

Guideline

South East Queensland Koala Conservation State Planning Regulatory Provisions

July 2014



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1 Introduction

1.1 Background to the South East Queensland Koala Conservation State Planning Regulatory Provisions (SPRP)

On 31 May 2010, the SPRP commenced to regulate new development assessable under the *Sustainable Planning Act 2009* (SPA) at the development assessment stage.

The SPRP replaces the development assessment requirements of:

- the Nature Conservation (Koala) Conservation Plan 2006 (the Koala Plan)¹
- the South East Queensland Koala State Planning Regulatory Provisions February 2010 (the interim SPRP).

1.2 Purpose of guideline

The purpose of this guideline is to:

- assist assessment managers and applicants understand the application and intent of the SPRP
- provide advice on how development activities may meet the requirements of the SPRP.

The guideline has no statutory effect and is intended to provide advice only.

2 Division 1—Preliminary

2.1 Regulatory provisions apply in addition to local planning instruments

The SPRP applies in addition to any requirements that a local planning instrument may have in relation to koala conservation outcomes. Where a local planning instrument provides additional assessment requirements for koala conservation, decisions made regarding those requirements must not be inconsistent with the SPRP.

2.2 When the SPRP does not apply

The SPRP does not apply to the following:

Development applications that were properly made prior to 31 May 2010

Development applications that were properly made or approved under the *Integrated Planning Act 1997* (IPA) or the SPA prior to 31 May 2010—when the SPRP came into effect—are not subject to the provisions of the SPRP.

If amendments are being made to a development application which was made or approved prior to 31 May 2010, they will be subject to the relevant provisions in place at the time of their lodgement, which may include the interim SPRP or the Koala Plan.

Development in an area subject to a development control plan

Development in an area subject to a development control plan—to which s.857 of SPA applies—is exempt from assessment against the SPRP. Section 857 of SPA provides requirements for assessment of development applications for an area subject to a development control plan.

State government supported community infrastructure

Queensland Government public sector entity activities are exempt from the SPRP as they are subject to the State Government Supported Community Infrastructure Koala Conservation Policy (CI Policy).

Local government public sector entities are not exempt from the SPRP requirements as they are not a Queensland Government public sector entity.

A copy of the CI policy is available on the Department of Environment and Heritage Protection (EHP) website at www.ehp.qld.gov.au.

¹ Note that despite the SPRP replacing the development assessment requirements of the koala plan, other requirements of the plan such as sequential clearing under s15 and the use of a koala spotter under s16 remain in effect.

2.3 Determining applicable division

General

Generally, a development application will require assessment under only one division of the SPRP. The following section describes the assessment requirements divisions 2 to 7 of the SPRP. The SPRP koala habitat values maps show koala habitat within assessable development areas defined under the SPRP.

Division 2—Development that is committed development in the assessable development area

Division 2 of the SPRP provides the assessment requirements for an application for development that is a committed development.

This division applies to the following types of development application that are lodged after commencement of the SPRP which are required to give effect to a development approval issued prior to commencement of the SPRP:

- material change of use giving effect to preliminary approval
- reconfiguration of a lot giving effect to preliminary approval
- operational works giving effect to preliminary approval, material change of use approval and reconfiguration of a lot approval.

Interpretation notes for division two

The requirements of division two for committed development are intended to recognise development decisions already made and allow for the consideration of koala conservation interests and need for subsequent development activities related to the existing approval. Assessment under this division is not intended to rescind existing approvals or override those approvals.

For example, to give effect to a preliminary approval, a reconfiguration of lot (ROL) application may provide an opportunity to enhance koala movement opportunities through design measures such as the incorporation of building envelopes and vegetation buffers into the development.

Division 3—Development in an identified koala broad-hectare area

Division 3 of the SPRP provides the assessment requirements for an application for development that is within an identified koala broad-hectare area. This division is intended to apply to development in areas listed below where the relevant land use plan has been approved:

- areas listed in Schedule three of the SPRP and represented on the SPRP identified koala broad-hectare area maps
- areas listed in a gazette notice as a broad-hectare area
- areas undergoing development in accordance with an approved structure plan or master plan for a declared master planned area under Chapter 4 of SPA or Chapter 2 Part 5B of IPA, including planning instruments gazetted following 31 May 2010.

The intention of this division is to provide koala conservation requirements for development in these areas and recognise their importance either as:

- priority and bring-forward Greenfield sites under the Queensland Housing Affordability Strategy, or
- areas that are important to meeting development targets under the SEQ Regional Plan that have undergone a detailed level of land use planning in accordance with provisions under IPA or SPA that provide for consistent standards and requirements for land-use planning.

