land stolen from and
never ceded by the
Gadigal People.

We pay our respects to
their Elders past, present
and emerging.





We don't have a duty to **speak** for the animals;
we have an obligation to be **heard** for the animals.

Matt Ball (2006)

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ABOUT ANIMAL LIBERATION

Animal Liberation has worked to permanently improve the lives of all animals for over four decades. We are proud to be Australia's longest serving animal rights organisation. During this time, we have accumulated considerable experience and knowledge relating to issues of animal welfare and animal protection in this country. We have witnessed the growing popular sentiment towards the welfare of animals, combined with a diminishing level of public confidence in current attempts, legislative or otherwise, to protect animals from egregious, undue, or unnecessary harm. Our mission is to permanently improve the lives of all animals through education, action, and outreach.

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3 May 2021

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We present this submission on behalf of Animal Liberation.

Animal Liberation is pleased to lodge a submission in response to the public consultation about proposed NSW Government changes to the Biodiversity Offsets Scheme ('BOS'), and specifically, the way payments to the Biodiversity Conservation Trust ('BTC') are determined under the BOS.

We request that it be noted from the outset that the following submission is not intended to provide an exhaustive commentary or assessment in response to the BOS proposed changes. Rather, our submission is intended to provide a general examination and responses to select areas of key concern. As such, the absence of discussion, consideration, or analyses of any particular aspect or component must not be read as or considered to be indicative of consent or acceptance. For the purposes of this submission, Animal Liberation's focus covers aspects that we believe warrant critical attention and response.

We have reviewed the consultation paper, 'Strengthening the Biodiversity Offsets Scheme: A new approach to developer charges', other related legislation, and documents and our submission is outlined as follows.

Lisa J. Ryan
Regional campaign co-ordinator

Alex Vince
Campaign director

DISCLOSURE & CONSENT

Animal Liberation confirms its consent to the NSW Department of Planning, Industry and Environment to publish this submission in full.

WHAT HAPPENS TO THEM

MATTERS TO THEM

REGAN 1983



1. PREFACE

- 1.1 Animal Liberation is increasingly concerned over the noted change in the NSW Government's approach to public consultation, which is in our view is increasingly conflicted and restrictive, and less transparent.
 - 1.1.1 This particular BOS public consultation has not been widely advertised. Animal Liberation only became aware of this review **after** the 19 April 2021 public consultation closure. This government review is a publicly funded review on a subject that has direct links and consequences to native flora and fauna, including endangered and threatened animal species like koalas. This is a topic on which the vast majority of NSW residents hold strong and increasingly concerned views. These views should not be curtailed because the NSW Government has chosen to limit advertising consultation for a publicly funded inquiry or review.
- 1.2 The issues at hand strongly relate to the welfare of native species. Animal Liberation is the longest-running animal rights organisation in Australia and over 40 years, we have accumulated significant knowledge and experience about these issues. The purpose of meaningful public consultation is to engage with a broad and wide audience to better represent public views and appropriate levels of expertise.
- 1.3 We note the Legislative Council's own public guide titled 'Making a submission' states: "Any person or organisation can make a submission." Further, the Legislative Council's guide titled 'Upper House Committees' states: "Committees provide an important opportunity for individuals and groups to participate in the parliamentary process and put their views directly to members of Parliament."
 - 1.3.1 The public is increasingly disillusioned by the lack of priority and meaningful actions implemented by Government to halt the rapid and ongoing decline of NSW fauna and flora. Animal Liberation shares these public views. There is a rapidly eroding level of trust and confidence in elected legislators and decision-makers concerning their proclamations to save or protect our iconic fauna and flora. The government's stated intent to 'protect and preserve' has not translated into real or meaningful action or legal protections for NSW native species, notably koalas and their habitat. Indeed, koala protections in NSW have regressed to a dangerous level.

