

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 18/01/2019 4:02:37 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)  
File Number: VID1228/2017  
File Title: FRIENDS OF LEADBEATER'S POSSUM INC v VICFORESTS  
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 18/01/2019 4:02:50 PM AEDT

A handwritten signature in blue ink that reads 'Warwick Soden'.

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 17  
Rule 8.05(1)(a)

**SECOND FURTHER AMENDED STATEMENT OF CLAIM**

**Amended pursuant to rule 16.51**

**Further amended by leave**

**Second further amended by leave granted on 17 January 2019**

Federal Court of Australia  
District Registry: Victoria  
Division: ACLHR

No. VID 1228 of 2017

**FRIENDS OF LEADBEATER’S POSSUM INC**

Applicant

**VICFORESTS**

Respondent

1. The Applicant:

1.1 is an association incorporated under the *Associations Incorporation Reform Act* 2012 (Vic) in Australia;

1.2 during the two years immediately before the conduct to which the relief sought in the Applicant’s originating application relates:

(a) has had objects or purposes that included the protection or conservation of, or research into, the environment; and

(b) has engaged in a series of activities related to the protection or conservation of, or research into, the environment.

1.3 during the two years immediately before the Applicant’s application:

Filed on behalf of (name & role of party)	Friends of Leadbeater’s Possum Inc, the Applicant		
Prepared by (name of person/lawyer)	Danya Jacobs		
Law firm (if applicable)	Environmental Justice Australia		
Tel	(03) 8341 3100	Fax	(03) 8341 3111
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Address for service	Level 3, 60 Leicester Street		
(include state and postcode)	CARLTON VIC 3053		

- (a) has had objects or purposes that included the protection or conservation of, or research into, the environment; and
  - (b) has engaged in a series of activities related to the protection or conservation of, or research into, the environment.
2. The Respondent (**VicForests**) is a State body established in 2003 under s 14 of the *State Owned Enterprises Act 1992* (Vic).

### **VicForests functions**

3. The principal function of VicForests is to undertake, on a commercial basis, the sale and supply of timber resources in Victorian State forests.
4. As part of the principal function of VicForests identified in paragraph 3 above, VicForests plans and conducts, from time to time, ~~the logging of~~ forestry operations in specified areas of Victorian State forests.
5. One of the areas of Victorian State forest in which VicForests plans and conducts forestry logging operations is the part of Victoria designated as the Central Highlands Regional Forest Agreement Area (the **CH RFA Area**).

### **Timber Release Plan for the Central Highlands RFA Area**

6. In January 2017, VicForests prepared an “Approved Timber Release Plan Change” (the **Timber Release Plan**), which identified, by map, schedule and coupe number, areas of forest in the CH RFA Area, which are proposed for ~~logging~~ forestry operations.
- 6.1 The Timber Release Plan includes a number of maps and a schedule, which together identify the areas proposed for ~~logging~~ forestry operations as individual “coupes”, each of which coupes is designated by an identification number.
- 6.2 The Timber Release Plan maps designate, among other things, the boundary, location and identification number of each coupe.
- 6.3 The Timber Release Plan schedule designates, among other things:
- (a) each coupe identification number;

- (b) the net area in hectares expected to be logged within each coupe boundary;
- (c) the method of logging that will be used in each coupe, termed the “silviculture system”;
- (d) the nominated period in which forestry operations are logging is proposed in each coupe; and
- (e) the operational status of each coupe, indicating either that logging has been completed, that logging has commenced but not completed or that logging has not yet commenced.

7. On 5 January 2017, VicForests published:

7.1 Notice of the “Timber Release Plan Change”, as approved by VicForests, in the Victoria Government Gazette; and

7.2 the Timber Release Plan maps and schedule on the VicForests website.

8. The identification of coupes proposed for ~~logging~~ forestry operations in the CH RFA Area by preparation of the Timber Release Plan constitutes an action for the purposes of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the **EPBC Act**) (“an action”).

*Coupes that have been clear-felled*

9. Between 2004 and 2017, VicForests ~~clear-felled~~ conducted forestry operations in the following coupes within the CH RFA Area which are identified in the Timber Release Plan:

**~~Nolans Gully logged coupes~~**

9.1 ~~297-511-0001 (Blowhard Dam);~~

9.2 ~~297-511-0003 (Crawler);~~

**~~Coles Creek logged coupes~~**

9.3 ~~297-538-0001 (Big Bull Fiddle);~~

9.4 ~~297-538-0002 (Skinny Jim);~~

#### **Mount Despair logged coupes**

9.5 298-516-0001 (Glenview), using seed-tree retention method of logging (STR);

9.6 298-519-0003 (Flicka), using clear-felling method of logging (CFE);

#### **Kalatha Creek logged coupe**

9.7 ~~298-874-0003 (Big Kahuna);~~

#### **Beech Creek logged coupes**

9.8 ~~300-537-0005 (Makula);~~

#### **Hermitage Creek logged coupe**

9.9 ~~300-941-0008 (Murrindindi Headwaters);~~

9.10 ~~307-003-0024 (Anderson Mill);~~

9.11 ~~307-505-0002 (Giant);~~

9.12 307-505-0011 (Guitar Solo), using STR;

#### **Acheron logged coupes**

9.13 309-507-0001 (Mont Blanc), using STR;

9.14 309-507-0003 (Kenya), using CFE;

9.15 309-507-0004 (The Eiger), using CFE;

**The Triangle logged coupe**

9.16 317-508-0008 (Professor Xavier), using CFE;

**Ada Tree logged coupes**

9.17 344-509-0009 (Ginger Cat), using CFE;

9.18 348-506-0003 (Blue Vein), using CFE;

**Starlings Gap logged coupes**

9.19 345-503-0005 (Bullseye), using CFE;

9.20 345-505-0006 (Hairy Hyde), using CFE;

9.21 345-506-0004 (Opposite Fitzies), using CFE;

9.22 ~~347-501-0005 (Big Blacksands Creek);~~

9.23 ~~348-510-0008 (Return of the Tippy);~~

9.24 ~~348-537-0005 (Tom Bowler);~~

**New Turkey Spur logged coupe**

9.25 348-515-0004 (Greendale), using CFE;

**Ada River logged coupes**

9.26 348-517-0005 (Tarzan), using CFE;

9.27 ~~348-517-0006 (Jane);~~

9.28 ~~348-517-0007 (Bomba);~~

9.29 348-517-0009 (Apeman);

**Loch logged coupes**

9.30 462-507-0008 (Estate), using STR;

**Salvage Creek logged coupe**

9.31 463-504-0009 (De Valera), using CFE; and

**Baw Baw logged coupe**

9.32 483-505-0002 (Rowels), using STR;-

**Cambarville logged coupes**

9.33 312-510-0007 (Bromance), using CFE;

9.34 312-510-0009 (Lovers Lane), using CFE;

**Matlock logged coupe**

9.35 317-508-0010 (Swing High), using CFE;

**Noojee logged coupe**

9.36 462-504-0004 (Skerry's Reach), by CFE;

**Rubicon logged coupes**

9.37 288-516-0007 (Golden Snitch), using CFE;

9.38 288-516-0006 (Hogsmeade), using CFE;

9.39 287-511-0006 (Houston), using CFE; and

9.40 287-511-0009 (Rocketman), using CFE,

### **Big River Logged Coupe**

9.41 290-527-0004 (Camberwell Junction);

(together, the **logged coupes**).

#### *Proposed clear-felling*

10. The Approved Timber Release Plan shows that the following coupes are proposed for forestry operations scheduled to be logged by the clear-felled or seed tree retention methods between 2017 and 2018 within the CH RFA Area:

#### **Nolans Gully scheduled coupes**

10.1 297-505-0001 (Goliath);

10.2 297-509-0001 (Shrek);

10.3 297-509-0002 (Infant);

10.4 297-511-0002 (Junior);

#### **Sylvia Creek scheduled coupes**

10.5 297-526-0001 (Gun Barrel);

10.6 297-530-0001 (Imperium);

10.7 297-530-0002 (Utopia);

#### **Coles Creek scheduled coupe**

10.8 297-538-0004 (Home & Away);

#### **Mount Despair scheduled coupes**



10.9 298-502-0003 (Chest);

10.10 298-510-0003 (Bridle);

**Kalatha Creek scheduled coupe**

10.11 298-509-0001 (South Col);

**Beech Creek scheduled coupes**

10.12 300-524-0002 (Waves);

10.13 300-539-0001 (Surfing);

**Hermitage Creek scheduled coupes**

10.14 307-505-0001 (Drum Circle);

10.15 307-505-0009 (Flute);

10.16 307-505-0010 (San Diego);

**Acheron scheduled coupe**

10.17 309-507-0007 (White House);

**Torbreck River scheduled coupes**

10.18 312-007-0014 (Skupani);

