4th December, 2012

Submission on:

The Effectiveness of Threatened Species and Ecological Communities protection in Australia

To: The Senate Standing Committee on the Environment and Communications

From: Bendigo and District Environment Council (B.D.E.C.), Bendigo Field Naturalists Club (B.F.N.C.), Bendigo Sustainability Group (B.S.G.).

This submission from 3 major community, volunteer, non-profit environmental groups in Bendigo outlines agreed positions on the effectiveness of Threatened Species and Ecological Communities protection in Australia. We thank you for this opportunity.

Our position can be summarized thus: we feel and think that protecting, maintaining and enhancing biodiversity is a crucially necessary step to ensure the long term ecological sustainability of all communities, human and otherwise, within our region, nationally and globally.

We offer the thought that for genuinely effective conservation and protection of our endangered species and ecological communities we need a national vision that makes a real commitment to carrying through plans and programs deemed valuable. Such commitment would require a shift in the thinking that underpins current political actions to realize and acknowledge the prime position that a healthy environment and maintenance of all ecological communities plays in our survival as a prosperous nation, and as a species. We believe that such a position is not altruistic, concerned only for other species, but is necessary for economic activities now e.g. tourism, agriculture, food security.

We contend that handing over the administration and assessment processes of the Environment Protection and Biodiversity Conservation (EPBC) Act to the States will result in a worsening of the situation for all ecological communities in Australia, and will not achieve the stated objective of "cutting red tape and green tape" (Speech by Senator Birmingham, 21/11/12) and fast tracking approvals for business, but merely prolong the process. That is unless the original intent of the E.P.B.C. act (to allow the community living within, and aware of, the biological richness of any given area the right of appeal to the Federal Government) is rescinded.

It is worth noting at this point that the EPBC Act was introduced under a Coalition Government, Senator Robert Hill being the Minister for the Environment at the time. Senator Birmingham has said that Senator Hill regarded it as "one of his great accomplishments – and he should, because the Act does provide some national standards for environmental protection."

So, why was it necessary for Senator Hill to introduce the EPBC act if the States were doing a fine job of protecting the environment across State boundaries? Clearly, they were not, and continue to be reprehensible in this area. Senator Birmingham also says the national standards outlined in the EPBC Act should be maintained. If the States are handed the responsibility for assessment then who will monitor State decisions and who will hear the appeals against those decisions when they clearly breach the national standards? If a mechanism for this is put in place then this adds yet another layer of delay for business. If this is not done, and the State's decisions are final, then we are back

before the introduction of the EPBC Act, and the 'national standards' are national in name only, and standards in name only. Senator Hill knew this, and in dismantling his EPBC legislation Parliament will be trashing any national standards for environmental and biodiversity protection.

The effectiveness of the protection of species and ecological communities depends upon federal laws, and the Commonwealth Government's overriding powers. State and territory boundaries fragment bioregions, ecological communities and species' territories, making it difficult, if not impossible, for the states and territories to implement holistic approaches to the management of Australia's biodiversity, as well as the implementation of effective ecological recovery programs. This is evident from the management of the Alpine region, granting of permits for cattle grazing, duck shooting and the Murray-Darling River's environmental flow.

The fragmentation of bioregions by the state and territory borders leads to competition for the use of the bioregions' resources, resulting in their inevitable overexploitation, as has happened, and is still happening with the Murray-Darling River Basin. Commonwealth stewardship of recovery programs is often vital, as in the case of the fish recovery program through the establishment of the Murray National Park. Compare this successful program where vested interests are not competing with the mess that has been made of the environmental flows in the Murray Darling Basin agreement. Only the federal government can implement effective recovery processes on shared assets.

Finally, we shall make some recommendations about where we should go from here.