1.4 Across NSW, almost 1,000 animal and plant species are currently at risk of extinction (DPIE n.d.-a). NSW koalas, in particular, are in serious trouble and cannot wait any longer for the substantial legal reforms required to protect them and their habitat. While secondary impacts to NSW koalas are also substantial, the most urgent and pressing threat to fauna and flora is the destruction of habitat (Stratford et al. 2000; WWF-Australia 2018). The government's failure to act combined with regressive policy, including the winding back and weakening of environmental protections, represents a dangerous trajectory that will result in further faunal and floral extinctions.

1.4.1 How many times does government need to hear and be presented with the same scientific evidence - or be reminded of their obligations and undertakings to represent the best interests of the public without fear or favour - before substantial, meaningful and enforceable action is taken to stem the tide and protect Australia's imperilled biodiversity?



2. STATUS, HISTORY & OTHER ENVIRONMENTAL REGRESSIONS

- 2.1 In spite of the aforementioned 1,000 NSW faunal and floral species currently at risk of extinction in NSW, and the scientific data which confirms habitat loss as the most pressing driver of extinction, the NSW State Government continues to ignore urgently needed solutions. Instead, it offers only peripheral and often meaningless actions that fundamentally support economic self-interest.
- 2.1.1 Despite rapidly declining koala numbers, NSW laws do not prohibit the clearing of koala habitat. Rather, these laws allow valuable koala habitat to be cleared with consent approval. For our laws to protect koalas and their habitat in a real and meaningful way, the approval process must not permit important koala habitat to either be offset or cleared under any circumstances. This includes the manner by which it currently can be under the NSW Biodiversity Assessment Method ('BAM'). Rather, all development that has the potential for serious or irreversible impacts on koala habitat must be refused outright.
- 2.2 The ongoing failures of the NSW Government, including inadequate and inconsistent legislation, proposed laws and guidelines, are glaring and compound an already dire situation for koalas in NSW.
- 2.2.1 Since the 1995 State Environmental Planning Policy ('SEPP'), protection for koalas on private lands has been based on mapping 'Core Koala Habitat'. However, over those same 25 years, minimal mapping has been undertaken. At current rates, it will take over 300 years to map core koala habitat across NSW and prepare the required Koala Plans of Management ('KPoMs'). It would necessarily take even longer for these to finally be approved.
- 2.2.2 Recent State Government reviews provided an opportunity to incorporate requirements to identify and protect habitat and corridors that will support koalas' resilience to more extreme heat and natural disasters, even if there is no koala population in those areas now. This opportunity, however, has now been missed.
- 2.3 In spite of this evidenced vulnerable NSW koala status, recognition that 'habitat' is the most vital component for koala survival, public consultations and Inquiries, including repeated and consistent testimony from koala experts, government legislators and decision-makers continue to ignore the urgent plight of NSW koalas in favour

- 2.3 of other vested economic considerations and government policy direction. Shamefully, this has been evidenced in numerous instances over recent decades by the behaviours, actions and policy direction of the NSW State Government, and continues largely unabated in an apathetic, unethical and unaccountable manner.
- 2.3.1 In NSW, koalas are listed as a **vulnerable threatened** species facing the risk of extinction in the medium term. Individual NSW koala populations on the lower north coast, Northern Rivers and northern Sydney Pittwater local government areas ('LGAs') are already listed as **endangered** populations. Without urgent and decisive actions, these listings and their extinctions will ultimately cement Australia's appalling world's worst mammal extinction record.
- 2.3.2 The current legislative regime does not apply to the wide range of development and activities that can impact koala habitat, including complying development, major projects (State Significant Development and State Significant Infrastructure), Part 5 activities (e.g., activities undertaken by public authorities) and land clearing activities requiring approval.
- 2.4 The NSW Legislative Council's Inquiry into Koala Populations highlighted the urgent plight of NSW koalas. The Committee's bipartisan report confirmed that a failure to take urgent actions would result in NSW koalas becoming extinct before 2050. Animal Liberation believes this is a conservative prediction and that unless urgent actions are taken and the necessary reforms are implemented, the extinction of NSW koalas will occur earlier than 2050. See Chapter 8 of the inquiry report, recommendation no. 36 and the government's response attached in the Appendices of this submission.
- 2.4.1 Animal Liberation was extremely disappointed and alarmed by the NSW Government's response to the Committee's sound but conservative recommendations. The Government ignored its own Committee, as well as key environmental and animal welfare/rights organisations.
- 2.5 Australia's environment and species protection laws and policies at federal, state and local council level are completely inadequate and continue to fail koalas and their habitat. Legislation and policy contradictions and inconsistencies add to these inadequacies and failures, along with government's core economic interests and priorities being afforded blatantly biased and preferential treatment.
- 2.6 The NSW Government continues to deflect and avoid adequate and objective consideration, review and decisive action in response to issues including, Development, Offsets, and Land Clearing.