10.19 312-508-0002 (Splinter);

10.20 312-503-0002 (Bhebe);

10.20A 312-002-0006 (Farm Spur Gum);

**Salvage Creek scheduled coupe**

10.21 344-501-0014 (Salvage Creek);

**Ada Tree Scheduled coupe**

10.22 344-509-0007 (Blue Cat);

**Starlings Gap scheduled coupes**

10.23 345-504-0003 (Smyth Creek);

10.24 345-504-0005 (Starlings Gap);

10.25 345-505-0006 (Hairy Hyde);

10.26 345-505-0009 (Blacksands Road);

**Mount Bride scheduled coupes**

10.27 345-526-0003 (Louisiana);

10.28 345-526-0004 (Bourbon Street);

**New Turkey Spur scheduled coupe**

10.29 348-504-0005 (Gallipoli);

**Ada River scheduled coupes**

10.30 348-518-0004 (Johnny);

10.31 348-519-0008 (Turducken);

**Noojee scheduled coupes**

10.32 462-504-0009 (Epiphany);

10.32A 462-504-0008 (Loch Stock);

**Loch scheduled coupes**

10.32B 462-506-0019 (Brugha);

~~**Loch scheduled coupe**~~

10.33 462-507-0009 (Jakop); and

**Baw Baw scheduled coupe**

10.34 483-505-0018 (Diving Spur);

**South Noojee scheduled coupes**

10.35 462-512-0002 (Backdoor);

10.36 463-501-0005 (Lodge);

**Big River scheduled coupes**

~~10.37 290-527-0004 (Camberwell Junction);~~

10.38 290-525-0002 (Vice Captain);

**Snobbs Creek scheduled coupes**

10.39 288-505-0001 (Dry Spell); and

10.40 288-506-0001 (Dry Creek Hill~~leaner~~);

(together, the **scheduled coupes**).

**Leadbeater's Possum and Greater Glider are listed threatened species under the EPBC Act**

11. The CH RFA Area is the home to, among other species of fauna, populations of Leadbeater's Possum (*Gymnobelideus leadbeateri*) and Greater Glider (*Petauroides Volans*).

**Particulars**

- (a) Sightings of the Leadbeater's Possum in the CH RFA Area are recorded in a Geographic Information System (**GIS**) file maintained by the Victorian Government Department of Environment, Land, Water and Planning carrying the filename "LBPAG\_SITES\_CHRFA" and which can be viewed on the internet at the Victorian Government website titled "Leadbeater's Possum Interactive Map" located at [lbp.cerdi.edu.au/possum\\_map.php](http://lbp.cerdi.edu.au/possum_map.php).
- (b) Sightings of the Greater Glider in the CH RFA Area have been recorded by observers in video footage, still photographs and by the recording of sighting locations of Greater Gliders on handheld Global Positioning System (**GPS**) devices, creating a point location GIS file.

Records of the sightings of the Greater Glider in the CH RFA Area may be inspected at the office of the Applicant's solicitor during standard business hours.

- (c) Some sightings of the Greater Glider in the CH RFA Area are recorded in two GIS files maintained by the Victorian Government Department of Environment, Land, Water and Planning carrying the filenames "VBA\_FAUNA25" and "VBA\_FAUNA100" and which can be obtained via the Victorian Government website located at [www.data.vic.gov.au](http://www.data.vic.gov.au).

12. On 11 July 2000, the Minister for the Environment and Heritage declared Leadbeater's Possum to be listed as a threatened species in the endangered category by declaration under s 178 of the EPBC Act.

13. On 22 April 2015, the Minister for the Environment approved a conservation advice and transferred the Leadbeater's Possum to the critically endangered category under the EPBC Act, with effect from 2 May 2015.
14. ~~On 25 May 2016,~~ The Minister for the Environment:
- 14.1 on 2 May 2016, included the Greater Glider in the list of ~~as a~~ threatened species in the vulnerable category under s 178 of the EPBC Act; and
- 14.2 on 2 May 2016, approved a conservation advice for the species which was in effect from 5 May 2016 until about 24 May 2016;
- 14.3 on 25 May 2016 approved, by delegate, a conservation advice for the species in effect since that date.
- 14A. On 14 June 2017, the Greater Glider was specified as a threatened taxon in the list under s 10 of the *Flora and Fauna Guarantee Act 1988* (Vic) (**FFG Act**).
15. In consequence of the listing of the Leadbeater's Possum as a threatened species in the endangered, and critically endangered, categories under the EPBC Act, the taking of an action that is likely to have a significant impact on the Leadbeater's Possum is prohibited by s 18(2)(b) of the EPBC Act unless:
- 15.1 there is an approval in place for that action under Part 9 of the EPBC Act: s 19 of the EPBC Act; or
- 15.2 the action is a Regional Forest Agreement forestry operation undertaken in accordance with a Regional Forest Agreement (**RFA**): s 38(1) of the EPBC Act and s 6(4) of the *Regional Forest Agreements Act 2002* (Cth) (the **RFA Act**).
16. In consequence of the listing of the Greater Glider as a threatened species in the vulnerable category under the EPBC Act, the taking of an action that is likely to have a significant impact on the Greater Glider is prohibited by s 18(4)(b) of the EPBC Act unless:
- 16.1 there is an approval in place for that action under Part 9 of the EPBC Act: s 19 of the EPBC Act; or

- 16.2 the action is a RFA forestry operation undertaken in accordance with a RFA: s 38(1) of the EPBC Act and s 6(4) of the RFA Act.

**Past forestry operations have, are, or are logging has, is or is likely to have a significant impact on the Leadbeater's Possum**

17. Forestry operations in ~~The logging of~~ each of the logged coupes was an action.

17A. Forestry operations in some or all of the logged coupes was an action.

18. ~~The logging of the Nolan's Gully logged coupes 9.1 and 9.2:~~

18.1 ~~has had,~~

18.2 ~~is having,~~

18.3 ~~is likely to have,~~

~~a significant impact on the Leadbeater's Possum.~~

**Particulars**

~~There is a real chance that the logging of these coupes has, is or is likely to:~~

- ~~(a) lead to a long term decrease in the size of the population of the Leadbeater's Possum;~~
- ~~(b) reduce the area of occupancy of the Leadbeater's Possum;~~
- ~~(c) fragment an existing population of Leadbeater's Possum into two or more populations;~~
- ~~(d) adversely affect habitat critical to the survival of the Leadbeater's Possum;~~
- ~~(e) disrupt the breeding cycle of Leadbeater's Possums;~~
- ~~(f) modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that the Leadbeater's Possum is likely to decline;~~
- ~~(g) interfere with the recovery of the Leadbeater's Possum.~~

19. ~~The logging of the Coles Creek logged coupes 9.3 and 9.4:~~

19.1 ~~has had,~~

19.2 ~~is having,~~

19.3 ~~is likely to have,~~

~~a significant impact on the Leadbeater's Possum.~~

**Particulars**

~~The Applicant refers to and repeats the particulars at paragraph 18 above, and says that the particulars apply to the Coles Creek logged coupes 9.3 and 9.4.~~

20. ~~The logging of the Kalatha Creek logged coupe 9.7:~~

20.1 ~~has had,~~

20.2 ~~is having,~~

20.3 ~~is likely to have,~~

~~a significant impact on the Leadbeater's Possum.~~

**Particulars**

~~The Applicant refers to and repeats the particulars at paragraph 18 above, and says that the particulars apply to the Kalatha Creek logged coupe 9.7.~~

21. ~~The logging of the Beech Creek logged coupe 9.8:~~

21.1 ~~has had,~~

21.2 ~~is having,~~

21.3 ~~is likely to have,~~

~~a significant impact on the Leadbeater's Possum.~~

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 18 above, and says that the particulars apply to the Beech Creek logged coupe 9.8.

22. Forestry operations in ~~The logging of~~ the Hermitage Creek logged coupes 9.9— 9.12:

22.1 have ~~has~~ had,

22.2 are ~~is~~ having,

22.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

### Particulars

There is a real chance that forestry operations in ~~the logging of~~ this coupe ~~have~~ ~~has~~, ~~are~~ ~~is~~ or ~~are~~ ~~is~~ likely to:

- (a) lead to a long-term decrease in the size of the population of the Leadbeater's Possum;
- (b) reduce the area of occupancy of the Leadbeater's Possum;
- (c) fragment an existing population of Leadbeater's Possum into two or more populations;
- (d) adversely affect habitat critical to the survival of the Leadbeater's Possum;
- (e) disrupt the breeding cycle of Leadbeater's Possums;
- (f) modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that the Leadbeater's Possum is likely to decline;
- (g) interfere with the recovery of the Leadbeater's Possum;
- (h) have an impact that is important, notable or of consequence for the Leadbeater's Possum having regard to its context and intensity, and the sensitivity, value and quality of the environment being impacted.