If there is no approved relevant land use plan for the area, development applications will be subject to a different relevant division (likely division 6 or 7).

Interpretation notes for Division 3

An area subject to a gazetted planning instrument (e.g. structure plan) can be determined by contacting the relevant local government or EHP.

Division 4—Development for linear infrastructure and community infrastructure in the assessable development area

Division 4 of the SPRP provides the assessment requirements for an application for development that is linear and community infrastructure. Linear and community infrastructure activities are undertaken by, on behalf of or under contract with, the provider (e.g. a local government or private entity). The intention of this division is to provide koala conservation requirements for this type of development while recognising the importance of such development to the community.

Note:

Maintenance and repairs of existing community infrastructure is not considered assessable development. These works are undertaken to maintain existing assets in working condition and do not apply to the SPRP. This is in contrast to capital works on existing assets which will substantially change or improve the asset through expansion or upgrade.

Division 5—Development for extractive industry in the assessable development area

Division 5 of the SPRP provides the assessment requirements for an application for development that is for extractive industry purposes, including work that is a natural and ordinary consequence of extractive work. The intention of this division is to provide koala conservation requirements for extractive industry development whilst recognising the importance of this industry to the community.

Interpretation notes for Division 5

Work that is a natural and ordinary consequence of extractive work may include development for:

- establishment of built structures on-site (offices or amenities facilities)
- establishment of a haul road for site access
- clearing of native vegetation in order to undertake extractive work.

Division 6—Development in a priority koala assessable development area

Division 6 of the SPRP provides the assessment requirements for an application for development that occurs within a priority koala assessable development area (PKADA).

Division 7—Development in a koala assessable development area

Division 7 of the SPRP provides the assessment requirements for an application for development that occurs within a koala assessable development area (KADA).

3 Assessment requirements under divisions 2 to 7

This section of the guideline provides an explanation of the Integrated Development Assessment System (IDAS) form 34 and advice and information about the SPRP Tables 2 to 7.

3.1 IDAS form 34 mandatory information requirements

Where a development application is to be assessed against the SPRP, the application will need to include the mandatory information specified in IDAS form 34. This form is available on the Department of State Development, Infrastructure and Planning website www.dsdip.qld.gov.au.

The SPA describes requirements for a properly made application (s.261). One of these requirements is that in making an application, the applicant must provide the information required under the mandatory requirements part of the approved form (s.260 (3)).

Assessment managers must ensure appropriate information is provided by the applicant for assessment purposes in accordance with the mandatory nature of IDAS form 34. Where a development application does not submit the required form or does not supply sufficient information for an assessment, an application may be considered not properly made.

3.2 Assessable development triggers

Divisions 2 through 7 of the SPRP provide assessment triggers for development applications. The SPRP has no requirements for an application if it meets the development thresholds for items in column one of the table in the applicable division.

Where a development application does not meet the requirements of column one of the table in the applicable division, the application must address the requirements in column two of the table. Requirements in column two may differ according to the applicable division. Guidance on these assessment requirements is provided below.

Restriction on bushland clearing

Division 6—Site design does not result in the clearing of non-juvenile koala habitat trees in areas of bushland habitat.

Division 7—To the extent the premise is outside the urban footprint and not in an urban area under a planning scheme, site design does not result in the clearing of non-juvenile koala habitat trees in areas of bushland habitat.

Intent of criterion

The intent is to achieve a net gain in mature and actively regenerating bushland habitat by 2020. In order to achieve this, existing bushland habitat needs to be protected from development.

The priority areas PKADA (Division 6) and KADA (Division seven) have the most stringent requirements as koala populations in these areas are at the greatest risk of extinction.

Consideration for development application

To address this criterion, the assessment manager must ensure that non-juvenile koala habitat trees within bushland habitat will not be cleared as a result of the development in Division 6. No clearing of bushland habitat applies to areas outside the urban footprint in Division 7.

Avoiding, minimising and offsetting impacts on non-juvenile koala habitat trees

Relevant divisions: 4 to 7

- Site design must avoid clearing non-juvenile koala habitat trees in areas of bushland habitat, high value rehabilitation habitat, and medium value rehabilitation habitat, with any unavoidable clearing minimised and offset in accordance with the Queensland Environmental Offsets Policy.

Note: The wording of this criterion may differ slightly according to the division.