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- 2.7.1 Animal Liberation was extremely disappointed and alarmed by the NSW Government's response to the Committee's sound but conservative recommendations. The Government ignored its own Committee, as well as key environmental and animal welfare/rights organisations.
- 2.8 Australia's environment and species protection laws and policies at federal, state and local council level are completely inadequate and continue to fail koalas and their habitat. Legislation and policy contradictions and inconsistencies add to these inadequacies and failures, along with government's core economic interests and priorities being afforded blatantly biased and preferential treatment.
- 2.9 The NSW Government continues to deflect and avoid adequate and objective consideration, review and decisive action in response to issues including, Development, Offsets, and Land Clearing.
- 2.10 The forestry industry continues to log, including in unburnt habitat to plunder 'salvage' from burnt forests with government impunity. In addition, Private Native Forestry ('PNF') agreements are supported and encouraged by the NSW Government.
- 2.11 Incentives for the protection of koalas and koala habitat are non-existent. This includes subsidies available to private landowners. Such subsidies must be available to all NSW landowners and must be financially and economically attractive. That is, they must compete effectively with any incentives and/or revenue derived by private landowners from private native forestry agreements.
- 2.11.1 There is no current law or policy that provides NSW landowners with any type of incentive to protect koalas and koala habitat. This serious failing and omission risks and impacts current NSW koala populations and their habitat, of which around two-thirds are populated on private land.
- 2.11.2 The lack of NSW regulations and penalties relating to koala and koala habitat protection is compounding the issues and the further decline of remaining populations.

- 2.12 Critically important climate emergency and climate change considerations have been largely overlooked and glossed over.
- 2.13 An inadequate mapping, monitoring and compliance regime remains in force.
- 2.14 The current NSW mechanisms to assess biodiversity values on private land are totally inadequate.
- 2.14.1 NSW koala population estimates vary. The rapid and ongoing steep decline in populations is not in dispute, however. In 2016, for example, the NSW Chief Scientist estimated a 26% decline over the last three generations. It is important to note that these estimates were made prior to the devastating 2019/2020 NSW bushfires. Other estimates are considerably more alarming. Some suggest a 50% decline in northeast NSW over the last 20 years, with habitat loss a leading cause. Further, in this same region, the recent bushfires burnt one-third of koala habitat with population declines of between 80 and 90% discovered (including many of the most viable surviving koala colonies).
- 2.14.2 The status of the koala as vulnerable, threatened and endangered has never been more pressing following the devastating 2019/2020 bushfires which resulted in the estimated death of over 8,000 individuals and damage to more than 24% of all koala habitats in eastern NSW.
- 2.15 The 'Land Conservation Reform Management and Biodiversity Conservation Reforms' report published by the Natural Resources Commission ('NRC') highlights the devastating impacts resulting from the NSW Government's changes to land clearing laws in 2016. This report describes NSW land clearing as a "state-wide risk to biodiversity" and confirms the outrageous extent of environmental vandalism, some of which they can't even account for and which has been enabled by the policies and policy direction of the NSW Government. The damning NRC report found:
- 2.15.1 In 2018/19, over 37,000 hectares were approved to be cleared. This figure is almost 13 times the annual average rate of approval in the 10 years prior to 2016/17.
- 2.15.2 Land clearing approvals almost doubled between Q4 2018 (25,247 hectares) and Q1 2019 (43,553 hectares).
- 2.15.3 Almost 60% - or 7,100 hectares - of clearing between August 2017 and January 2018 was 'unexplained'.