1. Strengths and Successes of Federal Environmental Legislation

The establishment of a network of National Parks has been of great benefit in offering protection to threatened species and ecological communities in Australia, although it has not been sufficient to guarantee their survival. National Parks do provide a focus for research and maintenance programs, and are the major educational facility for public appreciation of our biodiversity. They provide a skeleton which underpins the vital acquisition of associated land for biodiversity by numerous philanthropic and community groups. They have, by and large, been a great success.

Without Federal intervention and creation of National Parks, and World Heritage Areas, and acknowledgement of RAMSAR wetlands, obviously the task of preserving our diminishing biodiversity would be far greater. This system should be expanded, enhanced and funded properly to combat threatening processes within them, e.g. feral animals, weeds etc. Mining and other human induced, biodiversity threatening processes are not an option in these areas, and legislation should be strengthened accordingly.

Federal intervention has been essential in protecting our wild areas. One pertinent to Victoria is the reintroduction of cattle grazing into Victoria's Alpine National Parks in February, 2011, and the intervention of the Federal Government to reverse this decision. Of course, without Federal intervention we would have had oil rigs on the Great Barrier Reef, a dam on the Franklin River and a dam on the Mary River. The Federal government has been instrumental in protecting our natural heritage against the poor oversight by the States, and their 'development at all costs' bias.

The EPBC Act has been instrumental in protecting many natural areas. One example in Bendigo was the invocation of the EPBC Act to have a hill side of natural bushland adjacent to the One Tree Hill

area of the Bendigo National Park preserved from intensive development because of the documented presence there of the Pink Tailed Worm Lizard (Aprasia parapulchella). This was the last and strongest refuge for this endangered little lizard, and the Federal legislation recognized this and preserved its habitat.

Another example of the usefulness of the EPBC legislation is in successful claims to mitigate inappropriate fire regimes in Victoria post Black Saturday. Handed to the States these processes would be unlikely to see any change in state sponsored fire regimes (see 2.2 of this submission).

Small victories in the protection of the natural environment are often eroded as a result of what is ineffectual law, sanctioned incremental degradation, usually for the sake of the mythical word 'development' that leads to the inevitable loss of biodiversity. If responsibility for the E.P.B.C. processes is handed back to the State Government then the Pink Tailed Worm Lizard will most likely suffer extinction.

2. Failures and Weaknesses of Federal Environmental Legislation

Despite the above achievements, this submission does not defend a process that is supposed to protect and enhance the natural environment, especially species that are in danger of extinction, when it has clearly failed to do so, as can be seen by the continued decline in the natural world throughout Australia. It is not necessary for us to show that this decline is in progress, as there is more than ample evidence publicly available. For example, see the '*State of the Environment 2008 (Victoria)'.*

The inability of environmental law to protect and enhance what little we have left of the natural ecological values in Victoria is readily seen in the discussion of the following issues. These examples of what has actually been happening in Victoria concerning the natural environment will give a better idea of the result of handing greater control to the States, rather than just words no matter how uplifting they may sound.

2.1 Firewood:

The Victorian Government has decided that fire wood can be collected from public forest without a permit. The wood on the floor of forests plays a vital part in the health of the ecosystems within forests but it can now be removed without any supervision of any kind. Also, in preparation for this firewood season within the Box-Ironbark areas, forestry has allowed the unsupervised cutting of trees by people with almost no training. Foresters do not mark the trees to be cut – it is left up to those who are doing the cutting. Trees lay on the forest floor to be collected without permit and without supervision, so supposed quotas are not checked and are regularly flaunted.

In the winter of 2012 those who carried out the cutting within the Wellsford State Forest, on the doorstep of Bendigo, dropped trees on top of Ausfeld's Wattle, a listed significant species (Victorian). This has been done despite the department's requirement to protect vulnerable species. Therefore, we have people lawfully collecting their firewood unaware of the significance of this area, which will result in the final destruction of the Ausfeld's Wattle for this location.

Even though in the great scheme of things this may seem small, this type of action has, and is, taking place constantly right across Victoria. It is the tyranny of incremental loss, it is the dreadful problem

that befalls the whole ecosystem in Australia and only the Commonwealth can affect changes that will have any impact. That it does so is of the greatest imperative for the maintenance of biodiversity.