Intent of criterion

An applicant must demonstrate how site design considerations have avoided and minimised impacts on non-juvenile habitat trees in the first instance before impacts can be determined for offsetting.

The other main intent of this criterion is to achieve a net gain in mature and actively regenerating bushland habitat by 2020 through mitigating the loss of koala habitat trees in accordance with the relevant offset policy requirements.

Considerations for development application

Before an offset can be considered to be appropriate, an applicant will need to demonstrate that the clearing of vegetation is unavoidable and that any clearing that will occur has been minimised to the greatest extent practicable. Ways to demonstrate this may include the redesign of the proposed development footprint or the use of development envelopes to constrain the development footprint to avoid and minimise clearing.

Implementation notes:

- Refer to the Queensland Environmental Offsets Policy and guidelines for details of environmental offset requirements (available on the EHP website).
- Under the Queensland Environmental Offset Policy, any one of the following options may be suitable for delivery of an offset—financial settlement offset, proponent-driven offset or a combination of proponent-driven offset and financial settlement offset.

Safe koala movement opportunities

Relevant divisions: 2 to 7

- Site design provides safe koala movement opportunities as appropriate to the development type and habitat connectivity values of the site determined by reference to the factors for consideration in Schedule 2.

Note: The wording of this criterion may differ according to the division.

Intent of criterion

The intent of this criterion is for the design of a proposed development to take into account the need to provide opportunities for koalas to move safely through the site.

The requirement in Division 2 also recognises that the pre-existing development approval may limit the ability to adopt koala safe movement opportunities.

Consideration for development application

Having consideration to the development type and the connectivity value of the site, the assessment manager will need to be satisfied that the site design provides safe koala movement opportunities. This may mean koala friendly options or koala exclusion options.

Implementation notes:

- The site's habitat connectivity value can be determined by referring to Schedule 2 of the SPRP and Schedule 1 of this guideline.
- The supporting Koala Sensitive Design Guideline provides information that may assist in designing development to include safe koala movement opportunities (available on the EHP website www.ehp.qld.gov.au).

Sequential vegetation clearing and koala spotter

Relevant divisions: 2 to 7

- Native vegetation clearing is undertaken as sequential clearing and under the guidance of a koala spotter where the native vegetation is a non-juvenile koala habitat tree.

Intent of criterion

The intent is to ensure that any vegetation clearing activities are undertaken in a way that does not increase the risk of stress, injury or death to any koala on site at the time clearing activities are undertaken.

Consideration for development application

Sequential clearing

Where a site is greater than three hectares, the assessment manager will need to ensure that:

- koalas are provided enough time to move out of the site without human intervention
- clearing will occur in stages that:
 - is no greater than 50 per cent of the area of a site that is 6 hectares or smaller
 - is no greater than three hectares or three per cent of the area of a site that is larger than 6 hectares
- there is at least one 12-hour period that starts at 6 pm on one day and ends at 6 am on the following day during which no trees are cleared on the site
- any tree in which a koala is present, or which has a crown overlapping a tree in which a koala is present, is not cleared
- appropriate habitat links are maintained within the clearing site and between the site and its adjacent areas, to allow koalas living on the site to move out of the site.

Where a site is less than three hectares, the applicant and assessment manager will need to ensure that:

- koalas are provided enough time to move out of the site without human intervention
- any tree in which a koala is present, or has a crown overlapping a tree where a koala is present, is not cleared
- appropriate habitat links are maintained within the clearing site and between the site and its adjacent areas, to allow koalas living on the site to move out of the site.

Koala spotter

- Clearing must be undertaken under the guidance of a koala spotter.

Implementation notes:

- Sequential clearing is a mandatory requirement for sites that are greater than three hectares in size under the Nature Conservation (Koala) Conservation Plan 2006.
- Koala spotter means a person who has demonstrated experience in locating koalas in koala habitat areas or conducting fauna surveys in accordance with policy 6 of the Nature Conservation (Koala) Conservation Plan 2006.
- It is an offence under the *Nature Conservation Act 1992* to intentionally take, harm or interfere with a

Managing risks to koalas during construction phases

Relevant divisions: 2 to 7

- During construction phases:
 - i. measures are incorporated into construction practices to not increase the risk of death or injury to koalas
 - ii. native vegetation that is cleared and in an area intended to be retained for safe koala movement opportunities is progressively restored and rehabilitated.

Note: The wording of this criterion may differ according to the division.