2.15.4 Nine of eleven regions in NSW were assessed as a "high biodiversity risk" due to high levels of clearing and insufficient areas set aside for conservation (likely in contravention of the regulations).

2.16 Koala numbers have been in steep decline for the past 20 years, with koala numbers decimated under the totally inadequate protections provided by the former SEPP 44, the 'offsets' provisions, and the general winding back and repeal of vital environmental protection laws designed to protect native habitat and native species. NSW koalas are under extreme stress from an increasing number of key pressures and threats including land clearing for animal agriculture, mining, logging on private and public land, urban sprawl including roads and public infrastructure, and government's own failures to address and tackle the climate emergency.

2.16.1 Alarming, the same NSW Government that develops and implements state-based environment and species protections also interferes with the lawful enforcement and prosecution of serious breaches. This was demonstrated when the Berejiklian government granted amnesty to hundreds of farmers who face penalties for clearing land ahead of the introduction of looser controls, breaking a promise made two years ago

2.16.2 Further, the NSW Government's response to the NSW Inquiry into Koala Populations and Habitat in New South Wales Committee's report and recommendations has demonstrated Government's willingness to ignore its own convened Committee and Inquiry to serve its own political interests and is further testimony to government's attitude and approach to scientific evidence, consultation, public interest and transparency.

2.17 The NSW State Government's own website (DPIE) states, under the heading of Status:

2.17.1 *"The koala has suffered a dramatic decline in numbers and distribution since the arrival of Europeans. Surveys in NSW indicate that since 1949, populations of koalas have been lost from many localities. Most populations in NSW now survive in fragmented and isolated habitat and many of the areas in which koalas are most abundant are subject to intense and ongoing pressures".*

2.17.2 *"The koala is listed as 'vulnerable to extinction' under the Biodiversity Conservation Act 2016 because of declining numbers and the ongoing pressure of threats. Such listing gives the species more protection and attention, and means proposals for development that will affect koala habitat are rigorously assessed".*

2.17.3 *"In April 2012, koala populations in Queensland, NSW and ACT were listed as vulnerable to extinction under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999".*

2.18 Sadly, the listings in the Biodiversity Conservation Act 2016 ('BC Act') now have little meaning and NSW legislation certainly can't claim with any accuracy or credibility to protect koalas or koala habitat. The same site referenced in subsection 2.14 lists the key threats to koalas as including:

2.18.1 loss, modification and fragmentation of habitat;

2.18.2 disease (chlamydia);

2.18.3 vehicle strike;

2.18.4 intense prescribed burns or wildfires that scorch or burn the tree canopy;

2.18.5 predation by roaming or domestic dogs;

2.18.6 heat stress through drought and heatwaves;

2.18.7 human-induced climate change.

2.19 The NSW Environment Protection Authority ('EPA') has confirmed that less than 10% of NSW is conserved through national parks and reserves. More than 70% of the state is under private ownership or Crown lease. Accordingly, private land conservation is a vital and critical consideration in protecting all NSW biodiversity. This considerable responsibility for adequate environmental management through private landholders has been largely ignored and now requires urgent and prioritised review.

2.20 The previous Local Land Services Amendment Bill 2016 ('LLS Bill 2016') repealed the Native Vegetation Act 2003 ('NV Act'). The latter was an important and meaningful legislative protection because it required landholders to "improve or maintain biodiversity values". This critical inclusion is absent from both the LLS Bill 2016 and the Local Land Services (Miscellaneous) Bill 2020.

2.21 The current regulatory regime has been largely ineffective in preventing the ongoing destruction of koala habitat or the enforcement of the protection of koalas and koala habitat. The clearing of habitat for development, agricultural activities or private forestry can be undertaken with minimal barriers or restrictions. NSW Councils' face ongoing pressure and demands from wealthy and

- 2.21 powerful developers, and indeed from the NSW State Government to clear koala habitat for commercial activities involving agriculture, housing and mining.
- 2.22 Animal Liberation contends that the NSW Government must prioritise and support the fast tracking of state wide Koala Plans of Management ('KPoMs') that comprehensively identify koala habitat, and assist with the mapping within a strictly monitored three-year implementation time frame. Further, reference to all NSW Council KPoM should be incorporated into all Council Development Control Plans ('DCPs') and Local Environment Plans ('LEPs').
- 2.22.1 Across NSW fewer than a dozen local Councils have developed a KPoM. In these instances, the KPoM normally only incorporates selected sections of the LGA. Alarming, the NSW State Government has still only endorsed a handful of these Council-prepared KPoMs.