The Applicant refers to and repeats the particulars at paragraph 18 above, and says that the particulars apply to the Hermitage Creek logged coupes 9.9 – 9.12.

23. Forestry operations in The logging of the Triangle logged coupe 9.16 (Professor Xavier):

23.1 have ~~has~~ had,

23.2 are ~~is~~ having,

23.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 18 above, and says that the particulars apply to the Triangle logged coupe 9.16 (Professor Xavier).

24. Forestry operations in one or both The logging of Ada Tree logged coupes 9.17 (Ginger Cat) and 9.18 (Blue Vein) individually or as a whole:

24.1 have ~~has~~ had,

24.2 are ~~is~~ having,

24.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 18 above, and says that the particulars apply to one or both of the Ada Tree logged coupes 9.17 (Ginger Cat) and 9.18 (Blue Vein).

25. Forestry operations in each, some or all The logging of the Starlings Gap logged coupes 9.19, 9.20 (Hairy Hyde), and 9.21 individually or as a whole 9.19 – 9.24:

25.1 have ~~has~~ had,

25.2 are ~~is~~ having,

25.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph ~~1822~~ above, and says that the particulars apply to each, some or all of the Starlings Gap logged coupes 9.19, 9.20 (Hairy Hyde), and 9.21~~s 9.19 – 9.24~~.

26. Forestry operations in ~~The logging of~~ the New Turkey Spur logged coupe 9.25 (Greendale):

26.1 have ~~has~~ had,

26.2 are ~~is~~ having,

26.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph ~~1822~~ above, and says that the particulars apply to the New Turkey Spur logged coupe 9.25 (Greendale).

27. Forestry operations in ~~The logging of~~ the Ada River logged coupes 9.26 (Tarzan)~~—9.29~~:

27.1 have ~~has~~ had,

27.2 are ~~is~~ having,

27.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

### Particulars

The Applicant refers to and repeats the particulars at paragraph ~~1822~~ above, and says that the particulars apply to the Ada River logged coupes 9.26 (Tarzan)—~~9.29~~.

28. Forestry operations in ~~The logging of~~ the Salvage Creek logged coupe 9.31 (De Valera):

28.1 have ~~has~~ had,

28.2 are ~~is~~ having,

28.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

### Particulars

The Applicant refers to and repeats the particulars at paragraph ~~1822~~ above, and says that the particulars apply to the Salvage Creek logged coupe 9.31 (De Valera).

29. Forestry operations in ~~The logging of~~ the Baw Baw logged coupe 9.32:

29.1 have ~~has~~ had,

29.2 are ~~is~~ having,

29.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

### Particulars

The Applicant refers to and repeats the particulars at paragraph ~~1822~~ above, and says that the particulars apply to the Baw Baw logged coupe 9.32.

29A. Forestry operations in ~~The logging of~~ the Matlock logged coupe 9.35:

29A.1 have ~~has~~ had,

29A.2 are ~~is~~ having,

29A.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 22 above, and says that the particulars apply to the Matlock logged coupe 9.35.

29B. Forestry operations in ~~The logging of~~ the Noojee logged coupe 9.36 (Skerry's Reach):

29A.1 have ~~has~~ had,

29B.2 are ~~is~~ having,

29B.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 22 above, and says that the particulars apply to the Noojee logged coupe 9.36 (Skerry's Reach).

29C. Forestry operations in each, some or all ~~The logging of~~ the Rubicon logged coupes 9.37 – 9.40 ~~individually or as a whole~~:

29C.1 have ~~has~~ had,

29C.2 are ~~is~~ having,

29C.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 22 above, and says that the particulars apply to each, some or all of the Rubicon logged coupes 9.37 – 9.40.

30. Forestry operations in some or all ~~The logging~~ of the logged coupes identified at paragraphs 22 48-29C above (the Logged Leadbeater's Possum Coupes):

30.1 have ~~has~~ had,

30.2 are ~~is~~ having,

30.3 are ~~is~~ likely to have,

a significant impact on the Leadbeater's<sup>2</sup> Possum.

### Particulars

The Applicant refers to and repeats the particulars in paragraphs 22 48-29C above.

The Applicant refers to and repeats the particulars at paragraph 22 and says that the particulars apply to forestry operations in some or all of the Logged Leadbeater's Possum Coupes.

**Past forestry operations have, are, or are logging has, is or is likely to have a significant impact on the Greater Glider**

31. Forestry operations in ~~The logging of~~ each of the logged coupes was an action.

31A. Forestry operations in some or all of the logged coupes was an action.

32. Forestry operations in one or both ~~The logging~~ of the Mount Despair logged coupes 9.5 and 9.6:

32.1 have ~~has~~ had,

32.2 are ~~is~~ having,

32.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

### Particulars

There is a real chance that ~~the logging~~ forestry operations in one or both of these coupes have, are, or are ~~has, is or is~~ likely to:

- (a) lead to a long-term decrease in the size of an important population of Greater Glider;
- (b) reduce the area of occupancy of an important population of Greater Glider;
- (c) fragment an important population of Greater Glider into two or more populations;
- (d) adversely affect habitat critical to the survival of the Greater Glider;
- (e) disrupt the breeding cycle of an important population of Greater Gliders;
- (f) modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that the Greater Glider is likely to decline;
- (g) interfere substantially with the recovery of the Greater Glider;
- (h) have an impact that is important, notable or of consequence for the Greater Glider, having regard to its context and intensity, and the sensitivity, value and quality of the environment being impacted.

33. Forestry operations in ~~The logging of~~ the Hermitage Creek logged coupe 9.12:

33.1 have ~~has~~ had,

33.2 are ~~is~~ having,

33.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

### Particulars

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Hermitage Creek logged coupe 9.12.

34. Forestry operations in each, some or all ~~The logging~~ of the Acheron logged coupes 9.13 – 9.15:

34.1 have ~~has~~ had,

34.2 are ~~is~~ having,

34.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

### Particulars

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to each, some or all of the Acheron logged coupes 9.13 - 9.15.

35. Forestry operations in one or both ~~The logging~~ of the Ada Tree logged coupes 9.17 (Ginger Cat) and 9.18 (Blue Vein) ~~individually or as a whole~~:

35.1 have ~~has~~ had,

35.2 are ~~is~~ having,

35.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

### Particulars

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to one or both of the Ada Tree logged coupes 9.17 (Ginger Cat) and 9.18 (Blue Vein).

36. Forestry operations in ~~The logging of~~ the Starlings Gap logged coupe 9.20 (Hairy Hyde):

36.1 have ~~has~~ had,

36.2 are ~~is~~ having,

36.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Starlings Gap logged coupe 9.20 (Hairy Hyde).

37. Forestry operations in ~~The logging of~~ the Ada River logged coupe 9.26 (Tarzan):

37.1 have ~~has~~ had,

37.2 are ~~is~~ having,

37.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Ada River logged coupe 9.26 (Tarzan).

38. Forestry operations in ~~The logging of~~ the Loch logged coupe 9.30:

38.1 have ~~has~~ had,

38.2 are ~~is~~ having,

38.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

#### **Particulars**



The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Loch logged coupe 9.30.

39. Forestry operations in ~~The logging of~~ the Baw Baw logged coupe 9.32:

39.1 have ~~has~~ had,

39.2 are ~~is~~ having,

39.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Baw Baw logged coupe 9.32.

39A. Forestry operations in one or both ~~The logging of~~ the Cambarville logged coupes 9.33 and 9.34 ~~individually or as a whole:~~

39A. 1 have ~~has~~ had,

39A.2 are ~~is~~ having,

39A.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to one or both of the Cambarville logged coupes 9.33 and 9.34.

39B. Forestry operations in ~~The logging of~~ the Matlock logged coupe 9.35:

39B. 1 have ~~has~~ had,

39B.2 are ~~is~~ having,

39B.3 are ~~is~~ likely to have,

a significant impact on the Greater Glider.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Matlock logged coupe 9.35.

39C. Forestry operations in ~~The logging of~~ the Noojee logged coupe 9.36 (Skerry's Reach):

39C.1 ~~have has~~ had,

39C.2 ~~are is~~ having,

39C.3 ~~are is~~ likely to have,

a significant impact on the Greater Glider.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Noojee logged coupe 9.36 (Skerry's Reach).

39D. Forestry operations in the Big River logged coupe 9.41 (Camberwell Junction):

39D.1 ~~have has~~ had,

39D.2 ~~are is~~ having,

39D.3 ~~are is~~ likely to have,

a significant impact on the Greater Glider.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 32 above, and says that the particulars apply to the Big River logged coupe 9.41 (Camberwell Junction).

