12th December 2012

Dear Senators,

Thank you for this opportunity to submit to the Senate Inquiry on:

The effectiveness of threatened species and ecological communities' legislation in Australia.

As a resident of the Yarra Valley in Victoria I am fortunate to be closely involved with two of Victoria's endangered faunal emblems - Leadbeater's Possum (*Gymnobelideus leadbeateri*) and the Helmeted Honeyeater. Leadbeater's Possum (LBP) is currently in the process of being considered by the EPBC Act for upgrading to Critically Endangered status. My association with these species has been through both my employment at Healesville Sanctuary (Zoos Victoria) for 9.5 years (1996 - 2006) and as a volunteer in both Friends organisations supporting the ongoing survival of the species in the wild.

I am currently the President and Education Officer of Friends of Leadbeater's Possum Inc (www.leadbeaters.org.au). In this submission I will be primarily referring to the extinction crisis of Leadbeater's Possum in the Central Highlands Mountain Ash forests and the lack of the Victorian state government response (past and present) to their impending demise.

The primary threats to LBPs have been well known and documented by the Australian scientific community for over 30 years. The wild population is now estimated at fewer than 1,000 animals - having lost half of their habitat and number during the February 2009 bushfires. These threats are in part quite possible to arrest given the will of the state government, however this has not been forthcoming despite all the evidence presented...

1. Clearfell logging of native forests in the Central Highlands by VicForests;
2. Bushfires;
3. Loss of old hollow trees through collapse (after having being burnt in the 1939 bushfires, serving as habitat trees for the LBPs and now rotten and collapsing);
4. Lack of a revised Action Statement or Recovery Plan for the LBPs since the 2009 bushfires.

The current status of the unique LBPs has reached this point because of the failure of Australia's environmental protection legislation for flora and fauna - both state and federally. The same applies to countless other species of unique plants and animals.

Under the Victorian Flora and Fauna Guarantee Act 1988 and the Federal Environment Protection and Biodiversity Conservation Act 1999 'protection' is only given to those species listed - not to all threatened or endangered species. Hence many species have not received the legislative protection they so desperately need and this has sent a signal to developers, logging companies, mining companies and others that unless a species is listed they have 'cart blanche' to alter, develop, harvest and/or destroy habitat without any consideration to the presence of these unlisted species.

Without an automatic process of listing known threatened/endangered species many will reach perilously low population levels before they are even considered for listing, and some never. The process of listing a species is complex and onerous, taking many years in most cases. The qualified scientists and ecologists capable of undertaking the necessary research and data compilation needed to submit an application for listing are under funded and over worked already, and so only those species which attract attention of particular professionals may be lucky enough to be studied. It has become a Lucky Wheel Spin as to whether or not a threatened species is studied and subsequently listed.

Worldwide there have been a number of examples of newly discovered species of plants and animals becoming extinct within a few years of their revelation due to the slowness of the legislative processes and the lack of will of the responsible governments to recognise their importance in the local biodiversity and take action to ensure their survival.

Following successful listing of a threatened species in Victoria it takes many more years before an Action Statement and Recovery Plan is written, approved by government, adopted and implemented. Lately the lack of resources, both human and financial in the responsible departments has been deplorable and has resulted in many Action Statements and Recovery Plans becoming grossly out of date - in particular following the February 2009 bushfires - and yet the threatening processes such as logging in native forests have continued at the same rate as pre-fire destruction.

Action Statements and Recovery Plans should be written by a specialised group of professionals including ecologists, biologists, geneticists etc. But often this is not the case and they may be poorly constructed documents written by Departmental 'desk jockeys' which then fail to give effective protection to the threatened species. This then leaves the documents open to different interpretation and challenges which may see ecological communities and their species being subject to overt exploitation rather than conservation. Even when the conservation documents and plans are written, approved and ready to implement there often is no funding to ensure the action statements and recovery plans can be put into place. Monitoring of the implementation is infrequent, haphazard and also grossly under funded by government and consequently rarely happens. Updating of Action Statements and Recovery Plans is well behind the change in situation of the listed species.

In the case of Leadbeater's Possum the Action Statement and Recovery Plan is about 12 years out of date and even though a new one was drafted by the experienced professional Recovery Team in 2011 and submitted to the Department of Sustainability and Environment for final approval it has stayed languishing in someone's 'in tray' for nearly a year. This complete lack of action has consequently enabled VicForests (a quasi state government business) to continue with their destructive clearfelling operations in the Central Highlands, the last refuge of the species. In March 2012 Victorian Supreme Court case of MyEnvironment versus VicForests the Court found that the legislative documentation (Action Statement) was so out of date that it conflicted with the Forestry Management Plan's definition of LBPs habitat (what constitutes a hollow tree!) and that it was therefore impossible to rule in favour of preserving the state faunal emblem over the continuing logging of its forest habitat. This case is now going to Appeal in 2013 at great cost to the government and the not-for-profit community group. A recent night motion camera study of the planned forestry coupes has since revealed the presence of LBP colonies in over 10,000 photographs, and yet they have no protection in these habitats!

VicForests spent over $3m of tax payers money fighting court actions in the last 12 months, some launched by the DSE, others by community groups.

As has been proven in numerous Court cases brought successfully against VicForests by the Department of Sustainability and Environment in Victoria and by Environment Gippsland, no one officer effectively ensures that the pre-logging surveys, monitoring and supervision of logging operations is taking place. Consequently high conservation value habitat is being destroyed and VicForests is simply being fined if caught out. Their operations are not being re-evaluated or scrutinised by the state government. In fact they are logging the forests free of charge, failing to pay their royalty payments to the Treasury and costing the Victorian tax payer over $24m in subsidies. This is an example of a business which is allowed to pillage the environment for no economic, social or environmental benefit - in private industry VicForests would have been bankrupted years ago, and yet under current weak state environmental legislation they are able to continue to operate. 80% of the harvested Mountain Ash is sold to the Japanese company Nippon under the local misleading name of Australian Paper as woodchips for about $4 a tonne. If left in the ground the very same forests (the most carbon dense in the world) could be used as Carbon Credits for multi-national companies for over $24 a tonne. Rio Tinto is one such company expressing a lot of interest in doing so, but the Victorian Liberal government would prefer to destroy the forests to appease the National Party who enable them to remain in power in Victoria.

Finally, the FFGA Action Statements and Recovery Plans for Victoria's threatened flora and fauna would seem to be that they are developed in the main by vested interest groups and government agencies to demonstrate to the general public that the species are 'protected', although in reality the legislation is ineffectual and the species continue to spiral to extinction. This is certainly true for the critically endangered Leadbeater's Possum - Victoria's State Faunal Emblem.

Yours faithfully,

Pamela J. W. Miskin