3. BACKGROUND: BIODIVERSITY OFFSET SCHEME

- 3.1 The Biodiversity Offset Scheme ('BOS') commenced in 2017 under the Biodiversity Conservation Act 2016 ('BC Act') and in conjunction with the land management framework established under the Local Land Service Act 2013 ('the LLS Act'). The BC Act is a key component of the NSW Government's framework for biodiversity assessment (DPIE n.d.-b).
- 3.2 The BC Act and the Biodiversity Conservation Regulation 2017 ('the Regulation') outlines the framework for dealing with impacts on biodiversity from development and clearing and established a framework to "avoid, minimise and offset impacts" through the BOS (DPIE n.d.-b).

WHO THE BOS APPLIES TO

- 3.3 The BOS applies to the following:
- 3.3.1 Local development that is likely to significantly impact threatened species or triggers the BOS threshold;
 - 3.3.2 State Significant Development ('SSD') and State Significant Infrastructure ('SSI') projects (unless the Department secretary and Environment Agency Head determine that the proposed project is not likely to have a significant impact);
 - 3.3.3 biodiversity certification proposals;
 - 3.3.4 the clearing of native vegetation in urban areas and areas zoned for conservation exceeding the BOS threshold and not requiring development consent;
 - 3.3.5 the clearing of native vegetation that requires approval by the Native Vegetation Panel ('NVP') under the LLS Act and;
 - 3.3.6 activities assessed and determined under Part 5 of the Environmental Planning and Assessment Act 1979 ('EP&A Act') if proponents elect to "opt in" (DPIE n.d.-c).

HOW IT WORKS

- 3.4 There are two (2) key elements to the BOS: (Part 1) developers and landholders who undertake development or clearing generate a credit obligation that must be retired to offset their activity and (Part 2) landholders who establish a biodiversity stewardship site on their land generate credits to sell to developers or landholders who require them in order to secure offset activities undertaken on other sites (DPIE n.d.-c).

OFFSET RULES

- 3.6 The Regulations contain a series of offset rules that govern the types of offsets that may be used to meet offset obligations under the BOS (DPIE n.d.-d).

"LIKE-FOR-LIKE" RULES

- 3.7.1 Like-for-like rules attempt to ensure that impacts are offset with biodiversity considered "very similar" to the biodiversity being impacted. This includes requirements that impacts on native vegetation are offset with vegetation in the same local area as the impact. In addition, if a threatened ecological community is impacted, the offset must be for the same threatened ecological community. Similarly, if the impacted vegetation contained 5 hollow bearing trees, the offset site must also contain these. Impacts on any threatened species who are not associated with a particular type of vegetation must be offset with the same threatened species, though this offset may be located "anywhere in NSW" (DPIE n.d.-d).

VARIATION RULES

- 3.7.1 Variation rules allow offsetting with a broader suite of biodiversity that is considered the same or more threatened than the biodiversity actually impacted. This rule is only applicable if the proponent demonstrates to the consent authority that they were unable to obtain like-for-like credits after following reasonable steps (DPIE n.d.-d).
- 3.8 Responsibility for the regulation and management of the BOS is split between the Department of Planning, Industry and Environment ('DPIE') and the Biodiversity Conservation Trust ('BCT'). The DPIE is responsible for "broad functioning and regulation" and the offsets market. The BCT is responsible for the supply of biodiversity credits, biodiversity stewardship agreements ('BSAs'), managing the Biodiversity Stewardship Payment Fund ('BSPF') and making annual payments to BSA holders. In addition, the BCT offers a "biodiversity offsetting service" for developers who choose to transfer their offset

- 3.8 obligation to the BCT by payment to the Biodiversity Conservation Fund ('BCF') (DPIE 2021).