40. Forestry operations in some or all ~~The logging of~~ the coupes identified at paragraphs 32-39ED (the **Logged Glider Coupes**) above:

40.1 ~~have has~~ had,

40.2 ~~are is~~ having,

40.3 are ~~is~~ likely to have,  
a significant impact on the Greater Glider.

### Particulars

The Applicant refers to and repeats the particulars in paragraphs 32-39~~ED~~ above.

The Applicant refers to and repeats the particulars at paragraph 32 and says that the particulars apply to forestry operations in some or all of the Logged Glider Coupes.

### **Scheduled logging is likely to have a significant impact on the Leadbeater's Possum**

41. Forestry operations in ~~The logging of~~ each of the scheduled coupes will be an action.

41A. Forestry operations in some or all of the scheduled coupes will be an action.

42. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.1, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

### Particulars

There is a real chance that forestry operations in ~~The logging of~~ this coupe will or are ~~is~~ likely to:

- (a) lead to a long-term decrease in the size of the population of Leadbeater's Possum;
- (b) reduce the area of occupancy of Leadbeater's Possum;
- (c) fragment an existing population of Leadbeater's Possum into two or more populations;
- (d) adversely affect habitat critical to the survival of Leadbeater's Possum;
- (e) disrupt the breeding cycle of Leadbeater's Possums;
- (f) modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that Leadbeater's Possum is likely to decline;

- (g) interfere with the recovery of the Leadbeater's Possum;
- (h) have an impact that is important, notable or of consequence for the Leadbeater's Possum, having regard to its context and intensity, and the sensitivity, value and quality of the environment being impacted.

43. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.2, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Nolan's Gully coupe 10.2.

44. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.3, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Nolan's Gully coupe 10.3.

45. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.4, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Nolan's Gully coupe 10.4.

46. Forestry operations in ~~The logging of~~ the Sylvia Creek coupe 10.5, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Sylvia Creek coupe 10.5.

47. Forestry operations in ~~The logging of~~ the Sylvia Creek coupe 10.6, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Sylvia Creek coupe 10.6.

48. Forestry operations in ~~The logging of~~ the Sylvia Creek coupe 10.7, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Sylvia Creek coupe 10.7.

49. Forestry operations in ~~The logging of~~ the Coles Creek coupe 10.8, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Coles Creek coupe 10.8.

50. Forestry operations in ~~The logging of~~ the Kalatha Creek coupe 10.11, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Kalatha Creek coupe 10.11.

51. Forestry operations in ~~The logging of~~ the Beech Creek coupe 10.12, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Beech Creek coupe 10.12.

52. Forestry operations in ~~The logging of~~ the Beech Creek coupe 10.13, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Beech Creek coupe 10.13.

53. Forestry operations in ~~The logging of~~ the Hermitage Creek coupe 10.14, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Hermitage Creek coupe 10.14.

54. Forestry operations in ~~The logging of~~ the Hermitage Creek coupe 10.15, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Hermitage Creek coupe 10.15.

55. Forestry operations in ~~The logging of~~ the Hermitage Creek coupe 10.16, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Hermitage Creek coupe 10.16.

56. Forestry operations in ~~The logging of~~ the Torbreck River coupe 10.18, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Torbreck River coupe 10.18.

57. Forestry operations in ~~The logging of~~ the Torbreck River coupe 10.19, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Torbreck River coupe 10.19.

58. Forestry operations in ~~The logging of~~ the Torbreck River coupe 10.20, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Torbreck River coupe 10.20.

59. ~~The logging of the Salvage Creek coupe 10.21, is likely to have a significant impact on the Leadbeater's Possum.~~

**Particulars**

~~The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Salvage Creek coupe 10.21.~~

60. Forestry operations in ~~The logging of~~ the Ada Tree coupe 10.22, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Ada Tree coupe 10.22.

61. Forestry operations in ~~The logging of~~ the Starlings Gap coupe 10.23, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Starlings Gap coupe 10.23.

62. Forestry operations in ~~The logging of~~ of the Starlings Gap coupe 10.24, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Starlings Gap coupe 10.24.

63. Forestry operations in ~~The logging of~~ the Starlings Gap coupe 10.25, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Starlings Gap coupe 10.25.

64. Forestry operations in ~~The logging of~~ the Starlings Gap coupe 10.26, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Starlings Gap coupe 10.26.

65. Forestry operations in ~~The logging of~~ the Mount Bride coupe 10.27, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Mount Bride coupe 10.27.

66. Forestry operations in ~~The logging of~~ the Mount Bride coupe 10.28, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Mount Bride coupe 10.28.

67. Forestry operations in ~~The logging of~~ the New Turkey Spur coupe 10.29, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.



**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the New Turkey Spur coupe 10.29.

68. Forestry operations in ~~The logging of~~ the Ada River coupe 10.30, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Ada River coupe 10.30.

69. Forestry operations in ~~The logging of~~ the Ada River coupe 10.31, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Ada River coupe 10.31.

70. Forestry operations in ~~The logging of~~ the Baw Baw coupe 10.34, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Baw Baw coupe 10.34.

- ~~70A. The logging of the Matlock coupe 10.35, is likely to have a significant impact on the Leadbeater's Possum.~~

**Particulars**

~~The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Matlock scheduled coupe 10.35.~~

- 70B. Forestry operations in ~~The logging of~~ the Noojee coupe 10.32A, are ~~is~~ likely to have a significant impact on the Leadbeater's Possum.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 42 above, and says that the particulars apply to the Noojee scheduled coupe 10.32A.

71. The proposed forestry operations in some or all logging of the scheduled coupes identified at paragraphs 42-58, 60-70B above (**the Scheduled Leadbeater's Possum Coupes**) are ~~is~~ likely to have a significant impact on the Leadbeaters' Possum.

### **Particulars**

The Applicant refers to and repeats the particulars at paragraphs 42-58, 60-70B above.

The Applicant refers to and repeats the particulars at paragraph 32 and says that the particulars apply to forestry operations in some or all of the Scheduled Leadbeater's Possum Coupes.

### **Scheduled logging is likely to have a significant impact on the Greater Glider**

72. Forestry operations in ~~The logging of~~ each of the scheduled coupes will be an action.

72A. Forestry operations in some or all of the scheduled coupes will be an action.

73. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.1, are ~~is~~ likely to have a significant impact on the Greater Glider.

### **Particulars**

There is a real chance that forestry operations in ~~the logging of~~ this coupe will or are ~~is~~ likely to:

- (a) lead to a long-term decrease in the size of an important population of Greater Glider;
- (b) reduce the area of occupancy of an important population of Greater Glider;
- (c) fragment an important population of Greater Glider into two or more populations;

- (d) adversely affect habitat critical to the survival of the Greater Glider;
- (e) disrupt the breeding cycle of an important population of Greater Gliders;
- (f) modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that the Greater Glider is likely to decline;
- (g) interfere substantially with the recovery of the Greater Glider;
- (h) have an impact that is important, notable or of consequence for the Greater Glider, having regard to its context and intensity, and the sensitivity, value and quality of the environment being impacted.

74. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.2, are ~~is~~ likely to have a significant impact on the Greater Glider.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Nolan's Gully coupe 10.2.

75. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.3, are ~~is~~ likely to have a significant impact on the Greater Glider.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Nolan's Gully coupe 10.3.

76. Forestry operations in ~~The logging of~~ the Nolan's Gully coupe 10.4, are ~~is~~ likely to have a significant impact on the Greater Glider.

#### **Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Nolan's Gully coupe 10.4.

77. Forestry operations in ~~The logging of~~ the Sylvia Creek coupe 10.5, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Sylvania Creek coupe 10.5.

78. Forestry operations in ~~The logging of~~ the Sylvania Creek coupe 10.6, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Sylvania Creek coupe 10.6.

79. Forestry operations in ~~The logging of~~ the Sylvania Creek coupe 10.7, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Sylvania Creek coupe 10.7.

80. Forestry operations in ~~The logging of~~ the Coles Creek coupe 10.8, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Coles Creek coupe 10.8.

81. Forestry operations in ~~The logging of~~ the Mount Despair coupe 10.9, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Mount Despair coupe 10.9.

82. Forestry operations in ~~The logging of~~ the Mount Despair coupe 10.10, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Mount Despair coupe 10.10.

83. Forestry operations in ~~The logging of~~ the Kalatha Creek coupe 10.11, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Kalatha Creek coupe 10.11.

84. Forestry operations in ~~The logging of~~ the Beech Creek coupe 10.12, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Beech Creek coupe 10.12.

85. Forestry operations in ~~The logging of~~ the Beech Creek coupe 10.13, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Beech Creek coupe 10.13.

86. Forestry operations in ~~The logging of~~ the Hermitage Creek coupe 10.14, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Hermitage Creek coupe 10.14.

87. Forestry operations in ~~The logging of~~ the Hermitage Creek coupe 10.15, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Hermitage Creek coupe 10.15.