Intent of criterion

The intent is that during the construction phases, measures will be undertaken to ensure that the construction activities do not increase the risk of death or injury to koalas.

For extractive industries, this requirement is also extended to the life of operational activities.

Considerations for development application

To address item (a), the assessment manager must be satisfied that measures will be incorporated to not increase the risk of death or injury to koalas during construction phases such as the use of fauna exclusion fencing.

To address item (b), the assessment manager must be satisfied that there is adequate revegetation planning for areas of a site that are disturbed during construction phases.

Implementation notes:

Considerations for item (a):

- How the risks to koalas from increased vehicle traffic on the site will be managed. Risks include heavy vehicles, vehicle speeds over 30 kilometres per hour (km/h), and traffic between the hours of 6 pm on one day and 6 am the following day.
 - This could be addressed through a traffic management plan, both for on-site activities and for vehicles entering and leaving the site.
- How koalas will be prevented from accessing dangerous areas, such as holes or pits in the ground, electrified fencing, or dangerous machinery on-site.
 - The risk to koalas from dangerous areas can be managed through koala exclusion fencing and other measures.
- The supporting Koala Sensitive Design Guideline provides information that may assist in managing the risks to koalas from construction phases.

Considerations for item (b):

- A revegetation management plan with clear timeframes, resource and equipment schedules and planting information could meet the requirements for this item.
- The above considerations for items (a) and (b) are also relevant to operational phases of extractive industry development and will need to be addressed in a development application.

Landscaping

Relevant divisions: 3 to 7

- Landscaping activities provide food, shelter and movement opportunities for koalas consistent with site design.

Intent of criterion

The intent is that where landscaping activities are going to be undertaken, the landscaping incorporates vegetation that is suitable for koalas.

Consideration for development application

This criterion requires the assessment manager to be satisfied that landscaping activities will provide greater food, shelter and movement opportunities for koalas where site design provides for safe koala movement opportunities.

Implementation notes

- Consideration should be given to the following:
 - avoidance of unsafe landscaping for koalas, such as proximity of habitat trees to high-velocity roads (over 40 km/h) or areas where koalas are intended to be excluded
 - comparability of the landscaping species to the vegetation that has been cleared on the site
 - if it has been determined that koalas should be excluded from the site, then landscaping activities need not incorporate vegetation that is suitable for koalas.

Extractive industry requirements

Applicable division: 5

1. Site design must restrict clearing of koala habitat trees to the extent that is necessary for:
 - a. dredging material from the bed of any waters
 - b. extracting rock, sand, clay, gravel, loam or other material, from a pit or quarry
 - c. screening, washing, grinding, milling, sizing or separating material extracted from a pit or quarry
 - d. work that is the natural and ordinary consequence of extractive work.

2. Native vegetation is progressively restored and rehabilitated once extractive operations have ceased on that part of the premises.
3. Operational activities are staged in line with operational need.

Intent of criterion

The intent is to recognise that extractive activities can receive approvals for large areas that may not be used for operational activities until several years into the future. For example, different areas of such large sites may be progressively cleared and revegetated over time. The intent of the criterion is also to recognise that such development provides an unsafe environment for koalas.

These criteria seek to minimise the impacts of extractive activities on koalas by requiring that the extent of operational activities and vegetation clearing are minimised.

Consideration for development application

To address criteria 1 (a) to (d), the assessment manager will need to be satisfied that any clearing of native vegetation for the extraction and processing of extractive resources is confined to the area reasonably required to undertake the activities.

To address criterion 6, the assessment manager will need to be satisfied that the site will be progressively restored once operations have ceased in a particular area.

To address criterion 8, the assessment manager will need to be satisfied that activities will be sufficiently staged in line with the operational needs of the extractive industry on site.

Implementation notes:

- The response for criteria 1 can be tied in with criterion 8 where the application will need to demonstrate that activities are staged in line with operational needs.
- Restoration and rehabilitation requirements under criterion 6 may be linked to other statutory requirements for the mitigation of the effect of extractive industry development.

3.3 Prohibition in Division 6

Division 6 includes prohibited development (Section 6.2) on the undertaking of urban activities in areas that are zoned under the relevant local government planning scheme for a rural, rural residential, open space or conservation purpose.

The exception to this prohibition is development for a rural residential purpose. The SPRP defines this as 'development that is predominantly for a residential purpose involving a single dwelling on a lot greater than 2000m²'.

The purpose of this prohibition is to ensure that the threats to koalas from urban development are not increased through ad hoc development activities in these areas.