2.2 Inappropriate Fire Regimes:

The planned burning of forests in the Murray Goldfields fire district for the purpose of fire management is done using four zones. Zone one and two are burnt intensely on a 5 and 10 year rotation.

The box and ironbark forests will recover from a fire event, given time, but the close inter-fire intervals of 5 and 10 years will not allow for recovery. (Ecological Burning in Box-Ironbark Forests N.C.C.M.A.). Because of this burning regime we will (and are) seeing major changes to the vegetation's structure, composition and function, with great losses in both flora and fauna.

Within the Goldfields Region 67,441 hectares (Department of Sustainability and Environment Victoria figures) will be affected by this policy as zones one and two will eventually be lacking in diversity, and will become generally uniform with fast-responding, fire-loving plants that are highly flammable.

The primary objective relating to the natural environment within the Code of Practice for Fire Management on Public Land is "to maintain or improve the resilience of natural ecosystems and their ability to deliver services such as biodiversity, water, carbon storage and forest products". The DSE Murray Goldfields fire district is failing to achieve this primary objective because it has embarked upon a regime that will burn 67,441 hectares intensely and frequently, degrading and in effect destroying the areas.

At the moment, thanks to the EPBC Act, considerable pressure is being exerted to protect federally listed species from these burns. This act, coupled with the efforts of local field naturalists, are all that stands between many species and their extinction from deliberately lit fires by the government of the day.

2.3 Victoria's Native Vegetation Management – A Framework for Action (DNRE 2002):

The Victorian Government is reviewing how the state deals with native vegetation. Please see the attachment: (VNPA Submission to the State Government's consultation paper: *Review of Victoria's native vegetation permitted clearing regulations, October 2012)*

Even with an incredibly narrow and unrealistic interpretation of 'net gain', the *Native Vegetation Net Gain Accounting first approximation report (April 2008)* found that there has been a significant loss of indigenous vegetation across the state. After nearly six years the primary goal has not been met! A 'net loss' across Victoria of vegetation and habitat is what has actually happened!

The report found that there had been a net loss of 4,000 Habitat Hectares/year. The 'Framework' has failed to achieve any net gain.

Professor Hugh Possingham from the University of Queensland's Centre for Ecology stated on the Radio National, Breakfast with Geraldine Doogue, 17 December, 2005: "Biodiversity is not fungible, it is not possible to trade it from one place to another and hope to retain its value; biodiversity is

dependent on where it is in the landscape (place) and when it is (time)'. He went on to say: "I'm going to conserve this 1,000 hectares if you let me destroy that 1,000 – in the end that just means we destroy half of everything that is left, which isn't at all acceptable. If you were to turn 1,000 hectares into bare ground, or urban development, then you should have to turn bare ground into 1,000 hectares of native vegetation. Show me somebody who has done that; show me somebody that reconstructed an ecosystem from scratch. Nobody's done that. Ever!"

Please see attached 'Why bartering biodiversity fails.' Ecosystem services are destroyed directly by the harvest of their structural components, primarily the renewable resources of which they are composed. The focus of economic activity (including in the Framework) seems to be almost exclusively on the physical structure of ecosystems, whilst ignoring or not fully appreciating how these structures are inextricable from ecosystem function. The Framework is really about compensating for the loss of these structural components (i.e. trees) whilst not saying anything about compensating for the loss of concomitant FUNCTIONALITY, or services, that go along with these structures. A functionality without which we cannot live, let alone produce crops and food, and survive and thrive in Victoria, or Australia.

Governments take biodiversity for granted. We cannot afford to do this.