88. Forestry operations in ~~The logging of~~ the Hermitage Creek coupe 10.16, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Hermitage Creek coupe 10.16.

89. Forestry operations in ~~The logging of~~ the Acheron coupe 10.17, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Acheron coupe 10.17.

90. Forestry operations in ~~The logging of~~ the Torbreck River coupe 10.18, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Torbreck River coupe 10.18.

91. Forestry operations in ~~The logging of~~ the Torbreck River coupe 10.19, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Torbreck River coupe 10.19.

92. Forestry operations in ~~The logging of~~ the Torbreck River coupe 10.20, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Torbreck River coupe 10.20.

92A. Forestry operations in ~~The logging of~~ the Torbreck River coupe 10.20A, ~~are~~ is likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Torbreck River coupe 10.20A.

92B. Forestry operations in ~~The logging of~~ the Ada Tree coupe 10.22, ~~are~~ is likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Ada Tree coupe 10.22.

93. Forestry operations in ~~The logging of~~ the Starlings Gap coupe 10.23, ~~are~~ is likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Starlings Gap coupe 10.23.

94. Forestry operations in ~~The logging of~~ the Starlings Gap coupe 10.24, ~~are~~ is likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Starlings Gap coupe 10.24.

95. Forestry operations in ~~The logging of~~ the Starlings Gap coupe 10.25, ~~are~~ is likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Starlings Gap coupe 10.25.

96. Forestry operations in ~~The logging of~~ the Starlings Gap coupe 10.26, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Starlings Gap coupe 10.26.

97. Forestry operations in ~~The logging of~~ Mount Bride coupe 10.27, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Mount Bride coupe 10.27.

98. Forestry operations in ~~The logging of~~ the Mount Bride coupe 10.28, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Mount Bride coupe 10.28.

99. Forestry operations in ~~The logging of~~ the New Turkey Spur coupe 10.29, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the New Turkey Spur coupe 10.29.

100. Forestry operations in ~~The logging of~~ the Ada River coupe 10.30, are ~~is~~ likely to have a significant impact on the Greater Glider.



**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Ada River coupe 10.30.

101. Forestry operations in ~~The logging of~~ the Ada River coupe 10.31, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Ada River coupe 10.31.

102. Forestry operations in ~~The logging of~~ the Noojee coupe 10.32, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Noojee coupe 10.32.

- 102A. Forestry operations in ~~The logging of~~ the Noojee coupe 10.32A, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Noojee coupe 10.32A.

- 102B. Forestry operations in ~~The logging of~~ the ~~Loch Noojee~~ coupe 10.32B, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the ~~Loch Noojee~~ coupe 10.32B.

103. Forestry operations in ~~The logging of~~ the Loch coupe 10.33, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Loch coupe 10.33.

104. Forestry operations in ~~The logging of~~ the Baw Baw coupe 10.34, ~~are is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Baw Baw coupe 10.34.

- 104A. Forestry operations in ~~The logging of~~ the South Noojee coupe 10.35, ~~are is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the South Noojee coupe 10.35.

- 104B. Forestry operations in ~~The logging of~~ the South Noojee coupe 10.36, ~~are is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the South Noojee coupe 10.36.

- ~~104C. Forestry operations in ~~The logging of~~ the Big River coupe 10.37, ~~are is~~ likely to have a significant impact on the Greater Glider.~~

**Particulars**

~~The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Big River coupe 10.37.~~

- 104D. Forestry operations in ~~The logging of~~ the Big River coupe 10.38, ~~are is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Big River coupe 10.38.

104E. Forestry operations in ~~The logging of~~ the Snobbs Creek coupe 10.39, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Snobbs Creek coupe 10.39.

104F. Forestry operations in ~~The logging of~~ the Snobbs Creek coupe 10.40, are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraph 73 above, and says that the particulars apply to the Snobbs Creek coupe 10.40.

105. The proposed forestry operations in some or all ~~logging~~ of the scheduled coupes identified at paragraphs 73-104F above are ~~is~~ likely to have a significant impact on the Greater Glider.

**Particulars**

The Applicant refers to and repeats the particulars at paragraphs 73-104F above.

The Applicant refers to and repeats the particulars at paragraph 73 and says that the particulars apply to forestry operations in some or all of the scheduled coupes.

**Past and scheduled forestry operations are likely to have a significant impact on the Leadbeater's Possum and Greater Glider**

105A. Forestry operations in some or all of the Logged Leadbeater's Possum Coupes and Scheduled Leadbeater's Possum Coupes is an action.

105B. Forestry operations in some or all of the Logged Leadbeater's Possum Coupes and Scheduled Leadbeater's Possum Coupes have, will, or are likely to have a significant impact on the Leadbeater's Possum.

**Particulars**

There is a real chance that forestry operations in some or all of the Logged Leadbeater's Possum Coupes and Scheduled Leadbeater's Possum Coupes have, will or are likely to:

- (a) lead to a long-term decrease in the size of the population of Leadbeater's Possum;
- (b) reduce the area of occupancy of Leadbeater's Possum;
- (c) fragment an existing population of Leadbeater's Possum into two or more populations;
- (d) adversely affect habitat critical to the survival of Leadbeater's Possum;
- (e) disrupt the breeding cycle of Leadbeater's Possums;
- (f) modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that Leadbeater's Possum is likely to decline;
- (g) interfere with the recovery of the Leadbeater's Possum;
- (h) have an impact that is important, notable or of consequence for the Leadbeater's Possum, having regard to its context and intensity, and the sensitivity, value and quality of the environment being impacted.

105C. Forestry operations in some or all of the Logged Glider Coupes and scheduled coupes is an action.

105D. Forestry operations in some or all of the Logged Glider Coupes and scheduled coupes have, will, or are likely to have a significant impact on the Greater Glider.

### **Particulars**

There is a real chance that these forestry operations in some or all of the Logged Glider Coupes and scheduled coupes have, will or are likely to:

- (a) lead to a long-term decrease in the size of an important population of Greater Glider;
- (b) reduce the area of occupancy of an important population of Greater Glider;
- (c) fragment an important population of Greater Glider into two or more populations;
- (d) adversely affect habitat critical to the survival of the Greater Glider;
- (e) disrupt the breeding cycle of an important population of Greater Gliders;
- (f) modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that the Greater Glider is likely to decline;
- (g) interfere substantially with the recovery of the Greater Glider;
- (h) have an impact that is important, notable or of consequence for the Greater Glider, having regard to its context and intensity, and the sensitivity, value and quality of the environment being impacted.

### **No approval under Part 9 of the EPBC Act**

106. At the time of the forestry operations in logging of the logged coupes, there was no approval in operation under Part 9 of the EPBC Act for the forestry operations harvesting ~~of trees~~ in the logged coupes.

107. There is no approval in operation under Part 9 of the EPBC Act for forestry operations ~~the harvesting of trees~~ in the scheduled coupes.

### **Logging is not in accordance with a Regional Forestry Agreement**

108. On 27 March 1998, the State of Victoria and the Commonwealth of Australia entered into the Central Highlands Regional Forest Agreement (the **CH RFA**) in respect of the CH RFA Area.
109. The CH RFA is a RFA for the purpose of the RFA Act.
110. The forestry operations in logging of the logged coupes ~~was a~~ were forestry operations for the purposes of the RFA Act.
111. The proposed forestry operations in logging of the scheduled coupes ~~is a~~ are forestry operations for the purposes of the RFA Act.
112. ~~The:~~
- 112.1 ~~logging of the logged coupes; and~~
- 112.2 ~~the proposed logging of the scheduled coupes~~
- ~~was not, and is not, in accordance with the CH RFA.~~

### **Particulars**

- ~~(a) — Clause 5 of the CH RFA provides that the CH RFA will remain in force for 20 years. The expiry date for the CH RFA is 27 March 2018.~~
- ~~(b) — Clause 36 of the CH RFA provides that, every five years, a review of the performance of the CH RFA will be undertaken.~~
- ~~(c) — The first five yearly review for the CH RFA, which was due to be undertaken by 27 March 2003;~~
- ~~(i) — has not been undertaken; or~~
- ~~(ii) — alternatively, was not undertaken until in or about June 2015.~~
- ~~(d) — The second five yearly review for the CH RFA, which was due to be undertaken by 27 March 2008;~~
- ~~(i) — has not been undertaken; or~~

- ~~(ii) — alternatively, was not undertaken until in or about June 2015.~~
- ~~(e) — The third five yearly review for the CH RFA, which was due to be undertaken by 27 March 2013, has not been undertaken.~~
- ~~(f) — In consequence of the failure to undertake:
 
  - ~~(i) — the first and second five yearly reviews until in or about June 2015 for the CH RFA; or~~
  - ~~(ii) — the first, second, and third five yearly reviews for the CH RFA; or~~
  - ~~(iii) — the third five yearly review for the CH RFA,~~
 forestry operations in the CH RFA Area:
 
  - ~~(iv) — have not been undertaken in accordance with the CH RFA since:
 
    - ~~(i) — 27 March 2003; or~~
    - ~~(ii) — 27 March 2008; or~~
    - ~~(iii) — 27 March 2013;~~~~
  - ~~(v) — are not now being undertaken in accordance with the CH RFA; and~~
  - ~~(vi) — cannot in the future be undertaken in accordance with the CH RFA.~~~~

113. Because the:

113.1 logging of the logged coupes; and

113.2 the proposed logging of the scheduled coupes;

is not in accordance with the CH RFA, those forestry operations are not exempt from the application of Part 3 of the EPBC Act, pursuant to either s 38(1) of the EPBC Act or s 6(4) of the RFA Act.