Interpretation note for prohibition in Division 6

The prohibition provision applies to all areas within the PKADA regardless of habitat value type.

Urban activity is defined in the South East Queensland Regional Plan 2009–2031 as a residential, industrial, retail or commercial activity.

3.4 Division 9—Assessment of koala habitat type

The intent of Division 9 is to allow an applicant to demonstrate that a development application complies with the requirements of the SPRP in cases where the SPRP koala habitat values map appears inconsistent with the on-ground conditions.

The SPRP koala habitat is mapped at a region-wide scale and interpretation of the map at finer spatial scales (i.e., at local scale or on the ground) is likely to reveal small discrepancies regarding landcover boundaries and habitat values.

Division 9 provides for review of the koala habitat values at a scale appropriate to the size of the development area. This includes the potential to realign habitat type boundaries and/or change the habitat type.

The assessment manager is responsible for making a determination on whether the habitat type of a site is different to that shown on the koala habitat values map. Evidence to support proposed habitat map revisions should be provided to the assessment manager. Supporting documentation for the proposed changes for the site should include the following as a minimum:

- Map of proposed boundary realignment and/or habitat categories based on field assessment at a defined scale suitable for the site extent
- SPRP koala habitat values map
- Ecological report resulting from field assessment including:
 - evaluation of use of the site by koalas
 - vegetation and land cover assessment.

Other material may include but is not limited to:

- recent aerial photography or satellite imagery
- photographs of site features
- regional ecosystems map
- koala sightings map (note source of records).

Schedule 1—Determining habitat connectivity value for koala movement

Table 2 provides an indicator for determining habitat connectivity value. The assessment manager for a development application may choose to adopt an alternative measure for determining habitat connectivity, and guidance on the criteria for determining habitat connectivity value for koala movement should be sought prior to lodging a development application.

Table 2 provides an indicator of a site's connectivity value with regards to the overall landscape at a distance of two kilometres from each of the site's boundaries. Two kilometres has been selected as the landscape connectivity indicator because this is typically the home range for an adult koala in South East Queensland.

A second value of 500 metres is also used to indicate a high level of site connectivity. The value of 500 metres has been used as this is a distance that a koala can easily traverse within a 24-hour period.

How to use:

- For each factor, assign the relevant ranking value for the site and surrounding area (low, medium or high).
- Add the relevant ranking value (value of one for low, value of two for medium, or value of three for high) for each factor to determine the overall habitat connectivity value score:
 - score of 33 to 43—high connectivity value
 - score of 19 to 32—medium connectivity value
 - score of 15 to 18—low connectivity value.

This means that a site will always be of a medium or high connectivity value if it has at least:

- two high-value factors
- one high-value factor and two medium-value factors
- four medium-value factors.

Table 2. Determining habitat connectivity value

Factor	Low (value of one)	Medium (value of two)	High (value of three)
Surrounding areas			
Bushland habitat	Greater than 2km from site boundary	Within 2km of site boundary	Within 500m of site boundary
High value rehabilitation habitat	Greater than 2km from site boundary	Within 2km of site boundary	Within 500m of site boundary
Medium value rehabilitation habitat	Greater than 2km from site boundary	Within 2km of site boundary	Within 500m of site boundary
Remnant regional ecosystem where koalas are known to occur	Greater than 2km from site boundary	Within 2km of site boundary	Within 500m of site boundary
Regrowth regional ecosystem where koalas are known to occur	Greater than 2km from site boundary	Within 2km of site boundary	Within 500m of site boundary
Areas of ecological significance	Nil within 2km of site boundary	At least one within 2km of site boundary	At least one within 500m of site boundary
Waterway	Nil within 2km of site boundary	At least one within 2km of site boundary	At least one within 500m of site boundary
Ecological corridor	Nil within 2km of site boundary	At least one within 2km of site boundary	At least one within 500m of site boundary

Factor	Low (value of one)	Medium (value of two)	High (value of three)
Site			
Koalas	No evidence of presence within 2km of site	Evidence of presence within 2km of site but not on site	Evidence of presence on site
Habitat condition—including consideration of edge effects and presence of infrastructure	High disturbance	Moderate disturbance	Minimal disturbance
Waterway	Not present	n/a	Present
Ecological corridor	Not present	n/a	Present
Remnant regional ecosystem where koalas are known to occur	Not present	n/a	Present
Regrowth regional ecosystem where koalas are known to occur	Not present	n/a	Present
Within PKADA	No	n/a	Yes