RESPONSE TO PROPOSED CHANGES

- 3.9 It is Animal Liberation's view that the concept that critical habitat for our native wildlife can be "offset" is obscene and a contradiction in terms. The proposed NSW Government changes would, in effect, allow a scheme that already lacks transparency and accountability, to be even less transparent and accountable.
- 3.9.1 The provision of supposed protection measures including "offsets" has failed to protect koalas and koala habitat. Offsetting for the clearing of koala habitat should be prohibited with no exceptions, exemptions or application of offsets. Logging forests of viable mature food trees with an offset of seedlings or saplings is not scientifically defensible.
- 3.9.2 The delay, which often extends for years, in planting and the establishment of mature offset trees entirely fails to protect existing NSW koala populations where the habitat and wildlife corridors on which they depend for survival is decimated and removed. Offsetting also increases the reliance on translocation, ignoring evidence which confirms that vast majority of koalas do not survive translocation.
- 3.10 The proposed changes would allow developers to clear threatened species habitat in NSW and will significantly increase the vulnerability of at-risk species, including the Koala, Regent Honeyeater, Rock Wallaby, Red Tailed Black Cockatoo and many more. Such changes recklessly place these species further down the trajectory of extinction.
- 3.10.1 Even more reckless and offensive, however, is that contrary to government claims these proposed changes prioritise development over conservation. They create a more permissible policy for further environmental vandalism and misconduct for financial and commercial gain, all at the expense of nature and our shared and vulnerable environment.
- 3.11 The Cost Calculator is a tool that landholders use to assess the accurate biodiversity values of their land and supports the facilitation of fair negotiations between developers and landholders (DPIE n.d.-e).

- 3.11.1 The proposed changes to the BOS would remove public access to the Cost Calculator tool and therefore reduce transparency. It would thereby prioritise trades through the developer charges model (in which developers pay to offset biodiversity credits directly to the BCT).
- 3.11.2 Animal Liberation objects to the proposed changes because they will damage biodiversity outcomes by discouraging direct landholder-developer offset trading. Removing the Calculator from public view will make it more difficult for landholders to negotiate prices and enables the BCT to make unilateral offset pricing decisions. The consequences will be to reduce the price of credits in favour of development, extend the timeline between when credits are purchased and when they are retired into actual conservation of offset sites. These impacts will generate a net loss in biodiversity and damage the integrity of the BCT and the administration of the scheme.
- 3.12 The primary intent of the proposed changes will be to reduce direct market offset trading activity and to prioritise developer charges. A preference for developer charges as a model to preserve biodiversity will be less effective and have worse environmental outcomes.
- 3.12.1 Developers paying less for credits will reduce the resources required to achieve like-for-like biodiversity outcomes, prioritising development over conservation and disincentivising developers from preserving existing environments within a site. Landholders will be less willing to sell credits if they judge the value of conservation to be less than other potential land uses. It will be more difficult for the BCT to find appropriate sites for offsets within reasonable timeframes.
- 3.13 There is a longer lead time between credit purchase and credit retirement. Instead of direct trades enabling immediate conservation of a privately owned offset site, the developer charges paid to the BCT will be banked and retired according to the BCT's operational capacity. This will delay conservation efforts by several years. There is a potential for sites that have potential to deliver like-for-like biodiversity outcomes (e.g., adjacent to the development) becoming unavailable for offsetting in the intervening years due to development expansion.
- 3.14 The additionality principles of the scheme will be weakened further. Management of the scheme is already resulting in credits being retired to existing conservation areas, such as Council Reserves. This 'double-dipping' does not have the desired effect of maintaining biodiversity. Instead, it results in net loss. As landholders are less incentivised to sell credits, the government will need to resort to