113A. Forestry operations in ~~The logging of:~~

113A.1 each of the Logged Glider Coupes; or, alternatively

113A.2 some or all of the Logged Glider Coupes as a whole;

was not in accordance with cl 47 of the CH RFA because:

113A.3 in each of the Logged Glider Coupes; or, alternatively

113A.4 in some or all of the Logged Glider Coupes as a whole;

VicForests failed to comply with cl 2.2.2.2 of the *Code of Practice for Timber Production 2014* (the **Code**).

### **Particulars**

- (a) Clauses 33 and 40 of the CH RFA require forestry operations to be conducted in accordance with those processes and systems that are accredited under cl 47 of the CH RFA.
- (b) Clause 47 of the CH RFA accredits, amongst other components, the Code.
- (c) At all material times, cl 2.2.2.2 of the Code required VicForests to apply the precautionary principle to the conservation of biodiversity values consistent with relevant monitoring and research that has improved the understanding of the effects of forest management on forest ecology and conservation values.
- (d) Although the Greater Glider has been included as a threatened species in the vulnerable category under the EPBC Act and in the threatened list under the FFG Act (see paragraphs 14-14A above):
  - (i) the Secretary to the Department of Environment, Land, Water and Planning has failed to prepare an Action Statement for the Greater Glider;
  - (ii) the Minister for the Environment has not made or adopted a Recovery Plan for the Greater Glider; and
  - (iii) the *Management Standards and Procedures for Timber Harvesting Operations in Victoria's State Forests 2014* (the



Management Standards and Procedures) do not specify any conservation measures or prescriptions for the Greater Glider in the Central Highlands RFA area.

- (e) It was and remains probable or seriously possible that the logging of each, some or all of the Logged Glider Coupes, ~~individually or alternatively, as a whole,~~ posed and continues to pose a threat of serious or irreversible damage to the Greater Glider and there was and remains scientific uncertainty as to that threat.
- (f) VicForests has failed to take a precautionary approach to its timber harvesting operations in coupes in the Central Highlands RFA Area in which the Greater Glider is present because:
  - (i) VicForests has not conducted detection activities or surveys or adequate detection activities or surveys for the Greater Glider in all or any of the Logged Glider Coupes; or
  - (ii) VicForests has not specified any timber harvesting prescriptions to protect the Greater Glider consequent upon the detection or report of a detection of Greater Glider in all or any of the Logged Glider Coupes;
  - (iii) VicForests has failed to act on reports that the Greater Glider is present in all or any of the Logged Glider Coupes;
  - (iv) VicForests has not specified any timber harvesting prescriptions to protect the Greater Glider in all or any of the Logged Glider Coupes:
    - A. at all;
    - B. proportionate to the threat posed by timber harvesting operations.
  - (v) VicForests' "Interim Greater Glider Conservation Strategy" does not require in coupes in the Central Highlands RFA area:

- A. detection activities or surveys for the Greater Glider;
- B. the application of timber harvesting prescriptions for the Greater Glider:
  - 1. at all;
  - 2. upon detection of the presence of a Greater Glider; or
  - 3. at all within Ash forest; or
  - 4. proportionate to the threat posed by timber harvesting operations.

113B. Forestry operations in ~~The logging of~~ the Skerry's Reach coupe ~~were was~~ not in accordance with cl 47 of the CH RFA because VicForests failed to comply with cl 2.2.2.4 of the Code.

#### Particulars

- (a) The applicant refers to and repeats paragraphs (a) and (b) of the Particulars to paragraph 113A above.
- (b) At all material times, cl 2.2.2.4 of the Code required VicForests to identify biodiversity values listed in the Management Standards and Procedures and "address risks to these values through management actions consistent with the Management Standards and Procedures".
- (c) VicForests failed to identify mature Tree Geebungs in Skerry's Reach coupe and, contrary to 4.3 of the Management Standards and Procedures, read with the prescriptions for the Central Highlands FMA in Appendix 3, Table 14, failed to protect those mature Tree Geebungs from disturbance when logging Skerry's Reach coupe where it was possible to do so.

113C. Forestry operations in ~~The logging of~~ the Blue Vein coupe ~~were was~~ not in accordance with cl 47 of the CH RFA because VicForests failed to comply with cl 2.2.2.4 of the Code.

**Particulars**

- (a) The applicant refers to and repeats paragraphs (a) and (b) of the Particulars to paragraph 113B above.
- (b) VicForests failed to identify an area of Leadbeater's Possum Zone 1A habitat in the Blue Vein coupe and, contrary to cl 4.2 of the Management Standards and Procedures, failed to follow cl 2.1.1.3 of the Management Standards and Procedures by applying to the Secretary to the Department of Environment, Land, Water and Planning to create a special protection zone that includes the Zone 1A habitat in accordance with Appendix 5 of the Planning Standards prior to commencing logging the Blue Vein coupe.

113D. Forestry operations in ~~The logging~~ of the Hairy Hyde coupe were ~~was~~ not in accordance with cl 47 of the CH RFA because VicForests failed to comply with cl 2.2.2.4 of the Code.

**Particulars**

- (a) The applicant refers to and repeats paragraphs (a) and (b) of the Particulars to paragraph 113B above.
- (b) VicForests failed to identify Leadbeater's Possum colony within the Hairy Hyde coupe, and contrary to clause 4.2 of the Management Standards and Procedures, failed to follow cl 2.1.1.3 of the Management Standards and Procedures, by applying to the Secretary to the Department of Environment, Land, Water and Planning to create a special protection zone for the colony in accordance with Appendix 5 of the Planning Standards prior to commencing logging the Hairy Hyde coupe.

113E. Forestry operations in any, some or all ~~The logging of each~~ of the logged coupes other than Blue Vein, Hairy Hyde, Tarzan, Rowels, the Cambarville logged coupes and Swing High (the **113E coupes**) were ~~was~~ not in accordance with cl 47 of the CH RFA because VicForests failed to comply, in planning and conducting those forestry operations ~~that logging~~, with:

113E.1 cl 2.3.1.1; and

113E.2 cl 2.5.1.1 of the Code.

### **Particulars**

- (a) The applicant refers to and repeats Particulars (a) and (b) to paragraph 113A above.
- (b) At all material times cl 2.3.1.1 of the Code required VicForests to plan all timber harvesting operations to meet the requirements of the Code and the Management Standards and Procedures.
- (c) At all material times, cl 2.5.1.1 of the Code required VicForests to plan and manage timber harvesting operations in compliance with relevant coupe management measures specified in the Management Standards and Procedures.
  - (i) At all material times, cl 5.3.1.5 of the Management Standards and Procedures required VicForests to screen timber harvesting operations (except selective harvesting operations) by using a minimum 20-metre vegetation buffer.
  - (ii) At all material times, cl 7.1.2.1(c) of the Management Standards and Procedures required that timber harvesting operations must be excluded from exclusion areas created in accordance with the Management Standards and Procedures.
  - (iii) At all material times, the Code’s definition of “exclusion areas” (which is adopted by the Management Standards and Procedures) has been “an area within the GMZ or SMZ where timber harvesting operations are excluded in accordance with this Code”.
  - (iv) The 113E coupes are within the GMZ.

- (d) In the 113E coupes, VicForests failed to screen timber harvesting operations and new road alignments from view with a 20m vegetation buffer.
- (e) VicForests therefore:
  - (i) failed to plan and manage timber harvesting for the 113E coupes in accordance with cl 5.3.1.5 of the Management Standards and Procedures; and
  - (ii) failed to exclude timber-harvesting operations from the exclusion areas created for the 113E coupes in accordance with cl 7.1.2.1(c) of the Management Standards and Procedures.

113F. Forestry operations in any, some or all ~~The logging of each~~ of the De Valera coupe, the Ginger Cat coupe, the Greendale coupe, the Professor Xavier coupe and the Rubicon logged coupes (together, the **113F coupes**) were ~~was~~ not in accordance with cl 47 of the CH RFA because VicForests failed to comply with cl 2.2.2.1 of the Code.