3. Questions for your consideration

- If the EPBC Act is handed over to the States, how will the Commonwealth supervise compliance with agreed prescriptions on how a state would carry out its obligations to significant species? For example, how would the Commonwealth have required Victoria to stop cattle grazing in the high country if many of the powers residing with the EPBC Act had been already handed to the state? Will the Commonwealth strengthen their powers here, as is needed to ensure continued national environmental standards?
- How will the Commonwealth deal with the logging of Leadbeater's Possum habitat? The possum inhabits the Ash forests of the Victorian Central Highlands where the Victorian Government through VicForests is cutting the few remaining areas that have not been burnt by the Black Saturday fires, thus condemning this species to extinction. Timber contracts are said to be the reason for this. Now that the Regional Forest Agreements are up for renewal will the Federal Government use its powers in such a case to prevent the extinction of Victoria's faunal emblem?
- The state of Victoria is in charge of how fire protection shall be administered. It has a contradiction within its Code of Practice for Fire Management as one of the two primary objectives says that human life overrides all things and the other objective says that it must maintain and enhance biodiversity. How will the Commonwealth force Victoria to consider and protect federally listed species when burning takes place for fire mitigation purposes?
- How will the Federal government ensure the protection of the last pure strain of the Australian Dingo on Fraser Island classified as "Vulnerable"? (See submission from Sarjeant and Sarjeant, Hutchinson, Marsh, Jacobsen.) Queensland government policy sanctions the killing of these dingoes, and the disruption of their clans, thus ensuring their eventual extinction. Apparently they can be shot for "loitering" in their own environment. How can the state be trusted to administer the relevant provisions of the EPBC Act?

- How will the causes threatening and diminishing biodiversity, such as the plague of feral cats, be tackled without a federal approach and a fully funded federal program? What will be the legislative basis for such an essential program?
- How will attempts to reconnect Australia's fragmented landscape through the many biolinks that are being planned and planted, largely through community initiative, be safeguarded and guaranteed through "national standards for environmental protection"? It is vital to give the Greater Eastern Ranges biolink (GER), now affiliated with the Central Victorian Biolink Project and Project 141, such certainty.

4. Conclusion

It is very important that the Commonwealth increase the effectiveness of the powers it now has as it is the only body that can give effect to a nationwide vision that will safeguard the natural environment across the whole continent. The piecemeal approach that has been the usual way of dealing with environmental issues has failed because it does not have an overview of what could or should be, and as a result policy is directionless.

We need a vision of where we are headed, and what we want to leave to future generations across the whole Australian landscape, and the Commonwealth is the only body that can do this. We then need to work towards that end. Such a vision enables both business and conservation to know the goals and limits, and work together to achieve them.

We are, at this moment, still able to save and create an ecologically prosperous nation, but the moment is quickly passing. We must act now with bold solutions.

5. Recommendations:

5.1 That this inquiry recommend a thoroughgoing investigation, at best a Royal Commission, to investigate all aspects of why environmental laws and recovery plans in Australia have failed to achieve effective threatened species and ecological communities protection and recovery, and develop recommendations to make laws that actually effectively and efficiently protect our intact and fragmented landscapes and ecosystems to prevent further damage/extinctions, and ensure that recovery plans actually achieve their objectives.

5.2 That Biolink programs should be guaranteed by federal law and backed by federal funding.

5.3 That current federal environmental laws e.g. the EPBC Act should be wholly administered by the Commonwealth Government. This does not mean they cannot be streamlined, but final decisions must be made in accordance with federal assessment processes.

5.4 That this inquiry develop a new paradigm for all policy matters that foregrounds the importance of the natural world, a healthy environment and the protection of all other species as the basis for genuine ecologically sustainable development.

5.5 That this inquiry initiate an expert scientific panel to determine effects of and recommend action to help protect and initiate recovery and adaption of

biodiversity in the face of the rampant climate change we are about to experience.

Reference Documents attached:

Walker, Brower, Stephens, Lee: 'Why bartering biodiversity fails'
Victorian National Parks Association 'Review of Victoria's Native Vegetation permitted clearing regulations'

Signed:

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