- 3.14 retiring more credits in existing conservation areas to meet its obligation. The total area of land allocated to biodiversity preservation will continue to decline.
- 3.15 Lack of oversight and transparency will open the scheme up to potential abuse and misconduct. Appointing the BCT as the administrator, the regulator, the price-setter and the bank - while removing public access to pricing and DPIE oversight - will isolate the BCT from accountability obligations.
- 3.16 Pricing deals that sacrifice biodiversity outcomes for the sake of relationships could be made more freely, and private trading by employees will foster a for-profit motivation within a supposed not-for-profit agency. Recent media coverage of the sale of \$38 million worth of biodiversity offset credits by the company Meridolum No 1 - which has links to the environmental consultant company Eco Logical and determined the need for the government to purchase those biodiversity offsets - highlights the scheme's vulnerability to manipulation and abuse (Cox 2021a; Cox 2021b; Cox 2021c).
- 3.17 The justification provided for these changes is that the BCT will be able to set more accurate pricing for credit offsets if it is awarded more control. This is a weak and somewhat suspect argument upon which to deny public access to pricing. There is no reason more accurate pricing should not be available to the public and developed in conjunction with the DPIE. Removing government and public oversight of the scheme is not satisfactorily substituted by after-the-fact price reporting tools (such as the SPI) or periodic review.
- 3.18 It appears that the intent of these changes does not have any relation to environmental policy and instead weakens the scheme in the interest of investing more control into the hands of the BCT. The lack of clear motivation for these proposed changes makes the lack of transparency all the more suspect and raises serious questions about the BCT's capacity to administer the scheme with integrity.
- 3.19 Animal Liberations objects to the proposed changes to the BOS because these changes would weaken biodiversity outcomes and enable a more permissible environment for financial misconduct to occur at the expense of the environment.



4. SUMMARY & CONCLUSION

- 4.1 Environmental and native species protection laws in NSW are broken and are not meeting their intended or stated purpose(s). These laws continue to fail the environment, native species (such as koalas) and their habitat. Rampant land clearing, logging of burnt and un-burnt forests or private land and the diversion of billions of litres of water from our rivers are placing our forests, woodlands and grasslands - and the biodiversity they support - in a perilous and unsustainable state. Inadequate assessment of harmful developments with outrageous 'offsets' is further contributing to the rapid decline of healthy and sustainable NSW koala populations.
- 4.2 For all government's rhetoric, it is indeed government's own failures - manifest in deliberate and willful policy direction - that pose the greatest threats to NSW koalas, their habitat and their very survival. Koala populations will continue to rapidly decline while government functions in a 'business as usual' approach, ignoring the urgent warnings outlined in expert evidence and reducing koala protections with ineffective, inadequate or repealed legislation. Such threats are amplified by the apathetic attitude displayed towards meaningful conservation and species protection.
- 4.2.1 Contradictory policy settings included in NSW laws mean that laws aimed at conserving biodiversity and maintaining the diversity and quality of ecosystems are undermined by other legislation that facilitates forestry, agricultural activities and developments
- 4.3 Development, logging and land clearing are decimating koala habitat. To protect koalas, habitat must be protected. It's a simple logic - to protect koalas, we must protect their habitat with vigilance and afford no compromise or exception. Until our laws are strengthened to truly limit or prohibit the destruction of koala habitat, their populations and habitat will continue to be at risk. Koala numbers will continue to decline in NSW, possibly to the point of local extinction.
- 4.3.1 Our vulnerable, threatened and endangered koalas simply cannot wait any longer. NSW's koala populations have declined by half during the past 20 years and a third of the survivors were lost during the 2019/2020 bushfires. Government's lack of immediate, decisive and meaningful action has placed koalas on a trajectory where they will likely not survive.
- 4.4 Animal Liberation urges the NSW Government to reject the proposed changes to the BOS.