### Particulars

- (a) The applicant refers to and repeats paragraphs (a) and (b) of the Particulars to paragraph 113A above, and paragraph (c) of the Particulars to paragraph 113B above.
- (b) At all material times, cl 2.2.2.1 of the Code required VicForests plan and manage timber harvesting operations in compliance with relevant biodiversity conservation measures specified within the Management Standards and Procedures.
- (c) Contrary to cl 4.1.4.4 of the Management Standards and Procedures, there are gaps between retained vegetation in each of the 113F coupes that are greater than 150m.

113G. Because the forestry operations in any, some or all ~~logging~~ of the coupes alleged in paragraphs 113A to 113F above was not in accordance with the CH RFA, those forestry operations were not exempt from the application of Part 3 of the EPBC Act, pursuant to either s 38(1) of the EPBC Act or s 6(4) of the RFA Act.

113H. The proposed forestry operations in logging of:

113H.1 each of the scheduled coupes; or

113H.2 some or all of the scheduled coupes,

are ~~is~~ not in accordance with cl 47 of the CH RFA because in:

113H.3 each scheduled coupe; or

113H.4 some or all of the scheduled coupes.

VicForests has failed, and will fail, to comply with cl 2.2.2.2 of the Code.

### **Particulars**

The Applicant refers to and repeats the particulars to paragraph 113A above, and says that those particulars apply to any, some or all of the scheduled coupes.

113I. Because the proposed forestry operations in any, some or all logging of the scheduled coupes alleged in paragraph 113H are ~~is~~ not in accordance with the CH RFA, those forestry operations are not exempt from the application of Part 3 of the EPBC Act, pursuant to either s 38(1) of the EPBC Act or s 6(4) of the RFA Act.

### **Past logging is a contravention of the EPBC Act**

114. By reason of the matters in paragraphs 9, 11-13, 17-29, 106, 108-113 above, the logging of each of the logged coupes was a contravention of:

114.1 ~~s 18(2)(b) of the EPBC Act; and~~

114.2 ~~s 18(4)(b) of the EPBC Act.~~

115. ~~By reason of the matters in paragraphs 9, specifically 9.5, 9.6, 9.12, 9.15, 9.17, 9.18, 9.20, 9.26, 9.30, 9.32, 9.36, 11-14, 17, 22, 24, 25, 27, 29-29B, 31-39C, 106, 108-110, 113A and 113G above, the logging of each of the logged Glider coupes was a contravention of:~~

115.1 ~~s 18(2)(b) of the EPBC Act; and~~

115.2 ~~s 18(4)(b) of the EPBC Act.~~

115AA. By reason of the matters in paragraphs 3-5, 9.12, 9.17, 9.18, 9.20, 9.26, 9.32, 9.35, 9.36, 11, 13, 14, 14A, 15, 17, 22-29C, 106, 108-110, 113A and 113G above, VicForests' conduct of forestry operations in each of the coupes described at paragraphs 9.12, 9.17, 9.18, 9.20, 9.26, 9.32, 9.35, 9.36 was a contravention of s 18(2)(b) of the EPBC Act.

115AB. By reason of the matters in paragraphs 3-5, 9.5, 9.6, 9.12-9.15, 9.17-9.18, 9.20, 9.26, 9.30, 9.32-9.36, 9.41, 11, 14, 14A, 16, 31, 32-39ED, 106, 108-110, 113A and 113G above, VicForests' conduct of forestry operations in each of the Logged Glider Coupes was a contravention of s 18(4)(b) of the EPBC Act.

115AC. By reason of the matters in paragraphs 3-5, 9.12, 9.17, 9.18, 9.20, 9.26, 9.32, 9.35, 9.36, 11, 13, 14, 14A, 15, 17A, 30, 106, 108-110, 113A and 113G above, VicForests' conduct of forestry operations in some or all of the coupes described at paragraphs 9.12, 9.17, 9.18, 9.20, 9.26, 9.32, 9.35, 9.36 was a contravention of s 18(2)(b) of the EPBC Act.

115AD. By reason of the matters in paragraphs 3-5, 9.5, 9.6, 9.12-9.15, 9.17-9.18, 9.20, 9.26, 9.30, 9.32-9.36, 9.41, 11, 14, 14A, 16, 31A, 40, 106, 108-110, 113A and 113G above, VicForests' conduct of forestry operations in some or all of the Logged Glider Coupes was a contravention of s 18(4)(b) of the EPBC Act.

~~115A. By reason of the matters in paragraphs 9, specifically 9.36, 11, 13-14, 17, 29B, 39C, 106, 108-110, 113B and 113G above, the logging of the Skerry's Reach coupe was a contravention of:~~

~~115A.1 s 18(2)(b) of the EPBC Act; and~~

~~115A.2 s 18(4)(b) of the EPBC Act.~~

115AE. By reason of the matters in paragraph 3-5, 9.36, 11, 13, 15, 17, 29B, 106, 108-110, 113B and 113G above, VicForests' conduct of forestry operations in the Skerry's Reach coupe were a contravention of s 18(2)(b) of the EPBC Act.

115AF. By reason of the matters in paragraph 3-5, 9.36, 11, 14, 16, 31, 39C, 106, 108-110, 113B and 113G above, VicForests' conduct of forestry operations in the Skerry's Reach coupe was a contravention of s 18(4)(b) of the EPBC Act.

~~115B. By reason of the matters in paragraphs 9, specifically 9.18, 11-14, 15-17, 24, 35, 106, 108-110, 113C and 113G above, the forestry operations in logging of the Blue Vein coupe were was a contravention of:~~

~~115B.1 s 18(2)(b) of the EPBC Act; and~~

~~115B.2 s 18(4)(b) of the EPBC Act.~~

115BA. By reason of the matters in paragraphs 3-5, 9.18, 11, 13, 15, 17, 24, 106, 108-110, 113C and 113G above, VicForests' conduct of forestry operations in the Blue Vein coupe was a contravention of s 18(2)(b) of the EPBC Act.

115BB. By reason of the matters in paragraphs 3-5, 9.18, 11, 14, 16, 31, 35, 106, 108-110, 113C and 113G above, VicForests' conduct of forestry operations in the Blue Vein coupe was a contravention of s 18(4)(b) of the EPBC Act.

~~115C. By reason of the matters in paragraphs 9, specifically 9.20, 11-14, 15-17, 25, 36, 106, 108-110, 113D and 113G above, the forestry operations in logging of the Hairy Hyde coupe were was a contravention of:~~

~~115C.1 s 18(2)(b) of the EPBC Act; and~~

~~115C.2 s 18(4)(b) of the EPBC Act.~~

115CA. By reason of the matters in paragraphs 3-5, 9.20, 11, 13, 15, 17, 25, 106, 108-110, 113D and 113G above, VicForests' conduct of forestry operations in the Hairy Hyde Coupe was a contravention of s 18(2)(b) of the EPBC Act.

115CB. By reason of the matters in paragraphs 3-5, 9.20, 11, 14, 16, 31, 36, 106, 108-110, 113D and 113G above, VicForests' conduct of forestry operations in the Hairy Hyde Coupe was a contravention of s 18(4)(b) of the EPBC Act.

~~115D. By reason of the matters in paragraphs 9 (excluding 9.18, 9.20, 9.26, 9.32-9.35), 11-14, 17-29C (excluding 27, 29, 29A), 31-39C (excluding 36, 37, 39-39B), 106, 108-110, 113E and 113G above, the logging of:~~

~~115D.1 each of the 113E coupes; or~~

~~115D.2 the 113E coupes;~~



~~was a contravention of:~~

~~115D.3 s 18(2)(b) of the EPBC Act; and~~

~~115D.4 s 18(4)(b) of the EPBC Act.~~

115DA. By reason of the matters in paragraphs 3-5, 9.12, 9.16, 9.17, 9.19, 9.21, 9.25, 9.31, 9.36-9.40, 11-13, 15, 17, 18-27, 28, 29B-29C, 106, 108-110, 113E and 113G above, VicForests' conduct of forestry operations in each of the 113E coupes was a contravention of s 18(2)(b) of the EPBC Act.

115DB. By reason of the matters in paragraphs 3-5, 9.5, 9.6, 9.12-9.15, 9.17, 9.30, 9.36, 9.41, 11, 14, 16, 31, 32-35, 38, 39C, 39D, 106, 108-110, 113E and 113G above, VicForests' conduct of forestry operations in each of the 113E coupes was a contravention of s 18(4)(b) of the EPBC Act.

115DC. By reason of the matters in paragraphs 3-5, 9.12, 9.16-9.17, 9.19, 9.21, 9.25, 9.31, 9.36-9.40, 11-13, 15, 17A, 30, 106, 108-110, 113E and 113G above, VicForests' conduct of forestry operations in some or all of the 113E coupes was a contravention of s 18(2)(b) of the EPBC Act.