SOURCES AND REFERENCE MATERIAL

LEGISLATION

Biodiversity Conservation Act 2016

Draft Koala Habitat Protection Guideline

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Local Government Act 1993

Local Land Services Amendment (Miscellaneous) Bill 2020

State Environmental Planning Policy No. 44 – Koala Habitat Protection ('SEPP 44')

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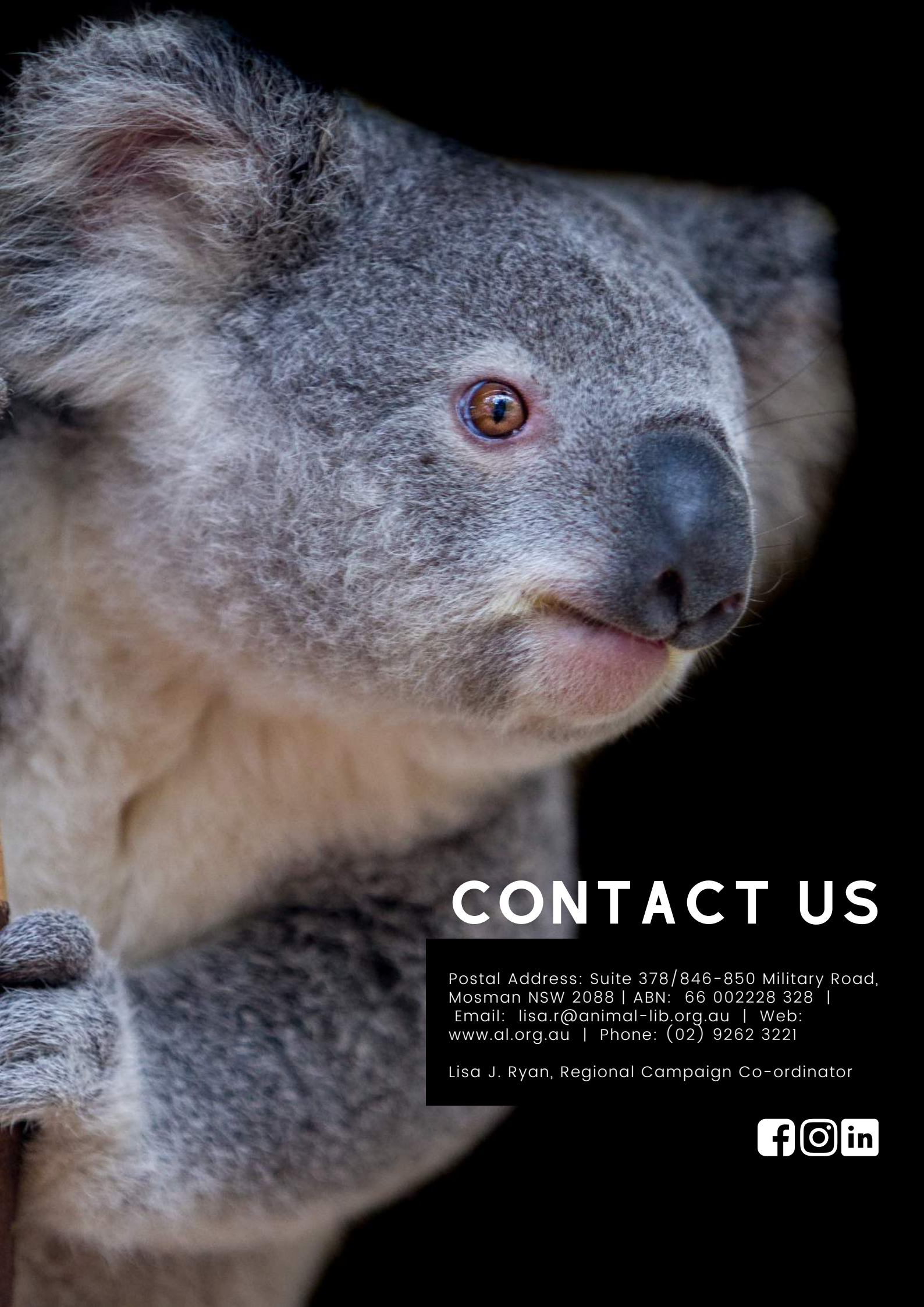
APPENDIX

APPENDICES

Please find the following attached as appendices to this submission

Portfolio Committee No. 7 Report 3: Koala populations and habitat in New South Wales

NSW Government Response to the Inquiry into koala populations and habitat in New South Wales



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