115DD. By reason of the matters in paragraphs 3-5, 9.5, 9.6, 9.12-9.15, 9.17, 9.30, 9.36, 9.41, 11, 14, 16, 31A, 40, 106, 108-110, 113E and 113G above, VicForests' conduct of forestry operations in some or all of the 113E coupes was a contravention of s 18(4)(b) of the EPBC Act.

~~115E. By reason of the matters in paragraphs 9, specifically 9.16, 9.17, 9.25, 9.31, 9.37-9.40, 11-14, 17, 23, 24, 26, 28, 29C, 35, 106, 108-110, 113F and 113G above, the logging of:~~

~~115D.1 each of the 113F coupes; and~~

~~115D.2 the 113F coupes;~~

~~was a contravention of:~~

~~115D.3 s 18(2)(b) of the EPBC Act; or~~

~~115D.4 s 18(4)(b) of the EPBC Act.~~

115EA. By reason of the matters in paragraphs 3-5, 9.16, 9.17, 9.25, 9.31, 9.37-9.40, 11-13, 15, 17, 23, 24, 26, 28, 29C, 106, 108-110, 113F and 113G above, VicForests' conduct of forestry operations in each of the 113F coupes was a contravention of s 18(2)(b) of the EPBC Act.

115EB. By reason of the matters in paragraphs 3-5, 9.16, 9.17, 9.25, 9.31, 9.37-9.40, 11-13, 15, 17, 30, 106, 108-110, 113F and 113G above, VicForests' conduct of forestry operations in some or all of the 113F coupes was a contravention of s 18(2)(b) of the EPBC Act.

116. ~~Alternatively, by reason of the matters in~~

116.1 ~~paragraphs 9, specifically 9.5, 9.6, 9.12-9.15, 9.17, 9.18, 9.20, 9.26, 9.30, 9.32-9.36, 11-13, 22, 24, 25, 27, 29-29B, 106, 108-113 above, and~~

116.2 ~~paragraphs 9, specifically 9.5, 9.6, 9.12-9.15, 9.17, 9.18, 9.20, 9.26, 9.30, 9.32-9.36, 11, 14, 40, 106, 108-110, 113A and 113G above;~~

~~the logging of the logged Glider coupes, was a contravention of:~~

116.3 ~~s 18(2)(b) of the EPBC Act; and~~

116.4 ~~s 18(4)(b) of the EPBC Act.~~

~~116A. Alternatively, by reason of the matters in paragraphs 9, 11-13, 30, 40, 106, 108-113A-113G above, the logging of the logged coupes, was a contravention of:~~

~~116A.1 s 18(2)(b) of the EPBC Act; and~~

~~116A.2 s 18(4)(b) of the EPBC Act.~~

### **Proposed logging is a contravention of the EPBC Act**

116BA. By reason of the matters in paragraphs 3-5, 10.1-10.8, 10.11-10.16, 10.18-10.20, 10.22-10.31, 10.32A, 10.34, 11, 13, 14, 14A, 15, 41, 42-70B, 107-109, 111, 113H and 113I above, VicForests' conduct of forestry operations in each of the Scheduled Leadbeater's Possum Coupes will be a contravention of s 18(2)(b) of the EPBC Act.

116BB. By reason of the matters in paragraphs 3-5, 10, 11, 14, 14A, 16, 72, 73-104F, 107-109, 111, 113H and 113I above, VicForests' conduct of forestry operations in each of the scheduled coupes will be a contravention of s 18(4)(b) of the EPBC Act.

116BC. By reason of the matters in paragraphs 3-5, 10.1-10.8, 10.11-10.16, 10.18-10.20, 10.22-10.31, 10.32A, 10.34, 11, 13, 14, 14A, 15, 41A, 71, 107-109, 111, 113H and 113I above, VicForests' conduct of forestry operations in some or all of the Scheduled Leadbeater's Possum Coupes will be a contravention of s 18(2)(b) of the EPBC Act.

116BD. By reason of the matters in paragraphs 3-5, 10, 11, 14, 14A, 16, 72A, 105, 107-109, 111, 113H and 113I above, VicForests' conduct of forestry operations in some or all of the scheduled coupes will be a contravention of s 18(4)(b) of the EPBC Act.

~~116B. By reason of the matters in paragraphs 10, 11, 14, 72-104F, 107-109, 111, 113H and 113I above, the logging of:~~

~~116B.1 any of the scheduled coupes; or~~

~~116B.2 the scheduled coupes;~~

~~will be a contravention of s 18(4)(b) of the EPBC Act.~~

~~116C. By reason of the matters in paragraphs 10, 11, 13, 41-70B, 107-109, 111, 113H and 113I above, the logging of:~~

~~116C.1 any of the scheduled coupes; or~~

~~116C.2 the scheduled coupes;~~

~~will be a contravention of s 18(2)(b) of the EPBC Act.~~

117. By reason of the matters in paragraphs 8, 10, 11-13, 41-70, 107-113 above, the proposed logging of each of the relevant coupes, if undertaken, will be a contravention of:

117.1 s 18(2)(b) of the EPBC Act; and

117.2 s 18(4)(b) of the EPBC Act.

118. By reason of the matters in paragraphs 8, 10, 11, 14, 72-104, 107-113 above, the proposed logging of each of the relevant coupes, if undertaken, will be a contravention of:

118.1 ~~s 18(2)(b) of the EPBC Act; and~~

118.2 ~~s 18(4)(b) of the EPBC Act.~~

119. ~~Alternatively, by reason of the matters in:~~

119.1 ~~paragraphs 8, 10, 11-13, 71, 107-113;~~

119.2 ~~paragraphs 8, 10, 11, 14, 105, 107-113;~~

~~the proposed logging of the relevant coupes will be a contravention of:~~

119.3 ~~s 18(2)(b) of the EPBC Act; and~~

119.4 ~~s 18(4)(b) of the EPBC Act.~~

**Past and proposed logging is a breach of the EPBC Act**

119A. By reason of the matters in paragraphs 3-5, 9.12, 9.16 – 9.21, 9.25-9.26, 9.31-9.32, 9.35-9.40, 10.1-10.8, 10.11-10.16, 10.18-10.20, 10.22-10.31, 10.32A, 10.34, 11-13, 14, 14A, 15, 105A, 105B, 106 – 113I, VicForests’ conduct of forestry operations in some or all of the Logged Leadbeater’s Possum Coupes and Scheduled Leadbeater’s Possum Coupes will be a contravention of s 18(2)(b) of the EPBC Act.

119B. By reason of the matters in paragraphs 3-5, 9.5, 9.6, 9.12-9.15, 9.17-9.18, 9.20, 9.26, 9.30, 9.32-9.36, 9.41 10, 11, 14, 14A, 16, 105C, 105D, 106-113E, 113G-113I, VicForests’ conduct of forestry operations in some or all of the Logged Glider Coupes and the scheduled coupes, will be a contravention of s 18 (4)(b) of the EPBC Act.

**Claim for relief**

120. The Applicant claims the following relief:

1. An injunction pursuant to s 475(2) of the EPBC Act restraining the Respondent from:

(a) undertaking; or

(b) authorising;

any forestry operations in the scheduled coupes in contravention of s 18 of the EPBC Act.

2. An order pursuant to s 475(3) of the EPBC Act that the Respondent set aside an area of forest that is protected from forestry operations ~~logging~~ in order to mitigate the significant impact on the Leadbeater's Possum caused by the Respondent's contraventions of s 18 of the EPBC Act.
3. An order pursuant to s 475(3) of the EPBC Act that the Respondent set aside an area of forest that is protected from forestry operations ~~logging~~ in order to mitigate the significant impact on the Greater Glider caused by the Respondent's contraventions of s 18 of the EPBC Act.
4. Costs.
5. Such further or other relief as the Court considers just.

121. The Applicant also claims interlocutory relief.

1. An interim injunction pursuant to s 475(5) of the EPBC Act restraining the Respondent from undertaking or authorising any forestry operations in the scheduled coupes until further order.

~~PETER HANKS~~

MARITA FOLEY

JULIA WATSON

Date: ~~13 November 2017~~ ~~29 March 2018~~ ~~6 September 2018~~ 18 January 2019



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Signed by Danya Jacobs  
Environmental Justice Australia  
Lawyer for the Applicant

This pleading was prepared by Danya Jacobs, lawyer.

**Certificate of lawyer**

I Danya Jacobs, certify to the Court that, in relation to the second further amended statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~13 November 2017~~ ~~29 March 2018~~ ~~6 September 2018~~ 18 January 2019



.....  
Signed by Danya Jacobs

Environmental Justice Australia

Lawyer for the Applicant